

Press Release

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Institutional investors bring legal action against OW Bunker players

Today, a consortium of 26 Danish institutional investors has filed a writ with the City Court of Copenhagen concerning OW Bunker. The writ sets out a claim for damages of a total amount of approx. 769 million.

The Danish institutional investors have suffered a loss of DKK 769 million following the investment in shares in OW Bunker on the basis of a prospectus which was insufficient in material aspects due to inadequate, faulty and misleading information as well as information that had been omitted and covered up. The most material deficiencies in the prospectus are related to information and matters in the prospectus concerned with speculation in the oil price development and the trade with one very large customer through the Singaporean company Dynamic Oil Trading.

The claim for damages is raised against OW Bunker A/S under konkurs (in bankruptcy), the private equity fund Altor as well as the board of directors and the day-to-day management of OW Bunker.

The action may be extended to also include further parties, and, currently, it has also not been decided whether further actions should be brought. This is not least due to the investors not currently having all the information about and documentation for, in particular, the course of events leading up to OW Bunker's offering of shares to the public in March 2014. As a result, the consortium will attempt to enter into suspension agreements with the issuing houses and auditor. The agreements ensure that a potential claim does not lapse due to inactivity or limitation.

Tomas Krüger Andersen, Head of Legal, Investments, ATP says:

“Even if it will take years to gain clarification, ATP has a duty towards our members to seek to cover the loss suffered due to the bankruptcy of OW Bunker. As an investor, we also have an obvious interest in determining responsibility in this very extraordinary case.”

Rasmus Bessing, Director and COO of PFA Asset Management, says:

“It is extremely important that this unfortunate case is fully disclosed and that responsibility is assigned for the events surrounding OW Bunker's IPO and bankruptcy, not least so as to restore the necessary trust in the Danish stock market. At the same time, we naturally owe it to our customers to get their losses covered in the best possible way.”

Today, five investors (PFA Kapitalforening, Investeringsforeningen PFA Invest, Kapitalforeningen Mermaid Nordic, Investeringsforeningen Gudme Raaschou, Kapitalforeningen Lærernes Pension Invest) have also filed a writ with the City Court of Copenhagen with a claim for damages due to the lack of compliance with the disclosure obligations set out in the Danish Securities Trading Act in the autumn of 2014. The claim of approx. DKK 67 million is raised against OW Bunker A/S under konkurs (in bankruptcy) and the chairman, vice-chairman and executive board at the time. This action may, if relevant, also be extended to include further parties.

Due to the general public importance of the cases, the consortium has requested that the cases be referred to the Danish Eastern High Court.

Background:

In December 2014, a number of Danish institutional investors launched an investigation into OW Bunker's bankruptcy with the purpose of determining whether there is a basis for claiming legal liability.

The investigation focused on errors and deficiencies in the prospectus prepared in connection with the IPO of OW Bunker, liability in connection with the offer and sale of shares in OW Bunker as well as management liability in connection with the operation of OW Bunker.

Based on the conclusions of the investigation, the Danish institutional investors representing a total claim of approx. DKK 833 million have now brought legal proceedings against relevant parties with a view to obtaining financial compensation and determining responsibility. Two actions will be brought.

The first action concerns prospectus liability and will be brought against OW Bunker under konkurs (in bankruptcy), Altor entities and the former members of OW Bunker's management.

The other action concerns liability for non-compliance with the disclosure obligations under stock exchange regulation and will be brought against OW Bunker under konkurs (in bankruptcy) and the former chairman, vice-chairman and executive board.

If more information is obtained, further parties may be involved in the actions or new actions may be brought.

The law firm Bruun & Hjejle will be representing the investors in the proceedings. The law firm Accura and the auditing firm KPMG will assist Bruun & Hjejle.

Participating institutional investors in the prospect liability action include, among others:

ATP, PFA, Kapitalforeningen SEB Kontoførende, Kapitalforeningen SEBinvest II, Investeringsforeningen SEBinvest, Kapitalforeningen Lærernes Pension Invest, Topdanmark Forsikring A/S, Topdanmark Livsforsikring A/S, PensionDanmark Pensionsforsikringsaktieselskab, Kapitalforeningen Unipension Invest, DIP, JØP, Investeringsforeningen Maj Invest, AP Pension Livsforsikringsaktieselskab, Kapitalforeningen Sampension Invest, Investeringsforeningen Danske Invest, Investeringsforeningen Danske Invest Select, Kapitalforeningen Danske Invest Institutional, Danske Invest FCP, Kapitalforeningen PenSam Invest, Kapitalforeningen Mermaid Nordic, Kapitalforeningen Wealth Invest, Investeringsforeningen Absalon Invest and Access Small Cap A/S.

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