

UBS ASSET MANAGEMENT (UK) LIMITED
5 BROADGATE
LONDON, EC2M 2QS
UNITED KINGDOM

OUR REFERENCE
18/9550

YOUR REFERENCE

DATE
11.02.2019

DECISION REGARDING VIOLATION PENALTY

1 Introduction

Reference is made to previous correspondence regarding UBS Asset Management (UK) Limited's ("UBS") late notifications of net short positions in Petroleum Geo-Services ASA ("PGS"), including the advance notification from The Financial Supervisory Authority of Norway ("Finanstilsynet") dated 21 January 2019 on UBS's response in e-mail of 7 February 2019.

Based on the information available, Finanstilsynet has concluded that UBS has violated the notification requirement under section 3-14 of the Norwegian Securities Trading Act ("NSTA"), cf. Regulation (EU) No 236/2012 ("SSR") Article 5, cf. Article 9, by not notifying Finanstilsynet within the time limit laid down in the Regulation. The legal basis, factual background and Finanstilsynet's assessment of the case are set out below in sections 2, 3 and 5, respectively.

2 Legal basis

In accordance with NSTA section 3-14 subsection (1) the SSR, with such modifications as set out in the applicable annex IX to the EEA-agreement, applies as law in Norway.

A natural or legal person who has a net short position in relation to issued share capital of a company that has shares admitted to trading on a venue, with Finanstilsynet as competent authority, shall notify Finanstilsynet in accordance with SSR Article 9, cf. Article 5 subsection (1), where the position reaches or fall below a relevant notification threshold. A relevant notification threshold is a percentage that equals 0,2 % of the issued share capital and each 0,1% above that, cf. Article 5 subsection (3).

According to SSR Article 9, the relevant time for calculation of a net short position shall be at midnight at the end of the trading day. The notification of the net short position shall be made not later than at 15.30 CET on the following trading day.

FINANSTILSYNET
Revierstredet 3
P.O. Box 1187 Sentrum
NO-0107 Oslo

Tel. +47 22 93 98 00
Fax +47 22 63 02 26

post@finansstilsynet.no
www.finanstilsynet.no

Enquiries to
Anne Simonine Egeland
Dir. line +47 22 93 99 89

The consolidated version of SSR is available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02012R0236-20140917&from=EN>.

The NSTA section 21-4 subsection (1) empowers Finanstilsynet to impose a violation charge for wilful or negligent violation of the obligation to notify Finanstilsynet about the net short positions in accordance with NSTA section 3-14, cf. SSR Article 5, cf. Article 9.

3 Factual background

UBS crossed a relevant threshold on 25 May 2018, from 2,85 % to 2,71 %, in PGS. The position was reported on 29 May 2018 at 14:39 CET, more than 23 hours too late. As a result of the late notification, the position was not published to the market until 29 May 2018 at 15:30 CET. UBS also crossed a relevant threshold on 10 September 2018, from 2,18 % to 2,08 % in PGS. The position was reported on 19 September 2018 at 14:48 CET, more than 5 working days too late.

4 UBS` s response

UBS has, in e-mail of 26 September 2018 explained that the late notification for the position on 10 September 2018 was due to a human error. Further, UBS has explained that the late notification for the position on 25 May 2018 was due to a UK Bank Holiday.

UBS has, in e-mail of 7 February 2019 acknowledged the late reported positions and confirmed the factual circumstances, cf. Finanstilsynet`s letter of 21 January 2019. However, UBS emphasizes that the delay was not due to a systematic failure of any processes or procedures.

5 Finanstilsynet`s assessment

5.1 Grounds for the violation penalty

Finanstilsynet has taken into account UBS`s statements in e-mail of 26 September 2018 and in e-mail of 7 February 2019.

SSR requires the position holder to notify Finanstilsynet when the stated disclosure thresholds are crossed. In the present case, UBS crossed two relevant thresholds above 0,5 % in PGS thus triggering the disclosure obligation under NSTA section 3-14, cf. SSR.

An investor is expected to have put in place appropriate procedures and/or systems in advance that will enable it to proactively identify a disclosure obligation and satisfy it in a timely and complete manner. A failure to meet this standard is considered negligent under relevant Norwegian legal principles.

Finanstilsynets`s assessment is that the late reported positions constitutes a clear breach of the requirement under NSTA section 3-14, cf. SSR Regulation. Finanstilsynet accordingly finds that both the objective and subjective conditions for imposing a violation penalty on UBS are met.

5.2 The size of the violation penalty

NSTA section 21-4 (5) states that when the size of a violation penalty is assessed, importance shall in particular be attached to the scale and effects of the violation as well as the degree of guilt found.

The penalty is set at NOK 110,000. The amount is based on an overall evaluation of the breach, taking into account, mitigating that Finanstilsynet considers the violation negligent, aggravating that UBS has submitted a notification 23 hours too late and a notification more than 5 working days too late. Finanstilsynet also find it aggravating that the late notifications relates to positions over the 0,5 % threshold, and by that obstructed the positions to be publicly disclosed to the market to provide useful information to other market participants about significant individual short positions in the shares.

6 Finanstilsynet`s decision

Based on the facts described above and pursuant to NSTA section 21-4 subsection (1), cf. SSR Regulation, Finanstilsynet has made the following decision regarding a violation charge:

UBS Asset Management, LTD is ordered to pay a violation penalty of NOK 110,000 (one hundred and ten thousand Norwegian kroner) to the Norwegian Treasury.

Pursuant to section 28 of the Norwegian Public Administration Act, this administrative decision may be appealed to the Ministry of Finance. An appeal must be submitted within three weeks of the date on which notification of the administrative decision has reached the party concerned. The appeal must be sent to Finanstilsynet.

An invoice for payment of the violation penalty will be sent separately from the The Norwegian National Collection Agency.

On behalf of Finanstilsynet

Anne Merethe Bellamy
Director

Marte Voie Opland
Head of section

This document is electronically approved, and does not need a signature.