NASDAQ STOCKHOLM'S DECISION 6 February 2019

DISCIPLINARY COMMITTEE 2019:01

Nasdaq Stockholm

Cyxone AB (publ)

DECISION

The Disciplinary Committee orders Cyxone AB to pay a fine to Nasdaq Stockholm corresponding to two times the annual fee.

Motion

The shares in Cyxone AB (publ) ("Cyxone" or the "Company") are admitted to trading on Nasdaq Stockholm AB's ("Exchange") trading platform Nasdaq First North. The Company has signed an undertaking to comply with the Exchange's rules for Nasdaq First North applicable from time to time ("Rule Book").

The Exchange has argued that Cyxone violated section 4.1 of the Rule Book in that the company's CEO presented inside information during a presentation at the event BioStock Live in Stockholm held on 28 September 2017, which information was first made public through a press release on 3 October 2017.

Citing section 7.3 and Supplement B to the Rule Book, the Exchange has moved that the Disciplinary Committee consider the violations of the Rule Book and impose an appropriate sanction.

Cyxone has stipulated to the facts but denied that the Company is guilty of the alleged violation of the Rule Book.

A hearing in the matter was held before the Disciplinary Committee on 25 January 2019, at which the Exchange was represented by Karin Ydén (Head of Issuer Surveillance), Elias Skog (Regulatory Compliance Specialist) and Andreas Blomquist (Senior Legal Counsel). Cyxone was represented by the Company's CEO Kjell Stenberg, *Advokat* Dennis Westermark and attorney Andreas Liljander

Reasons for the decision

The Rule Book

According to section 4.1 of the Rule Book, an issuer must make public inside information as soon as possible in accordance with Article 17 of Regulation (EU) no. 596/2014 of the European Parliament and of the Council ("MAR") in a manner which ensures that all interested parties on the stock market have the same access to inside information regarding the issuer.

Pursuant to Article 7 of MAR, inside information comprises information of a precise nature which has not been made public, which directly or indirectly relates to one or more issuers or to one or more financial instruments and which, if it were made public, would be likely to have a significant effect on the price of those financial instruments. According to article 7.2 of MAR, an intermediary step in a protracted process constitutes inside information if it *per se* fulfils these criteria.

According to article 17.1 of the MAR, an issuer shall inform the public as soon as possible of inside information which directly concerns that issuer. The issuer shall also ensure that the inside information is made public in a manner which enables fast access and complete, correct and timely assessment of the information.

Considerations

On 14 June 2017, Cyxone published a press release in which it stated that it had acquired the pharmaceuticals candidate Rabeximod. It was stated in the press release that Rabeximod had already undergone a 12-week long phase 2 study in which Rabeximod demonstrated a statistically significant therapeutic effect, not until however after 16 weeks, and that the Company therefore intended to carry out a second phase 2 study with the same protocol covering a period of 24 weeks. On Thursday, 28 September 2017, the CEO of Cyxone was interviewed at an event called BioStock Live in Stockholm. The clinical testing of Rabeximod was discussed during the interview, among other things, whereupon the following conversation took place between the moderator and the Company's CEO:

Moderator	*The next stage is to carry out a new study which is twice as long, 24 weeks, how many patients will participate there?*
CEO	*Somewhere between 250 and 300.*
Moderator	*That's a rather large study.*
CEO	*It's approximately the size of the previous study, and then we have the possibility – this is nothing I know – but we have a possibility to be able to pool the patient material [Committee's notation: from both of the phase 2 studies] provided the Swedish Medical Products Agency concludes that they are actually the same study, even if carried out in two rounds, and allows us to calculate*

	statistically using all of the material, so perhaps you can count it as a phase 3.
Moderator	*A phase 3 even?*
CEO	*That remains to be seen. I can't promise what I'm saying, only that it's something were working on. […] and phase 3 is a phase which provides market approval.*

On Monday, 2 October, the Exchange noted a significant price increase in the Company's shares and that the CEO's presentation was the subject of discussion on online forums, whereupon the Exchange decided to suspend trading in the Company's shares. At the same time, the Exchange notified the Company's CA that the Company was obligated, as soon as possible, to publish in a press release the information which the CEO had conveyed at BioStock, which the Company did on 3 October 2017.

The Exchange has argued: Information regarding clinical testing is typically of great significance for companies in the pharmaceuticals industry. The Company's share price before the suspension of trading on 2 October 2017 rose by approximately 19%. There is no other explanation for the upswing than the statements made by the Company's CEO at BioStock Live which garnered attention. The Company's intention to apply to the Swedish Medical Products Agency to have the phase 2 studies classified as a phase 3 study constituted inside information. Through the CEO's statements on 28 September 2017, inside information was selectively made available to the market. Cyxone therefore violated section 4.1 of the Rule Book.

Cyxone has argued: The CEOs statement at BioStock constituted merely a report regarding the regulations governing the development of pharmaceuticals and the possibility to obtain approval from the Swedish Medical Products Agency for consolidating patient material from several typical phase 2 studies in order to be able to calculate statistics on this in a manner which corresponds to a typical phase 3 study. The CEO stated that this possibility exists but that it is up to the Medical Products Agency whether approval is granted and that the Company was working on the matter. The Company does not believe that the information the CEO gave was inside information since the Company had previously provided information to the effect that it intended to carry out a new phase 2 study with essentially the same protocol as the previous phase 2 study. Information regarding the rules of the Swedish Medical Products Agency is also freely available to the public. The CEO's statements at BioStock thus did not contain any information which was not already publicly available. The Company cannot provide any particular explanation as to why Cyxone's share price rose significantly in conjunction with the presentation, but notes that the Company's share price is volatile and that relatively large price movements are not uncommon, and that the price movement coincided with intensive communications between shareholders on various social media where the CEOs presentation was interpreted in a way which materially deviated from the information which was originally presented, something the Company cannot be blamed for.

The Disciplinary Committee notes that the Company's CEO reported information at BioStock which had already been made public regarding the clinical testing of Rabeximod and the possibility, according to applicable regulations, to obtain approval to pool data from studies

for joint statistical processing. In addition, it was also stated that the Company was working on obtaining approval from the Medical Products Agency to be able to pool the phase 2 study carried out with the upcoming phase 2 study in order to jointly process them as a typical phase 3 study. The fact that the Company was working on obtaining such approval must be regarded as an intermediary step in a protracted process for the purpose of speeding up market approval of Rabeximod through the Company not being required to carry out a separate phase 3 study. According to MAR, information regarding such an intermediary step may constitute inside information if it *per se* fulfills the inside information criteria.

The Disciplinary Committee concludes the following in this respect. The fact that the Company was working to obtain approval to pool the phase 2 studies after implementation of the second phase 2 study constitutes information regarding the Company's activities which the Company had not made public before the CEO provided the information in the interview at BioStock. In addition, the information in question must be deemed to be of a sufficiently specific nature in order to constitute inside information since the Company, according to the CEOs statement, had already commenced work in order to be able to obtain approval for pooling after the implementation of the second phase 2 study, which might speed up the clinical testing of Rabeximod. The fact that the Company had initiated work on speeding up the clinical testing of Rabeximod must be deemed to be the type of information which can be expected to have a material impact on the price of a pharmaceutical company's financial instruments. The price movement which followed the presentation at BioStock also supports this. Therefore, in the opinion of the Disciplinary Committee, the information now relevant which the Company made public at BioStock must be deemed to constitute inside information. The Company thereby violated section 4.1 of the Rule Book by selectively publishing the information.

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In summary, the Disciplinary Committee rules that the Company violated section 4.1 of the Rule Book. The Disciplinary Committee establishes the sanction as a fine corresponding to two times the annual fee.

On behalf of the Disciplinary Committee

Marianne Lundius

Former Justice Marianne Lundius, MBA Ragnar Boman, company director Carl-Johan Högbom, *Advokat* Wilhelm Lüning, and company director Anders Oscarsson participated in the committee's decision.

Secretary: *Jur. kand*. Erik Lidman