



ASSOCIATION  
FRANÇAISE  
DES MARCHÉS  
FINANCIERS



SOCIÉTÉ FRANÇAISE  
DES ANALYSTES  
FINANCIERS

## SPONSORED RESEARCH\*

### Charter of good practices

*« sponsored research » means the production of written documents, presented as a financial and/or extra-financial research analysis*

- *Partially or fully paid by the Issuer of securities listed on a regulated market*
- *And carried out by an analyst office, whether or not it is part of an investment service provider*

**On May 11, 2022**

## General context

Triggered by the 2008 financial crisis and the need for intermediaries and professional investors to reduce their costs, the reduction in the coverage of financial analysis on Small & Mid Caps has highlighted an acute structural issue for the Paris financial market<sup>1</sup>. This at a time when the European Union is becoming aware of the need to maximise the role of the market in the financing of companies.

This evolution has been accelerated and accentuated by the strengthening of European regulation and constraints on research providers, via the entry into force of the Market Abuse Regulation (MAR) in 2016, and above all, of the MiFID II<sup>2</sup> directive in 2018. MiFID II indeed redefines the modalities of research funding with the objective of protecting investors and limiting risks of conflict of interest. However, as the new rules have led buy-side investors to reduce the fees paid to research providers<sup>3</sup>, those providers have been confronted with a significant weakening of the economic conditions in which they carry on their activity. These providers were then encouraged to find a palliative solution to finance human and material resources they need to maintain a Small & Mid Caps analysis.

In this context, the so-called “sponsored research” market practice, already in use, has undergone a new development. It consists in offering issuers, and particularly Small & Mid Caps, coverage of their company in exchange for a fee. In a situation of structural disengagement that could impact their visibility on the market, and therefore the benefits of a public listing<sup>4</sup>, various issuers in this segment have become aware of the importance of financially participating in the remuneration of the research produced on their shares. In addition, the European Commission’s “Listing Act” consultation launched at the end of 2021 also reflects the recognition by European authorities of the growing importance of sponsored research to ensure to investors the visibility of Small & Mid Caps issuers.

The development of “sponsored research”, as opposed to so-called “independent” research, to the remuneration of which the issuer does not contribute, raises various questions regarding the existing texts, on the conditions under which it must be provided, labelled and distributed to investors, both at national and European levels.

Based on this observation, and for sponsored research to be considered fully legitimate by supervisory authorities on the one hand, and issuers, research providers and investors on the other hand, the signatory associations have decided to draw up a Charter of best practices governing sponsored research. While recalling regulatory obligations imposed on research providers and issuers, the Charter sets out the specific commitments made by both parties to ensure that the produced analysis is carried out under conditions that provide the best guarantees of objectivity<sup>5</sup>.

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<sup>1</sup> Cf « Analyse Financière : Étude sur la couverture des valeurs françaises par les bureaux de recherche de 2005 à 2017 », AMAFI / 18-52, 28 septembre 2018 (<http://www.mifidvision.com/lesdocuments.ph>).

<sup>2</sup> Supplemented by directive (EU) 2021/338 of February 16, 2021, which allows the possibility of shared brokerage for capitalisation of less than 1 billion euros.

<sup>3</sup> Particularly drastically on the Small & Mid Caps segment.

<sup>4</sup> Indeed, the role of analysts on the attractiveness and liquidity of SME securities, and *in fine* on the cost of capital borne by issuers, has been highlighted by an academic study published in February 2018 by the “*Observatoire du financement des entreprises par le marché*” (OFEM). This study establishes that the fact of being covered by one or more research analyst constitutes, for an issuer, an essential factor in increasing its reputation among investors, which thus enables it to raise capital more easily and at lower cost while ensuring better liquidity of its securities on the secondary market. This second effect can be combined with the first given the interaction between secondary and primary markets.

<sup>5</sup> In this respect, the Charter tends to respond to European authorities’ intention to clarify the conditions for the production of sponsored research, as evidenced in particular by ESMA’s response to the “Listing Act” consultation : “*Sponsored research could help foster the coverage of SMEs; however, for this field to develop in full, it may be necessary to clarify the conditions under which sponsored research may qualify as investment research and not as marketing material. In this context, strict rules are needed to ensure its independence and objectivity, which could require more specific requirements than those currently in place.*”.

## **Sponsored Research**

### **Charter of good practices**

The challenge is thus to authorise the controlled deployment of sponsored financial research in a way that aligns the interests of the various stakeholders.

The Charter will soon be accompanied by standard clauses to be included in Issuer-Research Provider contracts that will transcribe the commitments the Charter contains.

## Sponsored Research Provider's Commitments

The sponsored research provider operates in the same regulatory environment as any research provider, with the following key aspects:

- Article 37 of MIFID II DR (Delegated Regulation (EU) 2017/565) which describes the requirements designed to prevent conflict of interest.
- Articles 3 and 4 of MAR DR (Delegated Regulation (EU) 2016/958) on the general obligations surrounding research.
- Articles 5 and 6 of MAR DR which lists what produced research should disclose.
- Articles 12 and 13 of MiFID II DD (Delegated Directive (EU) 2017/593) indicating how research should be distributed.
- ESMA's Q&A (ESMA35-43-349) of March 28<sup>th</sup>, 2019, which specifies the qualification of a Minor Non-Monetary Benefit (MNMNB).
- Article 4-c of the directive (EU) 2021/338 of February 16, 2021, which defines the conditions under which, for securities whose capitalisation is less than 1 billion euros, the research service can be coupled with the execution service.

### 1st Commitment

**Subject:** **Equivalence of independent and sponsored research**

**Action:** The sponsored research provider produces the research under the same conditions as those applied to independent research so that there are no differences in means, qualification and content between sponsored analysis and independent analysis, including when it distributes both research under two different brands.

The sponsored research provider undertakes to deliver an analysis prepared in accordance with the best market standards, equivalent to those applied to the production of independent research.

### 2<sup>nd</sup> Commitment

**Subject:** **Dissemination of research**

**Action:** The sponsored research provider agrees to disseminate the sponsored research in one of two ways:

- **“public dissemination”:** When sponsored research is paid for 100% by the issuer, it is accessible to all investors at the same time and free of charge, with the register provided for in the 7<sup>th</sup> commitment allowing interested investors to contact the research provider;
- **“reserved dissemination”:** In accordance with the regulation, when sponsored research is paid for in part by the issuer and in part by the investor, it may be reserved for investors who contribute to the payment of this research, either indefinitely or for a period of time contractually agreed between the sponsored research provider and the issuer.

# Sponsored Research

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### 3<sup>rd</sup> Commitment

#### Subject: Identification and mandatory information

**Action:** The sponsored research provider shall ensure that the words "*analysis paid for by the issuer*" or "*analysis partially paid for by the issuer*" are placed on the front page and/or the cover page of the relevant analysis and, where possible, on all its pages. In case of electronic communication, the provider will ensure that either of these statements is prominently displayed.

In addition, the sponsored research provider mentions that the research was carried out in accordance with the provisions of the Charter. He also specifies the way of dissemination ("public" or "reserved").

When the sponsored research provider uses an external analyst, it communicates to the latter the Charter of Good Practice and ensures he undertakes to respect it.

### 4th Commitment

#### Subject: Detection of potential conflict of interest

**Action:** Beyond the respect of rules concerning conflict of interests, a synthetic summary materialises the independence of the produced sponsored research by indicating:

- The method of dissemination of the research,
- Whether there is a liquidity contract with the issuer and/or any other type of contract with the issuer,
- Whether the issuer represents more than 5% of the research provider's previous year's consolidated gross revenues,
- Whether the issuer is otherwise a client of the research provider or has had any contractual relationship with the research provider during the past 12 months and of what type,
- And if the research provider uses an outside analyst, whether the sponsored research or other issuer-related revenues represent more than 5% of the outside provider's revenues.

Unless it is a one-person structure, the sponsored research provider shall ensure that the analyst responsible for coverage of an issuer is not as well responsible for any prospecting and commercial solicitation conducted with respect to that issuer.

### 5th Commitment

#### Subject: Update of the analysis and evolution of the recommendations

**Action:** The sponsored research provider undertakes to make its best efforts to publish an update of the analysis, as soon as possible, at the time of each publication of the issuer's results (quarterly, half-yearly, annual) and at the time of the publication of any important information likely to have a significant impact on the company's stock market life.

In addition, the sponsored research provider specifies on a quarterly basis, for all the research it produces, whether sponsored or independent, the proportion of "buy", "hold" and "sell" recommendations (or any other nomenclature with an equivalent meaning) for each of the last twelve months, and the proportion of issuers corresponding to each of these categories.

# Sponsored Research

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### 6th Commitment

#### Subject: Communication

**Action:** The sponsored research provider will ensure that any of his written communication includes a reference to its conflict of interest policy.

Additionally, the sponsored research provider shall ensure that the analyst who produced the research is responsible for media relations and social media posts. It ensures that journalists with whom it may come into contact are systematically reminded that a research contract exists with the issuer<sup>6</sup>.

### 7th Commitment

#### Subject: Follow-up and information

**Action:** For each contract placed under the benefit of the Charter and on the date of initiation and effective termination of coverage, the sponsored research provider shall provide the Association in charge of maintaining the register (kept under the terms of the 14th Commitment) with the following information:

- Date of signature of the contract or its amendment,
- Duration of the contract,
- Name of the issuer,
- ISIN code,
- Name of the research provider and link to its website,
- Name of the analyst,
- Status ("In Progress", "Completed").

### 8th Commitment

#### Subject: Contract's duration

**Action:** The sponsored research provider will only enter into a sponsored research contract with an issuer if the contract covers an initial period of at least 24 months, with an automatic renewal period of at least 12 months. However, the issuer has the option to unilaterally terminate the contract in the following situations:

- Interruption of the service provided by the research producer for more than six months,
- Delisting of the issuer's securities,
- The issuer is subject to the procedure under Book VI of the Commercial Code (insolvency proceedings).

Contracts in force on the date of publication of this Charter and which were entered into more than 2 years ago are deemed to respect this condition provided that their renewal covers a period of at least 12 months. In order to be governed by the Charter, these contracts must be subject to an endorsement ensuring compliance with the other commitments of the Charter.

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<sup>6</sup> Cf ESMA's declaration on investment recommendation on social medias ESMA70-452-285 of October 28, 2021.

## **Issuers' Commitments**

The issuer takes the following commitments.

### **9th Commitment**

**Subject:** **No influence on the sponsored research provider**

**Action:** The issuer or any person acting on its behalf shall not take any direct or indirect action on the sponsored research provider and its employees or subcontractors that is intended to influence the conducted research. This commitment applies regardless of who is in contact with the analyst.

### **10th Commitment**

**Subject:** **Market information**

**Action:** To reinforce market communication and to warn players that a new coverage is available, the issuer publishes a press release on the date of the publication of the coverage initiation note.

### **11th Commitment**

**Subject:** **Reference to the existence of sponsored research**

**Action:** The issuer that uses a sponsored research provider indicates it on its website. It does so under the heading "Shareholding" or "Financial Information" if these headings exist.

When the issuer provides direct access on its website to the research produced by the sponsored research provider, it must put in place the means to ensure that the documents thus available are synchronized with those produced by the sponsored research provider.

### **12th Commitment**

**Subject:** **Terms and conditions of payment**

**Action:** The terms and conditions of payment are a potential element that may affect the analyst's freedom to remain independent throughout the provision of research services. Therefore, in order to reinforce the analyst's independence throughout the provision of research services, the issuer undertakes to pay at least 50% of the annual remuneration provided for in the contract at the time of signature of the contract and then at each anniversary date. The issuer commits to pay the balance each year as soon as possible.

## Commitments of the signatory associations

The signatory associations take the following commitments.

### 13th Commitment

**Subject:** **Regular review of the Charter**

**Action:** The signatory associations agree to regularly review, and at least every 2 years from the date of its signature, the deployment of the Charter with the following objectives:

- To adapt the Charter considering changes in the applicable regulations,
- To examine any improvements to the Charter that may be useful, particularly regarding the methods of dissemination or the management of conflicts of interest,
- To seek the conditions for a European deployment of the Charter.

### 14th Commitment

**Subject:** **Maintenance of the sponsored research register**

**Action:** One of the signatory associations maintains a "Register of Sponsored Research".

The Register is made available to the AMF. The portion of the Register covering publicly available research is made public, except for the field providing the name of the analyst.

The signatory association in charge shall implement a procedure ensuring that only the persons in charge of managing the Register have access to its non-public part and shall refrain from using this information for any purpose other than to provide aggregate statistical information on the evolution of the sponsored research market.

**ANNEX 1**

**Article 37 of MiFID II DR  
(Article 16(3) of Directive 2014/65/EU)**

(...)

2. Investment firms referred to in the first subparagraph of paragraph 1 shall have in place arrangements designed to ensure that the following conditions are satisfied:

- (a) **financial analysts** and other relevant persons **do not undertake personal transactions** or trade, other than as market makers acting in good faith and in the ordinary course of market making or in the execution of an unsolicited client order, on behalf of any other person, including the investment firm, **in financial instruments to which investment research relates**, or in any related financial instruments, with knowledge of the likely timing or content of that investment research which is not publicly available or available to clients and cannot readily be inferred from information that is so available, until the recipients of the investment research have had a reasonable opportunity to act on it;
- (b) in circumstances not covered by point (a), financial analysts and any other relevant persons involved in the production of investment research do not undertake personal transactions in financial instruments to which the investment research relates, or in any related financial instruments, **contrary to current recommendations**, except in exceptional circumstances and with the prior approval of a member of the firm's legal or compliance function;
- (c) a **physical separation** exists between the financial analysts involved in the production of investment research and other relevant persons whose responsibilities or business interests may conflict with the interests of the persons to whom the investment research is disseminated or, when considered not appropriate to the size and organisation of the firm as well as the nature, scale and complexity of its business, the establishment and implementation of appropriate alternative information barriers;
- (d) the investment firms themselves, financial analysts, and other relevant persons involved in the production of the investment research **do not accept inducements from those with a material interest in the subject-matter of the investment research**;
- (e) the investment firms themselves, financial analysts, and other relevant persons involved in the production of the investment research **do not promise issuers favourable research coverage**;
- (f) before the dissemination of investment research issuers, relevant persons other than financial analysts, and any other persons are not permitted to review a draft of the investment research for the purpose of verifying the accuracy of factual statements made in that research, or for any purpose other than verifying compliance with the firm's legal obligations, **where the draft includes a recommendation or a target price**.

(...)



## ANNEX 2

### Delegated Regulation of the MAR Directive (Market Abuse Regulation)

Articles 3 and 4 of MAR DR indicate that the research must be presented in such a way that:

- Facts are clearly distinguished from interpretations or opinions or other non-factual information;
- All sources are reliable and clearly indicated;
- All projections, forecasts and price targets are clearly stated and the key assumptions used to establish them are disclosed;
- The research communicated to the issuer for comment prior to publication is redacted of its recommendation and price target (see also above MiFID II RD, art. 37-2, f), and there is an indication on whether it has been modified as a result of this communication;
- A summary is included of any underlying methodology and assumptions used to assess or value the financial instrument or issuer or to set the price target (including a summary of any changes to that methodology or assumptions);
- Information about how the models used are obtained should be specified;
- The precise meaning of any recommendation issued ("buy", "sell" or "hold") is explained;
- A reference to the expected frequency of updates to the recommendations is provided;
- The date and time of the prices mentioned are indicated;
- A published recommendation, different from the one previously issued within the last twelve months, recalls the nature and date of the previous recommendation;
- A list of all recommendations issued in the last twelve months is included, indicating the date, the analyst, the price target, the meaning of the recommendation and its validity period.



## ANNEX 3

### **Summary of the provisions of the Delegated Regulation of the MAR Directive (Market Abuse Regulation)**

In accordance with article 5 and 6 of the MAR DR, the research produced must mention:

- ▶ All interests and conflicts of interest with respect to any financial instrument or the issuer that is the subject of the research (including taking into account any affiliations) and, at a minimum, the following interests:
  - a. whether the analyst's employer holds a net long or short position exceeding 0.5% of the issuer's capital,
  - b. If the issuer holds more than 5% of the total capital of the analyst's employer,
  - c. If the analyst or its employer:
    - (i) is a market maker or liquidity provider or has signed a liquidity contract with the issuer
    - (ii) has participated in a financial transaction on behalf of the issuer
    - (iii) otherwise provided an investment service to the issuer
    - (iv) has signed an agreement with the issuer relating to such research (which is presumed to be the case for sponsored research)

In particular, any personal conflicts of interest of the analyst with respect to the issuer (for example, if the analyst has previously held a position with the issuer or an entity affiliated with the issuer) must be disclosed.

In addition, the following should also be disclosed:

- ▶ A description of the internal organisational arrangements and information barriers in place to prevent and avoid conflicts of interest.
- ▶ Whether the analysts' remuneration is linked to other services provided to the issuer.
- ▶ The proportion of "buy", "hold" and "sell" recommendations over the past twelve months and the proportion of issuers in each of these categories<sup>7</sup>.



<sup>7</sup> Being noted that under article 6.3 of the MAR DR this obligation only applies to sell-side offices

## ANNEX 4

### Article 12 of MiFID II Delegated Directive

(...)

2. Investment firms providing investment advice on an independent basis or portfolio management shall not accept non-monetary benefits that do not qualify as acceptable minor non-monetary benefits in accordance with paragraph 3.

3. The following benefits shall qualify as acceptable minor non-monetary benefits only if they are:

(a) information or documentation relating to a financial instrument or an investment service, is generic in nature or personalised to reflect the circumstances of an individual client;

**(b) written material from a third party that is commissioned and paid for by an corporate issuer or potential issuer to promote a new issuance by the company, or where the third party firm is contractually engaged and paid by the issuer to produce such material on an ongoing basis, provided that the relationship is clearly disclosed in the material and that the material is made available at the same time to any investment firms wishing to receive it or to the general public;**

(c) participation in conferences, seminars and other training events on the benefits and features of a specific financial instrument or an investment service;

(d) hospitality of a reasonable *de minimis* value, such as food and drink during a business meeting or a conference, seminar or other training events mentioned under point (c); and

(e) other minor non-monetary benefits which a Member States deems capable of enhancing the quality of service provided to a client and, having regard to the total level of benefits provided by one entity or group of entities, are of a scale and nature that are unlikely to impair compliance with an investment firm's duty to act in the best interest of the client.

### Article 13 of MiFID II Delegated Directive

1. Member States shall ensure that the provision of research by third parties to investment firms providing portfolio management or other investment or ancillary services to clients shall not be regarded as an inducement if it is received in return for either of the following:

- (a) direct payments by the investment firm out of its own resources;
- (b) payments from a separate research payment account controlled by the investment firm, provided the following conditions relating to the operation of the account are met:
  - (i) the research payment account is funded by a specific research charge to the client;
  - (ii) as part of establishing a research payment account and agreeing the research charge with their clients, investment firms set and regularly assess a research budget as an internal administrative measure;
  - (iii) the investment firm is held responsible for the research payment account;
  - (iv) the investment firm regularly assesses the quality of the research purchased based on robust quality criteria and its ability to contribute to better investment decisions.



## ANNEX 5

**Q&A ESMA35-43-349, 28 March 2019 ([link](#))**

**Question 6 [Last update: 16 December 2016]**

*In what circumstances should material received by a firm providing independent investment advice or portfolio management services be considered a minor non-monetary benefit under Article 12(3) of the MiFID II Delegated Directive rather than research?*

Answer 6:

(...)

Recital 29 also refers to Article 12(3)(b) of the MiFID II Delegated Directive. **This provides that a minor non-monetary benefit can include “written material from a third party that is commissioned and paid for by a corporate issuer or potential issuer to promote a new issuance by the company... provided that the relationship is clearly disclosed in the material and that the material is made available at the same time to any investment firms wishing to receive it or to the general public”.** This exemption can allow investment firms to receive ‘pre-deal’ material directly relating to a new capital raising event by an issuer, which is produced by a third party such as another investment firm who is placing and / or underwriting the issue (often referred to as ‘connected research’), provided that the nature of the material is made clear and it is available at the same time to any prospective investor.

**Article 12(3)(b) also allow investment firms to accept material from a third party where they are “contractually engaged and paid by the issuer to produce such material on an ongoing basis”, again subject to the relationship being clearly disclosed within it and the material being made available at the same time to any investment firms wishing to receive it or to the general public. This permits so-called ‘issuer sponsored’ third party coverage to be distributed and received by an investment firm as a minor non-monetary benefit, provided that it is offered generally either to any investment firm or is made public. In both cases under Article 12(3)(b) of the MiFID II Delegated Directive it is clear that there should be no expectation or actual payment from a recipient investment firm for such material or restriction in access that could in any way infer the provision of this material could act as an inducement and not constitute a ‘minor’ benefit.**

Recital 30 of the MiFID II Delegated Directive finally clarifies that “any non-monetary benefit that involves a third party allocating valuable resources to the investment firm shall not be considered as minor and shall be judged to impair compliance with the investment firm’s duty to act in their client’s best interest.”



## ANNEX 6

### Article 4-c of the directive from February 16, 2021

(...)

9a. Member States shall ensure that the provision of research by third parties to investment firms providing portfolio management or other investment or ancillary services to clients is to be regarded as fulfilling the obligations under paragraph 1 if:

- (a) before the execution or research services have been provided, an agreement has been entered into between the investment firm and the research provider, identifying the part of any combined charges or joint payments for execution services and research that is attributable to research;
- (b) the investment firm informs its clients about the joint payments for execution services and research made to the third party providers of research; and
- (c) the research for which the combined charges or the joint payment is made concerns issuers whose market capitalisation for the period of 36 months preceding the provision of the research did not exceed EUR 1 billion, as expressed by end-year quotes for the years when they are or were listed or by the own-capital for the financial years when they are or were not listed.

For the purpose of this Article, research shall be understood as covering research material or services concerning one or several financial instruments or other assets, or the issuers or potential issuers of financial instruments, or as covering research material or services closely related to a specific industry or market such that it informs views on financial instruments, assets or issuers within that industry or market.

Research shall also comprise material or services that explicitly or implicitly recommend or suggest an investment strategy and provide a substantiated opinion as to the present or future value or price of financial instruments or assets, or otherwise contain analysis and original insights and reach conclusions based on new or existing information that could be used to inform an investment strategy and be relevant and capable of adding value to the investment firm's decisions on behalf of clients being charged for that research.';

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