

Legal survey over the Nordic securities holding systems

The Nordic CSD systems show many similarities but looking at them closely there are many differences. From an international perspective there are **certain common features** however that deserves recognition.

1. Dematerialisation of securities

The basic rule for all Nordic countries is that if **the issuer decides** to issue securities through a Nordic CSD the securities are issued in **dematerialised** form. There is no choice for an investor to have them in any other form, physical or immobilised.

Dematerialisation being the main principle; however the different regulations in the different countries may vary considerably concerning details for registrations and for setting up of records and accounts. Generally speaking, technical possibilities and commercial needs are carefully balanced against the public interest of safeguarding investors' rights and upholding the responsibilities of issuers and market participants.

Immobilised foreign securities are generally allowed and are nowadays issued quite frequently in the Nordic CSDs through links, direct or indirect, with other CSDs.

2. Owner accounts at the level of CSD

In all four countries the CSD system operates **millions of investor accounts**. This is because investors often hold their securities on accounts opened "directly" with the CSD, so called **owner accounts**. Therefore the Nordic holding systems have often been described as *direct holding systems*. One important reason for this situation is that in all Nordic countries the majority of shares have for a long time been issued as registered shares. The CSD systems therefore were founded on the assumption that the the registered owner should also be the person to be registered on a securities account. Then there would be no need for any intermediation and the CSD would be seen as an agent of the issuer.

However, at the same time it was accepted in principle that the owner could assign another person to “hold” the securities. Therefore in all countries a **nominee account** is accepted besides the owner account. On a nominee account it is noted that the account holder is holding the securities for the benefit of one or more other persons. Company law normally allows the nominee to represent the owner, except for voting. It should therefore be recognized that the Nordic holding systems through the acceptance of nominee accounts rather could be described as a *combination* of a direct (dis-intermediated) and an indirect (intermediated) holding system.

Later the development of cross border links has resulted in a growing intermediation of CSD accounts. When a Nordic CSD “imports” foreign securities through a link, the CSD *intermediates* between the account holder and the foreign CSD/custodian. An owner account in a Nordic CSD may contain both national and international securities. With regard to national securities, holdings may be said to be “directly held”, but with regard to international securities on the same CSD account, the CSD must clearly be regarded as an intermediary and the securities as “indirectly held”.

The terms “direct” and “indirect” are therefore not accurate in describing the Nordic holding systems. The term “indirectly held securities” have lately been defined as “securities held on an account with an intermediary” thereby differentiating from securities held by the owner in paper form. The existence of an account being administered by someone with whom the holder has an account agreement - express or following certain regulation - is the fact that needs to be described and necessitates special attention. If the person, responsible in relation to the account holder for the administration of a securities account, is called an intermediary, then all Nordic CSDs are intermediaries and all securities held on Nordic CSD accounts are indirectly held securities.

In Norway and Finland national citizens are not allowed to hold national securities in any other way than through an owner account with the respective CSD. In neither Denmark nor Sweden there are any such restrictions.

3. Decentralised systems with “account operators”

All Nordic CSD systems operate by so called **account operators**. The idea is that the CSD is responsible for the central administration of the book-entry system and is also liable in financial terms for the correct keeping of the accounts. In relation to the investors the legislation provides for the CSD to operate through local “agents”, account operators, who face the investors and carry out the manual part of the registrations on CSD accounts. To act as account operator for owner accounts and nominee accounts only Central banks, clearing houses, other CSD and banks and brokers with authorisation from national regulators are allowed. Other legal persons are only allowed to operate, within certain limits, owner accounts opened in their own names. Natural persons are not allowed to operate their own accounts.

This **decentralised structure** causes a need for certain regulation regarding the terms and sharing of liabilities between the CSD and its account operators that is special to all Nordic CSDs and that differentiates them from other European CSDs.

4. Issuer relation with CSD and other CSD tasks

The Nordic CSD systems were originally designed to cater for particular national needs. In Sweden the first steps towards dematerialisation were taken with regard to shares in the 1970s, followed by the full book-entry reform in 1989. In Denmark it was the debt market which needed reform first, but shares were also included in the book-entry reform of 1980. Dematerialisation in Norway and Finland in the 1980s and 1990s were particularly aimed at exchange traded securities. These developments have been reflected in the design of the **relation between the respective CSD and the issuers**. Generally speaking the national CSD is the prime point of entry into the market for issuers on the Nordic markets. Usually the issuer also has to use an issuing agent (bank or broker), who is affiliated with the national CSD.

In general the Nordic CSDs also have tasks following from **tax regulation, company law** and from securities legislation such as **insider regulations, funds regulations** etc. A particular feature for Nordic CSDs (with the exception of Denmark) is that the CSD has an obligation not just towards the issuer but to the general public, to hold a **public shareholder register**, in part or complete.