

# Corporate Governance

## Introduction

Biotage AB was established in 1997 under the name Pyrosequencing AB. The Company made a number of acquisitions in the medicinal chemistry sector between 2003 and 2005. Following the disposal of the Biosystems business area, the Company consists of one business area – Discovery Chemistry. The Company's head office is situated in Uppsala. Biotage applies the Swedish Code of Corporate Governance ("the Swedish Code"). The diagram below shows Biotage's corporate governance model and how the central bodies interact.

## Shareholders

Biotage's shares have been listed on the Stockholm Stock Exchange since 2000. Share capital in Biotage consists of class A shares, with each share carrying one vote. Class A shares entitle the holder to the same proportion of the Company's assets and earnings.

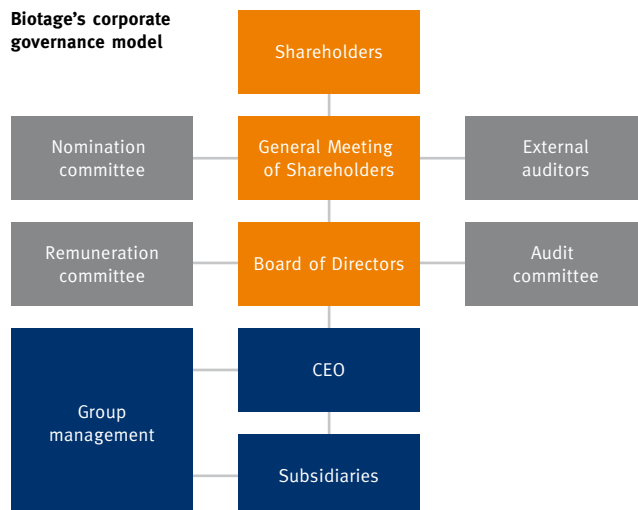
At December 31, 2009, the number of shareholders was 7,391. HealthCap is the largest shareholder in term of votes, followed by Investor Growth Capital and Anders Walldov and companies. 59.1 percent of the shareholders hold 1,000 shares or fewer, and the ten largest owners hold 40.9 percent of the total number of shares. The proportion of foreign investors is 28.4 percent. Further information about the shareholder structure can be found on page 23 of the annual report.

## General meeting of shareholders

Shareholders' influence in the Company is exercised at the shareholders' meeting, which is the company's highest decision-making body. Shareholders wishing to participate in the shareholders' meeting, either in person or represented by proxy, must be listed in the register of shareholders no later than 5 working days before the meeting, and must notify the Company of their intention to attend, as specified in the notice of the meeting. The notice convening the meeting is made by public announcement and an announcement posted on the Company's website ([www.biotage.com](http://www.biotage.com)).

The annual general meeting shall be held within six months of the end of the fiscal year. At this meeting, the shareholders make decisions on the election of the Board and auditor (when relevant), the composition of the nomination committee and discharge from liability for the Board members

**Biotage's corporate governance model**



## Important external and internal regulation and policies that influence the corporate governance

### Important internal regulations and policies

- Articles of incorporation
- The board of director's rules of procedure with CEO instructions
- Instructions for Committees Appointed by the Board
- Fiscal policy
- Financial handbook
- Business-ethical stipulations

### Important external rules, etc.

- Swedish Companies Act
- Swedish Book-keeping Act
- Swedish Annual Accounts Act
- Nasdaq OMX listing agreement
- Swedish Code of Corporate Governance
- Swedish Securities Council's statements

and CEO for the previous year. They also make decisions on the adoption of the financial statements, distribution of earnings, Board and auditor fees and principles for remuneration of the CEO and other senior executives.

## 2009 Annual General Meeting

The Board presented a report on its work during the year. The CEO informed the annual general meeting about the Group's financial performance and position, and commented on the results for 2008. The annual general meeting adopted the 2008 annual financial statements of the Parent Company and Group, decided on the distribution of the Company's earnings and discharged the Board and CEO from liability. A dividend of SEK 0.20 per share was resolved.

The chairman of the nomination committee gave an account of how the committee had conducted its work, and explained the committee's proposals. The meeting adopted the nomination committee's proposals on remuneration of the Board and auditors.

The meeting also adopted the nomination committee's proposal that six Board members should be elected. Board members Ove Mattsson (Chairman) Staffan Lindstrand, Thomas Eklund, Mathias Uhlén, Per-Olof Eriksson and Bengt Samuelsson were re-elected. Former Board members Annika Espander, Anders Rydin and Axel Broms had declared themselves unavailable for re-election and the meeting thanked them for their services.

The meeting voted to grant the Board a mandate to issue shares and/or convertibles on one or more occasions before the 2010 annual general meeting, with or without preferential rights for shareholders. A decision by the Board to issue shares and/or convertibles may result in a total increase in the number of shares in the Company of up to 8,800,000 shares.

The meeting unanimously adopted the Board's proposal for a mandate for the Board to decide on the purchase or transfer of up to 8,848,632 of the Company's own shares on Nasdaq OMX Stockholm.

The Board proposed that the meeting amend the articles of association so that the first and second paragraph of section 9 read: "The notice convening a shareholders' general meeting shall take the form of an announcement in Post- och Inrikes Tidningar (The Swedish Gazette) and on the Company's website. When the notice of the meeting has been issued, information to this effect will appear in Svenska Dagbladet."

The meeting voted unanimously in favor of the Board's proposal to amend the articles of association. The resolution was made conditional to a proposed change of the Swedish Companies Act coming into force.

Board members Ove Mattsson, Bengt Samuelsson and Mathias Uhlén and Chief Auditor Marcus Sörlander were present at the annual general meeting. The minutes of the annual general meeting are available on Biotage's website ([www.biotage.com](http://www.biotage.com)).

## Nomination Committee

The nomination committee represents the interests of shareholders. The 2009 annual general meeting decided that the Chairman of the Board be elected to serve on the nomination committee and that he and the Company's largest shareholders (in terms of votes) as of 1 September 2009 appoint three other members. It was decided that the names of these persons should be published no later than six months before the 2010 annual general meeting, which has been the case. It was also decided that the nomination committee would elect a chairman from one of its members, who should not be the Chairman of the Board.

The nomination committee consists of Björn Odlander, Chairman (HealthCap), Karl Swartling (Investor Growth Capital), Anders Walldov (Brohuvudet AB and private holdings) and Ove Mattsson (Chairman of the Board).

If a shareholder who is represented by one of the nomination committee's members is no longer one of the largest shareholders (in terms of votes) in the Company, or if a member of the nomination committee is no longer employed by such a shareholder or leaves the nomination committee before the 2010 annual general meeting for some other reason, the nomination committee's other members shall be entitled to appoint another member to replace that member.

During the year, the nomination committee has prepared proposals for consideration by the 2010 annual general meeting regarding the election of the Chairman of the Board, other Board members and chairman of the

annual general meeting, and remuneration and related matters.

Shareholders may submit proposals to the nomination committee in various ways, including by e-mail to [info@eu.biotage.com](mailto:info@eu.biotage.com). The nomination committee's proposals and reasons must be published no later than the date of publication of the notice of the annual general meeting. The nomination committee's term of office is until the composition of the next nomination committee is published.

#### *The nomination committee's work since the 2009 annual meeting*

Since the nomination committee was formed in fall 2009, it has held two meetings, which were attended by all its members. The Chairman of the Board has provided the nomination committee with an account of the process used in the annual evaluation of the Board, its members and the CEO, and the results of the evaluation. In the lead-up to the 2010 annual general meeting, the nomination committee has formulated a proposed procedure for establishing the next nomination committee. The nomination committee is also responsible for submitting proposals for remuneration of the Board. To obtain an idea of reasonable remuneration levels, the committee has analyzed and compared fees paid in similar companies. The audit committee has assisted the nomination committee in the preparation of proposals for remuneration of the Board. Having studied the results of the Board's evaluation report, the nomination committee is of the opinion that the Board's work has been effective. The evaluation of the present Board includes the above-mentioned report on the Board's annual evaluation of its own work submitted to the nomination committee by the Chairman Ove Mattsson.

The nomination committee's proposals are submitted no later than at the date of publication of the notice of the annual general meeting.

#### **External auditors**

According to the Company's articles of association, Biotage shall have one or two external auditors. At the 2008 annual general meeting, Deloitte AB was re-elected the Company's auditor for a further four-year period, with Marcus Sörländer as the new responsible auditor.

The external audit of the Parent Company's and Group's accounts and the Board's and CEO's administration is conducted in accordance with generally accepted auditing standards in Sweden. The accountant participates in at least one Board meeting each year in order to go through the annual accounts and discuss matters with Board members without the presence of the CEO.

The auditor reviews the closing accounts for the period January to September. A review of the internal procedures and control systems is also conducted in the third quarter. The year-end accounts and annual report are reviewed and audited between January and March. The interim reports between January and September are reviewed. Information on auditors' fees can be found in note 6 of the annual report.

#### **Board**

The Board's overall task is to manage the Company's affairs in the best possible way on behalf of the shareholders. The Board shall continuously evaluate the Group's financial position and operational management. The Board determines issues concerning the Group's strategic direction and organization, and makes decisions on major investments (over SEK 5 million) and commitments.

Each year, the Board establishes its own rules of procedure and a set of CEO instructions defining the division of work between the CEO and Board.

The Board's rules of procedure define the division of work among Board members, the frequency of Board meetings and the tasks of the Board's committees. Board members receive a written agenda and all the necessary decision-support material before each Board meeting. Each Board meeting includes a thorough examination of the current business situation, the Company's results and financial position and the outlook for the rest of the year. Other matters for consideration include competition and the market situation.

The Chairman of the Board leads the Board's work, represents the Company in ownership matters and is responsible for the evaluation of the Board's work. The Chairman is also responsible for ongoing contact with Group management and ensuring the Board carries out its duties.

According to the articles of association, the Board shall consist of a minimum of five and a maximum of nine members elected by the shareholders' general meeting. The Board has a quorum if more than half the meeting-elected members are present. The Board must have diversity and breadth of qualifications and a background appropriate to Biotage's organization, sector and operations. New Board members receive introductory training in order to quickly obtain the knowledge they need in order to represent the interests of the Company and its shareholders.

The Board of directors for 2009 consisted of the following persons:

- Ove Mattsson (Chairman)
- Staffan Lindstrand
- Thomas Eklund
- Per-Olof Eriksson
- Mathias Uhlén
- Bengt Samuelsson

In addition to the Board members above, the Board has another member, Andreas Lundin, who joined the Board as employee representative in August 2009.

#### *The Board's independence and attendance*

All Board members are considered independent of the Company and its management. All members, with the exception of Staffan Lindstrand and Per-Olof Eriksson, are considered independent of the Company's major shareholders, as defined in the Swedish Code. Information about Board members' attendance can be found on page 4.

#### *The Board's work in 2009*

The Board held eight meetings at which minutes were taken. A quorum was established at all eight meetings. The Secretary of the Board is Biotage's Vice President of Corporate Development, Lars Bäckman, who is not a member of the Board.

During the year, the Board of Biotage continued its focus on the Company's strategy and organization, including the decision to restructure the Company's US operations. This involved the reduction of 50 employees after manufacturing at the Company's factory in Charlottesville, Virginia, was closed down. A sales and marketing company for the North American market has now been established in Charlotte, North Carolina. Production has been outsourced to contract manufacturers and transferred to Biotage's factory in Wales.

Closure of the Charlottesville operations also involved activity aimed at selling the company-owned property from which the operations had been conducted. These sales efforts continued through most of 2009, and the property was finally sold, with the net proceeds after transaction costs adding approximately USD 1.3 million to the Company's cash assets.

The Board also dealt with other important matters during the year. The Company's UK operations were consolidated into one location, and all activity in the UK now takes place in Cardiff, Wales.

The Board decided to exercise the mandate granted by the 2009 AGM to purchase and transfer the Company's own shares before the 2010 meeting. The share buy-back process was conducted on Nasdaq OMX Stockholm. No shares were resold, and at December 31, 2009, the Company owned 1,578,109 of its own shares, which had been acquired for SEK 10.2 million. The average buy-back price was SEK 6.45.

In April 2009, the Company was sued for patent infringement in the United States. Biotage has requested the US Patent and Trademark Office to re-examine the validity of all patent claims relating to the three patents which are the subject of the alleged patent infringement. Biotage has also requested a stay of proceedings in the infringement case, pending the result of the PTO's re-examination. The court has acceded this request. The PTO has formally accepted the requested re-examination of the validity of the three patents in question.

The Board has two preparatory committees – the remuneration committee and the audit committee.

#### **Remuneration Committee**

The remuneration committee submits proposals to the Board about the

CEO's salary and employment terms. It also defines salaries and terms of employment for the other members of Group management and a framework for salaries and terms of employment for other key management personnel. The remuneration committee held three meetings during the year. The remuneration committee consists of Per-Olof Eriksson (chairman), Ove Mattsson and Staffan Lindstrand.

At the annual general meeting of shareholders, the Board presents for approval proposals on the remuneration of the CEO and other senior executives. The 2009 meeting adopted the following proposals by the Board:

- 1) the Company shall endeavor to offer key management personnel market salaries.
- 2) the remuneration committee shall prepare matters relating to remuneration and present these to the Board for consideration.
- 3) remuneration shall consist of a fixed salary, variable pay, retirement benefits, discretionary bonuses and termination benefits. A more detailed description of the terms of employment for the Group's key management personnel can be found in note 1 of the annual report.

#### **Audit Committee**

The audit committee follows its own rules of procedure, which the Board defines each year. The chairman of the audit committee is responsible for keeping the Board informed of the committee's activities and, when appropriate, submitting matters to the Board for approval. The audit committee's main task is to support the Board in ensuring that financial reporting is of high quality. The committee has regular meetings with the Company's auditor and evaluates the aims and scope of the audit.

The committee also discusses auditing issues of particular significance to the Group, and assists the nomination committee in preparing nominations for the post of auditor and recommendations on fees for auditing services.

The audit committee consists of Thomas Eklund (chairman), Staffan Lindstrand and Ove Mattsson. All the members of the audit committee are considered independent of the Company's major shareholders.

In 2009, the audit committee held four meetings at which minutes were taken.

#### **Group management**

Group management is responsible for establishing and implementing the Group's overall strategy, and dealing with activities such as acquisitions, disposals and large investments, which are prepared by Group management for approval by the Parent Company's Board. The CEO is responsible for the day-to-day management of the Company in accordance with the Board's instructions and guidelines. Group management consists of Torben Jørgensen (CEO), Mats-Olof Wallin (CFO) and Lars Bäckman (Vice President of Corporate Development).

Group management holds monthly meetings to discuss the financial performance and position of the Group and subsidiaries. The meetings also deal with strategic plans and the monitoring of budgets and forecasts.

Additional meetings are held every two weeks to consider overall operational management. The Parent Company's CEO chairs the boards of the Company's directly owned subsidiaries. Other members of Group management also serve on these boards. The boards of the subsidiaries supervise current operations and define strategies and budgets.

#### **The Board's description of internal controls**

Under the Swedish Code, the Board is required to provide an annual description of the Company's internal controls and risk management with regard to financial reporting.

The Board must also conduct an annual evaluation of the need for a separate internal audit function. In its evaluation, the Board has come to the conclusion that Biotage's present size and risk exposure do not justify a separate internal audit function.

The following description has not been reviewed by the Company's auditor.

#### **The control environment – the basis of internal controls**

The control environment creates Biotage's culture and defines the standards and guidelines on which the Group's business actions take place. In substance, the control environment consists of the documented

guidelines, manuals and instructions which have been communicated across the entire organization.

The organizational structure is transparent, with defined roles and responsibilities communicated in the form of documented instructions to the Board, the Board's committees, the CEO and managers of the subsidiaries. Regular evaluation is carried out at the function and department levels in the organization to ensure there is relevant knowledge with regard to financial reporting.

#### **Information and communication**

The most important steering documents for financial reporting are regularly updated and communicated to relevant personnel via the Company's intranet, newsletters, regular meetings, etc. Information channels have been established to ensure effective communication to relevant employees in the organization.

#### **Risk assessment**

The aim of risk assessment is to identify high-risk areas of the Group's operations and decide which controls are required to manage these risks. Risk assessment involves assessing the risk level from a quantitative and qualitative perspective at the account level and assessing similar processes which may be subject to fraud risk. Special guidelines are used to assess the risk associated with specific IT projects and the general IT environment.

#### **Control activities**

The control structure is designed to ensure effective management of what the Board and management consider significant risks to the Company's operations, compliance with legislation and regulations and financial reporting. Defined decision procedures, including authorization instructions, have been established for activities such as investments and the signing of contracts. Where appropriate, automatic controls designed especially for financial reporting have been established. Most control activities are integrated into the Company's key processes, which include ordering, revenue recognition, investments, supply contracts and purchasing.

The IT structure is designed to handle potential IT-related risks. This is done by means of controls and checks in the IT systems related to processes which affect financial reporting.

#### **Monitoring**

Each local manager or CEO is responsible for ensuring there are adequate internal controls in his own entity and that the entity follows the Group's overall rules and directives for financial reporting. The Board's monitoring of internal controls with regard to financial reporting is normally carried out by its audit committee, which monitors the work and reporting of internal and external auditors.

#### **Information and communication**

Biotage's communication must be correct, open and prompt, and delivered simultaneously to all its stakeholders. All communication shall be provided in accordance with the Nasdaq OMX Listing Agreement for listed companies in Sweden. Financial information shall give the stock market and present and future shareholders a clear overall picture of the Company and its operations, strategy and financial development. The Board approves the Group's annual report and year-end report, and instructs the Group President to release interim reports. All financial reports are published on the Company's website ([www.biotage.com](http://www.biotage.com)) and distributed to the media and Nasdaq OMX Stockholm. Financial information about the Group may only be communicated by the Group President and the Group CFO.

The Company observes a silent period of four weeks before publishing annual and interim reports. If price-sensitive information is leaked or incidents occur which could affect the valuation of the Company, Nasdaq OMX Stockholm must be informed and a corresponding press release issued. The Company's information-sharing is regulated by an information policy.