



If Skadeförsäkring AB (publ)  
10680 Stockholm  
SWEDEN

| OUR REFERENCE | YOUR REFERENCE | DATE       |
|---------------|----------------|------------|
| 21/6640       |                | 11.02.2022 |

## Decision regarding violation penalty

Reference is made to the letter from The Financial Supervisory Authority of Norway ("Finanstilsynet") dated 8 November 2021 and to the company's reply of 18 November 2021.

Based on an assessment of the facts in the case, Finanstilsynet finds that If Skadeförsäkring AB ("If") notified Oslo Stock Exchange too late when If in May 2021 crossed the 5 % disclosure threshold in Siem Offshore Inc ("SIOFF"). Finanstilsynet finds that If has violated the Norwegian Securities Trading Act ("NSTA") section 4-2 and has decided to impose If a violation penalty. Based on a new evaluation of the facts Finanstilsynet has decided to set the violation penalty to NOK 75 000.

### 1. Legal basis

NSTA section 4-2 subsection (1) states that where a shareholder's or other person's proportion of shares and/or rights to shares reaches, exceeds, or falls below 5 %, 10 %, 15 %, 20 %, 25 %, 1/3, 50%, 2/3 or 90 % of the share capital or corresponding proportion of the votes as a result of acquisition, disposal or other circumstance, the party concerned shall immediately notify the issuer and Finanstilsynet or whomever Finanstilsynet designates for the purpose.

Pursuant to Regulation of 6 December 2007 no. 1359 section 1, notifications under NSTA section 4-2 subsection (1) shall be sent to the regulated market on which the share has been admitted to trading. NSTA section 4-2 applies to shares admitted to trading on a regulated market of an issuer having Norway as its home state (cf. NSTA section 4-1).

According to the NSTA section 4-2 subsection (6), the notification to the regulated market is required "*immediately*" after an agreement on acquisition or disposal has been entered into, or the party concerned becomes aware, or should have become aware, of any other circumstance causing the party concerned to reach or fall below a threshold in subsection (1). According to the Guidelines of Finanstilsynet regarding chapter 4 of the NSTA of 22 February 2021 paragraph 3.8 ("Veiledning til verdipapirhandelloven kapittel 4 – flaggeplikt"), which is the version which applied on the time of the violation, this should be understood as the time it takes to write and send the notification to the market.

In the case of shares acquired through subscription, the general rule is that a disclosure obligation arises once a binding and final agreement on subscription is entered into. However, when the number of new shares to be allotted to each subscriber may not be clear on the date of subscription, Finanstilsynet takes the position that in a public offering or private placing it is not necessary to make a disclosure until the date of allotment, i.e. in other words the date when it is clear to the subscriber how many shares he is allotted in the issue.

Finanstilsynet may under the NSTA section 21-3 subsection (1) impose individuals and/or legal persons a violation penalty in the event of negligent or willful violation of the NSTA section 4-2.

In order to impose a violation penalty on a legal person, NSTA section 21-9 subsection (2) refers to the Public Administration Act (PAA) section 46 subsection (1).

Finanstilsynet will practise PAA section 46 in a manner that requires the legal person in question to have acted with at least negligence. This means that a violation penalty can be imposed if a person acting on behalf of the company commits the violation negligently or willfully. However, the subjective requirements can also be met by anonymous or cumulative errors.

When deciding whether an administrative sanction is to be imposed and the size of the sanction, attention may under NSTA section 21-14 be given to the following:

1. The gravity and length of the breach,
2. the degree of guilt of the perpetrator,
3. the financial strength of the perpetrator, in particular total turnover or annual income and assets,
4. profits gained or loss avoided,
5. any loss inflicted on a third party due to breach,
6. will by the perpetrator to cooperate with public authorities,
7. earlier breaches,
8. arguments as mentioned under the public administration act section 46 subsection (2),
9. other relevant arguments.

### **3. Factual background**

According to the notification of 2 June 2021 to Oslo Stock Exchange, If informed that it on 31 May 2021 received 1 377 638 418 new shares issued by SIOFF. Following the receipt of the shares, If held 5,77 % of the shares of SIOFF. The total number of shares issued by SIOFF after the issue of the new shares was 23 885 205 271.

The consequence of the transaction was that If crossed the 5 % threshold in SIOFF, cf. NSTA section 4-2. If notified the market on 2 June 2021 at 10.39.

#### 4. Statements of the discloser

If informs that it prior to the share capital increase in SIOFF in late May 2021 held no shares of SIOFF, but two bond loans issued by SIOFF. If was allotted shares in SIOFF as part of the reconstruction process where one bond loan was settled with a combination of cash and shares, and the other bond loan was settled with shares only. On 26 May 2021 SIOFF announced that the reconstruction was completed and announced the total number of shares to be issued to certain secured lenders, bondholders and other stakeholders as part of the new conversion of approximately USD 269 million of debt. Following SIOFF's announcement, If had contact with its custodian, BnP Paribas, to follow the status of the allocation. A pending number of shares appeared in the system on 26 May 2021, but remained pending until Wednesday 2 June 2021.

If informs that the company has participated in a number of reconstructions, and that their experience is that final numbers tend to vary from initial announcement until final delivery. According to If's normal process, modelling of shares received in a reconstruction is done when actual settlement occurs and the actual size of the issue allotted can be seen on If's custody account.

Based on information received from Nordic Trustee, If expected to receive the final number of shares no later than 31 May 2021. When the final numbers from the debt conversion had not been received by Thursday 1 June 2021, If started manually to model the results of the debt conversion. Following this, the notification was sent 2 June 2021 at 10.39.

If states that it is of high importance for the company to comply with applicable laws and regulations. If therefore deeply regrets that this has not been the case in relation to the SIOFF reconstruction. Internal investigations have revealed weaknesses in If's routines, and If has taken action to address these weaknesses in order to make sure that this does not happen again. If informs that it has not done any trades in SIOFF shares since the completion of the reconstruction.

In e-mail of 18 November 2021 regarding Finanstilsynet's advance notification of violation penalty, If confirmed that they had no further comments.

#### 5. Assessment of whether a violation penalty shall be imposed and its size

SIOFF informed the market of the completion of the reconstruction, including the number of shares to be issued to certain secured lenders and bond holders, in notifications of 26 and 27 May 2021. Finanstilsynet finds that, at least on 27 May 2021, no further information from SIOFF was required in order to determine how many shares If would be allotted through the conversion.

If should have notified the market immediately after this, but notified the market on 2 June 2021 at 10.39. Finanstilsynet finds that If notified Oslo Stock Exchange too late.

As a participant in the Norwegian securities market If is expected to comply with the regulatory rules of that market. It will typically be expected to establish appropriate procedures and/or systems in order to proactively identify the disclosure obligation under NSTA.

Finanstilsynet has concluded that one or more persons acting on behalf of If acted negligently, or that cumulative errors were present.

Finanstilsynet finds that both the objective and subjective conditions for imposing a violation penalty are met, cf. the NSTA section 21-3 subsection (1), section 21-9 and PAA section 46 (1).

When assessing whether to make use of a violation penalty in this particular case, Finanstilsynet has made a concrete assessment of the case in accordance with the NSTA section 21-14.

In this case the notification was several days late which is a significant violation of the NSTA section 4-2. Furthermore, in its assessment Finanstilsynet has also taken into consideration that the violation of the disclosure obligation could have been prevented had If put in place more appropriate procedures and/or systems in advance of debt conversion.

The rules on disclosure obligations under NSTA section 4-2 are meant to assure that the issuer and the stock market receives fast knowledge of the acquisition or disposal of shares or other circumstances changing the proportion of the share capital, rights to shares or voting rights in the issuer. Changes in ownership in a company listed on a regulated market can have a notable influence on the price of the issuers shares in the market, as this could give an indication that someone has, or no longer has a strategic interest in the issuing company. For this reason, it is important that the market receives this information as soon as possible.

Compliance with the disclosure rules is important to ensure that relevant information on significant changes in ownership at listed companies is disclosed to the market. This information enables the investors to make well-considered investment decisions, which in turn is important to maintain confidence in the market. Finanstilsynet has previously imposed violation penalties in cases of similar violations. Considerations for equal treatment therefore imply that such penalty should be imposed also in this case.

Finanstilsynet finds that a violation penalty should be imposed.

Finanstilsynet refers to the NSTA section 21-14 which states that when the size of a violation penalty is assessed, importance shall be attached to gravity and the length of the breach, as well as the degree of guilt found. In addition, also other criteria specified in the NSTA section 21-14 may be taken into consideration when assessing the size of the violation penalty.

The violation penalty is based on an overall evaluation of the breach, taking into account amongst other factors, the length of the breach and previous decisions in similar cases. Finanstilsynet has also taken into account that the violation is considered negligent.

Based on a new evaluation of the facts Finanstilsynet has as mentioned, decided to set the violation penalty to NOK 75 000.

An overview of violation penalties that has previously been imposed is published on Finanstilsynet's website in the second bullet point under the tab "Flaggeplikt" at <https://www.finanstilsynet.no/tilsyn/markedsatferd>.

## 6. Finanstilsynet's decision

On the basis of the above, Finanstilsynet imposes If Skadeforsikring AB a violation penalty in the amount of NOK 75 000 for its violation of the NSTA section 4-2.

The legal basis is the NSTA section 21-3 subsection (1), cf. section 21-9, section 21-14 and PAA section 46 (1).

Finanstilsynet informs that decisions imposing violation penalties for breaches of NSTA section 4-2 will be published on its website.

This administrative decision can be appealed within 3 weeks after receipt of the decision. An appeal shall be sent to Finanstilsynet. The appellate instance is the Ministry of Finance. Section 18 and 19 of the Public Administration Act, on the parties' right to become acquainted with the case documents, apply.

Violation penalties are collected by the Tax Administration at the Norwegian National Collection Agency. If the administrative decision is not appealed, the Norwegian National Collection Agency will send a claim for payment immediately after the deadline for an appeal has expired. If the decision is appealed, the claim is sent after the appeal has been decided by the Ministry of Finance. The Norwegian National Collection Agency's deadline for payment is 3 weeks after the invoice has been sent.

If you have any questions, please contact Erik Landa on [REDACTED] or phone [REDACTED]

On behalf of Finanstilsynet

Thomas Borchgrevink  
Head of Section

Erik Landa  
Senior Advisor

*This document has been electronically approved and does not require handwritten signatures.*