December 2021

Swedish Securities Market Association
Newsletter

The Swedish Securities Market Association operates for a sustainable and competitive Swedish securities market.

The Swedish Securities Market Association in 2021

Message from the CEO

We are approaching the end of yet another operating year defined by the pandemic, which has cast a shadow over our world since early 2020. But as we look back before shutting down for the holidays, we can also see that we have accomplished much in the area and in relation to the issues covered by the SSMA.

During its 113th year in operation, the Association held many meetings, mainly digital, with the more than 750 members who participate in our fifty or so working groups. We have discussed developments in the equity, derivatives, money and bond markets from a wide variety of perspectives, ranging from detailed technical issues to matters of principle.

While part of the work has "only" pertained to Swedish circumstances, a great deal of time has also been devoted to issues related to the EU institutions in Brussels and ESMA in Paris. In the latter work, we have as always enjoyed and appreciated the benefit of our fine collaboration with colleagues in the other Nordic countries and in Europe.

I will be getting back to you with a bit more information about what happened in the past year in a new annual report for the SSMA, and will be providing regular updates to our members and other interested parties in the form of newsletters over the next year. That said, there are already indications that 2022 will be another eventful year .

”There are already indications that 2022 will be another eventful year.”

Urban Funered
CEO, SSMA

What is on the agenda for 2022?

There is quite a lot going on in the **equity market** and discussions will continue in relation to a future European consolidated tape, or CTP, market data and marketplace trading systems and regulations, as well as market structure within the EU.

Focus will remain on the **corporate bond market** this spring when we will be following up the SSMA's recommendation on transparency in the bond market as we move into the final phase of the effort to update the SSMA's standard terms for corporate bonds.

MiFID II/MiFIR are of paramount importance to the securities market and considerable time will be devoted to advocacy and consultation efforts as well as implementation and interpretation of regulations. A review of the rules on market structure, including transparency rules and best execution, is one of the items on the agenda for next year.

We will continue discussing the **EU retail investment strategy** aimed at adapting several regulations to the needs and profile of retail investors.

Discussions of regulatory developments and various practical issues are ongoing in the area of **market monitoring** and **market abuse**. The SSMA also provided financial support during the year for the book Aktiefusk - var går gränsen (translated for convenience only: Securities fraud - Where do you draw the line?) written by public prosecutors Jonas Myrdal and Jan Leopoldson. You can read our interview of the authors below.

Sustainable financing and ESG issues are high on the agenda. Activities next year will include continued discussion of green bonds, sustainability information to clients, sustainability reporting and ESG analysis, as well as the rules on suitability assessment and product governance in MiFID II.

In the **post-trade** area, a lot will revolve around the harmonisation of post-trade processing with EU standards ahead of a potential future affiliation with the EU's T2S settlement system, which will require members to allocate substantial resources for several years into the future.

In relation to the above, the increasingly important work with **continuity and information security** can be mentioned, which concerns both infrastructure preparedness at the macro level and micro-level issues.

Diversity covers numerous issues that reach beyond the securities market. The SSMA will continue its efforts related to the challenge of attracting and retaining women and people of diverse backgrounds in the industry.

As outlined above, we have many interesting areas and issues to deal with next year as well. For that reason, we are especially pleased that we were able to bring three knowledgeable and congenial people on board at the secretariat in the past year. Therese Mårtensson joined the secretariat as senior legal counsel in February, Oscar Mofors Frid as legal counsel in September and Sofia Wiklund joined us as the new joint head of communications for the SSMA and its subsidiary, SwedSec Licensiering.

I would like to close by extending heartfelt thanks to all members of the SSMA and their representatives, our collaborative partners and my colleagues, and by wishing everyone a very merry Christmas and a happy new year.

Urban Funered
Chief Executive Officer

Securities fraud - Where do you draw the line?

Interview

We are living in an era of burgeoning interest in equity trading, one also characterised by endless information sharing, including through social media. As a result, it has become increasingly important to understand what is involved in "market manipulation" – manipulating or misleading the market to induce it to react in a way that furthers selfish interests.

Authors Jonas Myrdal and Jan Leopoldson provide a succinct overview of the rules and regulations that apply in their book Aktiefusk - var går gränsen? (Title translated for convenience only: Securities Fraud: Where do you draw the line?) Based on court rulings, they also describe the most common types of market manipulation.

The book is intended for people who work with issues related to securities dealing or have a general interest in trading on the stock exchange, such as lawyers and compliance officers working in the market or for government authorities.

When we met the authors, we jumped at the chance to ask a few questions about the book and their personal experiences.

You have listed several varieties of market abuse in the book that you have encountered over the years. Can you say which are the most serious and the most deleterious from a trust perspective?
– Generally speaking, we believe manipulation by spreading misinformation is more damaging to the market than manipulation by means of trading. The reason for this is that false press releases or misleading investment recommendations, to give two examples, have much greater impact on trade, as a rule, than manipulation through dealing. In addition, the false information remains accessible and searchable on the internet longer than does trade-related data, which often become outdated relatively quickly. Consequently, the damage caused by spreading false information is often more enduring. That said, trading practices like momentum ignition can have serious adverse impacts, such as steep and sudden price increases.

Trading venues and SSMA members alike are investing in comprehensive systems to monitor and take action against securities fraud while informing stakeholders about what is allowed and what is not. Do you think they are doing enough, or could other measures be taken?

The book describes what market manipulation means and what rules apply. Descriptions are made on the basis of decisions from the courts.

– Our impression is that expertise and IT support are at a clearly acceptable level. But we have observed that these levels, and perhaps even the level of ambition, seem to vary somewhat among stock exchange members. I suppose we do think some of them could do more.

Considering that the numbers of listed companies and retail investors have risen steeply in recent years while access to trading and various internet fora has improved, one has to ask whether trading venues and SSMA members have adequate resources. Naturally, that also applies to Finansinpektionen (Swedish Financial Supervisory Authority, abbreviated FI) and Ekobrottsmyndigheten (the Swedish Economic Crime Authority, abbreviated SECA).

As this involves matters of rather delicate assessment, it would also be good if those concerned could jointly discuss what is allowed and what is not, where the lines are drawn and appropriately build up effective and efficient methodology. This could preferably occur in consultation with FI, SECA and vendors of monitoring systems. For example, an annual compliance day in the area or ongoing seminars that address one type of market manipulation at a time would be good for training purposes.

You noted the rising importance of social media in the book. How should these media be dealt with and do you have any thoughts about how these information channels should be monitored?

– The trading venues and we ourselves have been monitoring social media for a long time, but on something of an ad hoc basis, and we have seen signs of suspicious trading. As we understand it now, the marketplaces have begun to track this more regularly and extensively, which is good.

– Naturally, it is unreasonable and hardly justifiable to ask the trading venues or other market participants to monitor everything written online and on social media. When it comes to fora arranged by firms under regulatory supervision, however, they might consider coordinated self-regulation to prevent fraud.

– Stock tips spread to the public meet the criteria to be considered investment recommendations relatively quickly. The implications here include that conflicts of interest should be scrupulously disclosed. FI has supervisory responsibility over this area, but does not seem to have prioritised it. They should be able to move their positions and monitoring ahead here.

The GameStop case has links to both social media and short selling, although within the SSMA we think short selling serves a key purpose from a market perspective. How do you look at short selling from your perspective? Is it inherently problematic or does the real danger lie in the social media-driven surges?

– We are not experts in financial economics or the more technical issues related to price formation and market efficiency. Nowadays, fairly strict disclosure requirements are attached to short selling. But as long as these requirements are met and the action is transparent, it is difficult, from our manipulation perspective, to see that short selling poses any significant danger.

– The social media-driven surges, on the other hand, are definitely a problem. Partly because they encourage trades that are not commercially justified, which can be manipulations per se, partly because they can easily be exploited as a pretext for igniting fires and supernormal price growth. After all, nobody really believes that everyone who traded up the price of GameStop shares, for example, did so for idealistic reasons, do they?

Every year, FI fines a number of people for small-volume trading and the issue is high on the action agenda. You discuss this phenomenon in your book, but the question is whether excessive resources are being devoted to catching these small-volume traders in relation to the harm they do?

– The issue is obviously debatable. But you cannot ignore the fact that small-volume trades constitute manipulations and that they thus do harm, especially when they occur repeatedly and systematically. One might think about whether very minor schemes, such as one or two small-volume trades, should perhaps not be reported to and handled by FI. Here, greater responsibility could be imposed on the trading venues and their members.

– The numerous cases involving small-volume trading have no doubt had a deterrent effect. But it is clearly preferable for greater focus and resources to be allocated to more serious and sophisticated schemes.

– We also believe that the trading venues should now, once and for all, prevent or impede the ability to influence share prices with very small amounts by, for example, reinstating a small order book for settlements under a few hundred SEK.

In the book, you discuss intent, ignorance and the like, and point out that securities fraud can be more sophisticated or less so. But the question is whether people who deal in the securities market can claim ignorance in general?

– First off, ignorance of the actual prohibition against manipulation - an error of law - is never an excuse.

– But if the trader did not understand that the action could affect the share price in an abnormal way (or that the risk was impending, so that it becomes a matter of reckless intent), then there was no intent and the trader cannot be convicted of a violation. Perhaps the most distinctive feature of a manipulation, however, is that the trader's aim is to move the price. When that occurs, intent exists by definition.

– It is also possible that a trader has inadvertently influenced the price in an abnormal way. In that case, the trader might be considered as having committed a manipulation, but has been negligent. This can render fines from FI. Reasonably enough however, this requires that the trade was conspicuously abnormal and that the trader should have understood that.

– Long story short, influencing share prices by deliberately making bad deals is forbidden, but there is no obligation to make good deals.

Many of our members have provided good information on their websites about market manipulation and what is and is not allowed, but one can always ask whether this is enough. Could the industry do more to educate its clients?

– As we understand it, the information has primarily consisted of texts posted on websites. Regular reminders and information in various formats, such as videos, newsletters or targeted mail campaigns would also be worthwhile. One idea might be to add a section on permitted trading in the obligatory appropriateness assessment for new clients/services.

We have one last question, which has to do with SwedSec and the some 25,000 individuals who hold SwedSec licences. How important do you believe knowledge about market abuse is for SwedSec licensees??

– This is elementary knowledge for people who work with order handling in practice, but also for stockbrokers, advisers and others who interact with clients in relation to securities dealing. In addition, all licensees, with the possible exception of mortgage advisers, should be thoroughly familiar with the rules related to market abuse.

Thank you very much for allowing us to delve into your important work and we look forward to following your progress in the future.