Timing is of the Essence

Stockholm (HedgeNordic) – Because short selling is often difficult and risky, partly because the potential loss from a short sale is infinite, the practice of short selling requires precise market timing. The timing of the short sale is critical, but so is the timing of short-selling disclosure to regulators. That has never been more true for Norwegian asset manager Sissener AS, which was fined NOK 20,000 (about €1,800) by the Financial Supervisory Authority of Norway – Finanstilsynet – for failing to report a short position in due time.

Net short positions larger than or equal to 0.1 percent of an issuer's shares and any change in 0.1 percent increments thereafter should be reported to Finanstilsynet before 15:00 local time on the succeeding trading day. This, of course, applies to instruments that have Finanstilsynet as relevant competent authority. "The background for the delayed reporting of the position was that this was the first time the company was subject to the reportable short position obligation and that this was a demanding internal process connected with a company employee," Sissener AS told the Norwegian FSA according to a letter published by the regulator.

"All we can do is apologize. We were 12 hours late in reporting," Jan Petter Sissener *(pictured)*, the founder and CEO of Sissener AS, tells FinansWatch. "The delay was due to a set of extraordinary circumstances," he adds. Whereas the FSA of Norway does not question Sissener's explanation, the regulator still decided to issue a fine of NOK 20,000. "We'll make a note of it, pay the fine and make sure that never happens again," Sissener also tells FinansWatch.

"The delay was due to an internal misunderstanding, and not due to any attempt at hiding the position, and the position was reported as soon as the company found out about the obligation," the Oslo-based asset manager explained according to the letter by the FSA. The FSA, however, considers that the situation meets all the objective requirements for issuing a fine. "The FSA has no reason to question the firm's explanation for the reason behind the delay," but the regulator still reached the conclusion that "these reasons do not excuse the delay, and that sufficient precautions had not been made" to ensure that the disclosure takes place in due course and contains the right information.

Whereas the Sissener team reckons that a warning would have been sufficient in this case, the FSA considers that "actors on the securities market should expect to have routines and/or systems in place to ensure they fulfil the mandatory reporting in time." Founded by Norwegian Jan Petter Sissener, Sissener AS manages absolute return long/short equity fund **Sissener Canopus** and **Sissener Corporate Bond Fund**, an actively managed fund focused on Nordic high-yield bonds.