

Trading Vehicles: Overview (Sweden)

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A Practice Note providing an overview of the key corporate features of different trading vehicles that are commonly used when setting up a business in Sweden. It includes an overview of sole traders and the main forms of companies and partnerships; in particular, private and public limited companies, trading partnerships and limited partnerships.

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Most jurisdictions offer several alternative methods for establishing a business and engaging in local commercial activities. Common alternatives range from registering as a sole proprietor or trader, to forming or incorporating an entity with one or more owners and with separate legal personality. Variations of trading vehicles exist across jurisdictions based on the development of local laws as influenced by local economic and political systems and cultural norms.

When entering a new market, whether by establishing a new subsidiary, joint venture, or through acquisition of an existing business, it is important to understand the differences among the trading vehicles available in the jurisdiction. Many trading vehicle types may appear similar to or the same as stock corporations, limited liability companies or partnerships from an investor's home jurisdiction and are perhaps different by name only. Some differences, however, may exist in the details. Understanding the differences may help a foreign investor choose a trading vehicle that best suits its business purposes in the new jurisdiction.

This Note sets out the key corporate features of the main trading vehicles used for carrying on commercial activities in Sweden. It covers:

- Sole traders (*Enskild näringsidkare*) (see *Sole Trader (Enskild näringsidkare)*).
- Companies: private limited companies and public limited companies (see *Public Limited Company (Publikt aktiebolag)* and *Private Limited Company (Privat aktiebolag)*).
- Partnerships: trading partnerships and limited partnerships (see *Trading Partnership (Handelsbolag)* and *Limited Partnership (Kommanditbolag)*).

Charitable organisations and those set up mainly for not-for-profit purposes (such as foundations and associations) are outside the scope of this Note.

This Note does not consider tax-related issues arising from the choice of trading vehicle, or the differing tax treatment that applies to each type of vehicle.

Unless otherwise stated, a reference in this Note to:

- The Commercial Register Act, is to the *Commercial Register Act (Handelsregisterlagen)* (SFS 1974:157).
- The Accounting Act, is to the *Accounting Act (Bokföringslagen)* (SFS 1999:1078).
- The Companies Act, is to the *Companies Act (Aktiebolagslagen)* (SFS 2005:551).
- The Partnership and Non-registered Partnership Act, is to the *Partnership and Non-registered Partnership Act (Lagen om handelsbolag och enkla bolag)* (SFS 1980:1102).

For:

- A high level overview of board composition, the comply or explain approach, management rules and authority, directors' duties and liabilities, transactions with directors and conflicts, company meetings, internal controls, accounts and audit, institutional investors and reform proposals, see *Country Q&A, Corporate Governance and Directors' Duties in Sweden: Overview*.
- An overview of the key issues in establishing a business in Sweden, see *Country Q&A, Establishing a Business in Sweden*.
- An introduction to the legal system in Sweden, see *Country Q&A, Doing Business in Sweden: Overview*.

Sole Trader (Enskild näringsidkare)

A sole trader runs a business alone, makes all decisions affecting the business and owns all the assets of the business personally. Small businesses often operate as sole traders because of the lack of legal formality and the low administrative costs involved in setting up and running the business.

A sole trader is personally liable for all debts and other liabilities of their business.

Sole traders do not have to register with the Swedish Companies Registration Office (SCRO) (*Bolagsverket*), unless the business have met at least two of the following criteria for two consecutive financial years:

- An average number of 50 employees.
- A reported balance sheet of Swedish Krona (SEK) 40 million (equal approximately to EUR3.5 million).
- A net turnover of SEK80 million (equal approximately to EUR7 million).

(Section 2, Commercial Register Act (*Handelsregisterlagen*) (SFS 1974:157), and Chapter 6, Section 1, paragraph 6, Accounting Act (*Bokföringslagen*) (SFS 1999:1078).)

Sole traders are obligated to maintain accounts of their business (Chapter 2, Section 6, Accounting Act (*Bokföringslagen*) (SFS 1999:1078)).

It is possible, but not a requirement, for sole traders to register a business name with the SCRO to protect the name of their business from being used by others in the same line of business.

Key Features of a Sole Trader

The key features of a business operating as a sole trader are as follows:

- **No separate legal personality.** The business of a sole trader does not have legal personality and cannot own assets in its own right or grant security over them.
- **Unlimited personal financial liability.** The personal financial liability of a sole trader is unlimited.
- **One owner.** A business operated by a sole trader can only have one owner. Married couples or cohabitants with joint children can, however, operate a sole trader business together, although there is still only one owner. A sole trader can have employees.
- **No distinction between management and ownership of a sole trader business.** A sole trader owns all the assets of the business personally and has full control over running the business. They also make all the decisions affecting the business.
- **Minimal formation and ongoing filing requirements.** There is no requirement to adopt constitutional documents. A sole trader is not required to register with the SCRO unless for two consecutive financial years the business has met at least two of the following criteria:
 - an average number of 50 employees;
 - a reported balance sheet of SEK40 million (equal approximately to EUR3.5 million); and
 - a net turnover of SEK80 million (equal approximately to EUR7 million).

Limited Companies and Partnerships: Overview

Types of Limited Companies

Limited companies can take any of the following two forms in Sweden, although these two are not viewed as two different trading vehicles:

- Public limited company (*Publikt aktiebolag*). A public limited company is the company that is closest conceptually to a UK public limited company or a US corporation (Companies Act (SFS 2005:551)). See [Public Limited Company \(Publikt aktiebolag\)](#).
- Private limited company (*Privat aktiebolag*). A private limited company is the company that is closest conceptually to UK private limited company or a US limited liability company (Companies Act (SFS 2005:551)). See [Private Limited Company \(Privat aktiebolag\)](#).

Types of Partnerships

The main forms of partnerships used for commercial ventures in Sweden are as follows:

- Trading partnership (*Handelsbolag*). A trading partnership has a legal personality, but the partners are personally responsible for the partnership's debts. The partnership must have two or more partners (Partnership and Non-registered Partnership Act (SFS 1980:1102)). See [Trading Partnership \(Handelsbolag\)](#).
- Limited partnership (*Kommanditbolag*). A limited partnership is a form of trading partnership. It must have at least one general partner and one limited partner, and the general partner is personally liable for all debts and other liabilities of the partnership (Partnership and Non-registered Partnership Act (SFS 1980:1102)). See [Limited Partnership \(Kommanditbolag\)](#).

Main Differences Between Limited Companies and Partnerships

Overall, under Swedish law, the different enterprises can be divided in the following two main groups:

- Private and public limited companies.
- Personal enterprises, such as the sole traders, trading partnerships and limited partnerships.

The main differences between the two groups are:

- Liability of the owners. In limited companies the owners are only liable for their contributions (save for very limited exceptions). In partnerships the partners are normally personally liable for the debts and other obligations of the partnership.
- Regulatory framework. Commercial companies are more heavily regulated than partnerships, and in particular have more formation and filing requirements. The regulatory difference is mainly due to creditor considerations, as the creditors in the limited companies are limited in their ability to recover in an event of bankruptcy.

Public Limited Company (Publikt aktiebolag)

Public limited companies are suitable for larger businesses. They are heavily regulated and must comply with onerous reporting requirements. They must have a minimum share capital requirement of SEK500,000 (equal to approximately to EUR43,800). They can have just one shareholder.

Key Features of a Public Limited Company

The key features of a public limited company are as follows:

- **Separate legal personality.** A public limited company is a legal person. It can own assets in its own right or grant security over them. It can also enter into and enforce contracts.
- **No minimum number of shareholders.** A public limited company can be set up by one or more shareholders (Chapter 2, Section 1, Companies Act (SFS 2005:551)). It may have an unlimited number of shareholders.
- **Minimum share capital.** A public limited company needs to have a minimum share capital of SEK500,000 (equal approximately to EUR43,800) (Chapter 1, Section 14, Companies Act (SFS 2005:551)). The company may be registered only where full and acceptable payment has been made for the share capital (Chapter 2, Section 23, Companies Act (SFS 2005:551)). Where the share capital is divided into several shares, each share shall represent an equal portion of the share capital. Each share's portion of the share capital constitutes the share's quotient value and the payment for a share may not be less than the share's quotient value (Chapter 1, Section 6, and Chapter 2, Section 15, Companies Act (SFS 2005:551)). There are strict statutory controls on how a public limited company can alter its share capital and return value to its shareholders. Shares can be paid up in cash, or if stated in the memorandum of association, in non-cash consideration (Chapter 2, Section 16, Companies Act (SFS 2005:551)).
- **Formalities on share transfers.** A public limited company has rules and formalities on the transfer of shares. As a main rule, shares may be freely transferred and acquired unless otherwise provided by such a clause in the articles of association (Chapter 4, Section 7, Companies Act (SFS 2005:551)).
- **Limited liability for owners.** The shareholders bear no liability for the company's debts and obligations except if the company is obligated to go into liquidation and a shareholder has knowledge of this and yet participates in a decision to continue the company's operations (Chapter 1, Section 3, and Chapter 25, Section 19, Companies Act (SFS 2005:551)).
- **Separation between management and ownership.** In a public limited company ownership and management are separated. The owners of the company are its shareholders and the responsibility for the management falls on the directors (Chapter 8, Section 4, Companies Act (SFS 2005:551)). Although in many instances the directors will also be shareholders, this is not a legal requirement.
- **Management of the company.** The company is managed by the board of directors on behalf on the shareholders. The board of directors must comprise at least three board members (Chapter 8, Section 46, Companies Act (SFS 2005:551)). The shareholders elect the board members at the company's annual general meeting, or at a general meeting (Chapter 8, Section 8, Companies Act (SFS 2005:551)). A public limited company must also have a managing director, who cannot also be chairperson (Chapter 8, Sections 49–50, Companies Act (SFS 2005:551)). The managing director attends to the day-to-day management of the company pursuant to guidelines and instructions issued by the board of directors (Chapter 8, Section 29, Companies Act (SFS 2005:551)). The board of directors and the managing director have extensive responsibility for the management of the company's affairs. All public limited companies must appoint an auditor (Chapter 9, Section 1, Companies Act (SFS 2005:551)). Public limited companies must file an

annual report of their accounts and management to the SCRO every year and hold an annual general meeting at latest within six months of the company's financial year-end (Chapter 7, Section 10, Companies Act (SFS 2005:551)).

- **Can be listed and traded on a stock exchange.** A public limited company can be listed, and its shares traded on a stock exchange.
- **Formalities for forming and registering a public limited company.** To start a public limited company, a memorandum of association needs to be signed by all founders. The memorandum of association states that the founders agree to form a public limited company and includes several information including the share price, information on board members and the list of founders (that is, the persons who subscribe to the shares and to the memorandum of association). (Chapter 2, Sections 4 and 5, Companies Act (SFS 2005:551).) The articles of association are attached to the memorandum of association too and state information including the business name and business purpose of the company, the amount of the share capital, minimum and maximum amount of members on the board of directors and rules of procedure for calling general meetings. (Chapter 2, Section 10 and Chapter 3, Section 1-3, Companies Act (SFS 2005:551).) Where a public company is formed, the memorandum of association must contain information regarding all costs associated with the formation of the company (Chapter 2, Section 28, Companies Act (SFS 2005:551)). After signature, and not later than six months from signature, directors must apply for registration of the new company at the SCRO and pay a fee for the registration (Chapter 2, Section 22, Companies Act (SFS 2005:551)). Public limited companies must have a share register established as soon as all founders have signed the memorandum of association (Chapter 5, Section 8, Companies Act (SFS 2005:551)). When the company has been registered, the company becomes a legal person, and the SCRO sends the founders a certificate of registration.

Private Limited Company (Privat aktiebolag)

In comparison to a public limited company, a private limited company is less regulated. Most Swedish limited companies are private limited companies.

Key Features of a Private Limited Company

The key features of a private limited company are as follows:

- **Separate legal personality.** A private limited company is a legal person. It can own assets in its own right or grant security over them. It can also enter into and enforce contracts.
- **No minimum number of shareholders.** A private limited company can be set up by one or more shareholders (Chapter 2, Section 1, Companies Act (SFS 2005:551)). It may have an unlimited number of shareholders.
- **Minimum share capital.** A private limited company needs to have a minimum share capital of SEK25,000 (equal approximately to EUR2,200) (Chapter 1, Section 5, Companies Act (SFS 2005:551)). The company may be registered only where full and acceptable payment has been made for the share capital (Chapter 2, Section 23, Companies Act (SFS 2005:551)). Where the share capital is divided into several shares, each share shall represent an equal portion of the share capital. Each share's portion of the share capital constitutes the share's quotient value and the payment for a share may not be less than the share's quotient value (Chapter 1, Section 6, and Chapter 2, Section 15, Companies Act (SFS 2005:551)). There are strict statutory controls on how a private limited company can alter its share capital and return value to its shareholders. Shares can be paid up in cash, or if stated in the memorandum of association, in non-cash consideration (Chapter 2, Section 16, Companies Act (SFS 2005:551)).

- **Formalities on share transfers.** A private limited company has rules and formalities on the transfer of shares. As a main rule, shares may be freely transferred and acquired unless otherwise provided by such a clause in the articles of association (Chapter 4, Section 7, Companies Act).
- **Limited liability for owners.** The shareholders bear no liability for the company's debts and obligations except if the company is obligated to go into liquidation and a shareholder has knowledge of this and yet participates in a decision to continue the company's operations (Chapter 1, Section 3, and Chapter 25, Section 19, Companies Act (SFS 2005:551)).
- **Separation between management and ownership.** In a private limited company ownership and management are separated. The owners of the company are its shareholders and the responsibility for the management falls on the directors. (Chapter 8, Section 4, Companies Act (SFS 2005:551).) Although in many instances the directors will also be shareholders, this is not a legal requirement.
- **Management of the company.** The company is managed by the board of directors on behalf on the shareholders. The board of directors can be composed of one or two members, if there is at least one alternate (Chapter 8, Section 3, Companies Act (SFS 2005:551)). It is optional to appoint a managing director (Chapter 8, Section 27, Companies Act (SFS 2005:551)). The shareholders elect the board members at the company's annual general meeting, or at a general meeting (Chapter 8, Section 8, Companies Act (SFS 2005:551)). The board of directors of a private limited company and the managing director, if the company has one, have extensive responsibility for the management of the company's affairs. Although an auditor as a general rule must be appointed, there are a few exceptions from this for smaller private limited companies (Chapter 9, Section 1, Companies Act (SFS 2005:551)). Private limited companies must file an annual report of their accounts and management to the SCRO every year and hold an annual general meeting at latest within six months of the company's financial year-end (Chapter 7, Section 10, Companies Act (SFS 2005:551)).
- **Cannot be listed and traded on a stock exchange.** Shares of a private limited company cannot be listed and traded on a stock exchange. (Chapter 1, Section 8, Companies Act (SFS 2005:551).) A private limited company or a shareholder in such a company may not, through advertising, attempt to sell shares or subscription rights in the company or debentures or warrants issued by the company. Nor may a private company or a shareholder in such a company otherwise attempt to sell securities referred to in the first paragraph by offering such securities for subscription or sale to more than 200 persons. (Chapter 1, Section 7, Companies Act (SFS 2005:551).) Shares of a private limited company can be sold by shareholders to third parties.
- **Formalities for forming and registering a private limited company.** To start a private limited company, a memorandum of association needs to be signed by all founders. The memorandum of association states that the founders agree to form a public limited company and includes several information including the share price, information on board members and the list of founders (that is, the persons who subscribe to the shares and to the memorandum of association) (Chapter 2, Sections 4 and 5, Companies Act (SFS 2005:551)). The articles of association are attached to the memorandum of association too and state information including the business name and business purpose of the company, the amount of the share capital, minimum and maximum amount of members on the board of directors and rules of procedure for calling general meetings (Chapter 2, Section 10 and Chapter 3, Section 1–3, Companies Act (SFS 2005:551)). After signature, and not later than six months from signature, directors must apply for registration of the new company at the SCRO and pay a fee for the registration (Chapter 2, Section 22, Companies Act (SFS 2005:551).) Private limited companies must have a share register established as soon as all founders have signed the memorandum of association (Chapter 5, Section 8, Companies Act (SFS 2005:551)). When the company has been registered, the company becomes a legal person, and the SCRO sends the founders a certificate of registration.

Trading Partnership (*Handelsbolag*)

A trading partnership exists where two or more persons have agreed to engage in business jointly in a partnership and the partnership has been registered in the trade register (Chapter 1, Section 1, Partnership and Non-registered Partnership Act (SFS 1980:1102)).

As there is more than one owner co-running the business, the partners must agree on all decisions affecting the business or specifically delegate authority. Trading partnerships are usually owned by natural persons, but partners can also be companies.

Trading partnerships are commonly used when there is a limited number of partners, although there are no limitations on partners.

Key Features of a Trading Partnership

The key features of a trading partnership are as follows:

- **Separate legal personality.** A trading partnership is a legal person. It can own assets in its own right or grant security over them. It can also enter into and enforce contracts.
- **Formation.** To set up the trading partnership, the partners must make an agreement (written or oral) to jointly carry on business activities. The partnership must be registered in the trade register, although the agreement is not required to be filed for registration (Chapter 1, Section 1, Partnership and Non-registered Partnership Act (SFS 1980:1102)).
- **Unlimited liability for partners.** Partners are personally liable for the debts and obligation of the trading partnership. The liability of the partners is joint and several and each one of the partners may be obligated to pay for the whole of the partnership's debts (Chapter 2, Section 20, Partnership and Non-registered Partnership Act (SFS 1980:1102)). If this is the case, that partner can thereafter turn to the rest of the partners and claim payment for their share of the debt.
- **Minimum number of partners.** A trading partnership can have two or more partners. There is no limit to the maximum number although normally trading partnerships are used when there is a limited number of partners. To become a partner, a person cannot be bankrupt, be prohibited from carrying on business or have a custodian. Neither can pension and staff foundations or branches be partners (Chapter 1, Section 2a, Partnership and Non-registered Partnership Act (SFS 1980:1102)). The reciprocal rights and obligations of the partners for the duration of the partnership are determined by agreement. If not agreed, the Partnership and Non-registered Partnership Act contains a regulation of such rights (Chapter 2, Section 1, Partnership and Non-registered Partnership Act (SFS 1980:1102)).
- **No general distinction between management and ownership of the trading partnership.** The trading partnership is managed by all the partners unless otherwise agreed. Each partner is entitled to take measures relating to the management of the business of the partnership, save where such measures are prohibited by another partner who has not been excluded from the management (Chapter 2, Section 3, Partnership and Non-registered Partnership Act (SFS 1980:1102)).
- **No minimum capital contributions.** There are no requirements for start-up capital for trading partnerships.
- **Minimal formation and ongoing filing requirements.** To set up a trading partnership, the partners must make an agreement to jointly carry on business activities which, however, can be oral (Chapter 1, Section 1, Partnership and Non-registered Partnership Act (SFS 1980:1102)). If a trading partnership has legal entities registered as partners, or if the partnership is considered "large" under applicable law, an annual report of the partnership account must be filed every year with the SCRO.

Limited Partnership (*Kommanditbolag*)

A limited partnership is a partnership in which there are two types of partners: limited partners, who have a liability limited to their contributions, and general partners, who have unlimited personal liability (Chapter 1, Section 2, Partnership and Non-registered Partnership Act (SFS 1980:1102)).

Key Features of a Limited Partnership

The key features of a limited partnership are as follows:

- **Separate legal personality.** A limited partnership is a legal person. It can own assets in its own right or grant security over them. It can also enter into and enforce contracts.
- **Formation.** To set up the limited partnership, the partners must make an agreement (written or oral) to jointly carry on business activities. The partnership must be registered in the trade register, although the agreement is not required to be filed for registration (Chapter 1, Section 1, Partnership and Non-registered Partnership Act (SFS 1980:1102)).
- **Minimum of two partners.** A limited partnership must always have one limited partner and one general partner. Not all partners may be limited partners. Foundations or non-profit organisations may not be general partners (Chapter 3, Section 2, Partnership and Non-registered Partnership Act (SFS 1980:1102)). A partner cannot be bankrupt, be prohibited from carrying on business or have a custodian.
- **Mixed liability.** General partners are personally liable for the partnership's debts and obligations. Limited partners are not liable for the obligations of the partnership in excess of the sum they have contributed or undertaken to contribute to the partnership. Limited partners fulfil their liability for the obligations of the partnership through the payment of their fixed contribution to the partnership. Limited partners are obliged to make payment into the partnership of their fixed contribution on demand by the holder of a due and payable claim against the partnership (Chapter 1, Section 2, Chapter 3, Section 8, Partnership and Non-registered Partnership Act (SFS 1980:1102)).
- **Separation between management and ownership.** The owners of the limited partnership are its limited partner(s) and general partner(s). Limited partners are not authorised to act on behalf of the partnership (Chapter 3, Section 7, Partnership and Non-registered Partnership Act (SFS 1980:1102)).
- **Flexibility in the reciprocal rights and obligations of the partners.** The reciprocal rights and obligations of the partners are determined by agreement (Chapter 3, Section 1, Chapter 2, Section 1, Partnership and Non-registered Partnership Act (SFS 1980:1102)).
- **No minimum capital contribution.** There are no requirements for start-up capital for limited partnerships.
- **Minimal formation and ongoing filing requirements.** To set up a limited partnership, the partners must make an agreement to jointly carry on business activities which, however, can be oral (Chapter 1, Section 1-2, Partnership and Non-registered Partnership Act (SFS 1980:1102)). If a limited partnership has legal entities registered as partners, or if the partnership is considered "large" under applicable law, an annual report of the partnership account must be filed every year with the SCRO.

Main Differences Between Public and Private Limited Companies

The following are the main differences between public and private limited companies:

- A public limited company should have a share capital of at least SEK500,000; a private limited company should have a share capital of at least SEK25,000.
- The board of directors in a public limited company must have at least three members in the board and a managing director, whereas the board of a private limited company can be composed of one or two members, if there is at least one alternate. It is optional to have a managing director in a private limited company.
- The rules on when the board of directors should convene the general meeting, what the notice should contain and how the notice should be distributed also differ between private limited companies and public limited companies.
- Only shares of public limited companies can be listed and traded on a stock exchange.
- Only public limited companies are allowed to offer their shares for trading to the public on the open market. Private limited companies are not allowed to advertise or otherwise draw the public's attention to the possibility of buying or subscribing to shares in the company, or in any other way, offer more than 200 persons to subscribe for shares or securities in the company.

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