

Supplement to Working Document ESC/ 17/2005/ESC on organisational requirements

Investment Research

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New definitions

“*analyst*” means a person (whether or not an employee of an investment firm) who produces the substance of investment research;

“*associate*” in relation to a person means, for the purposes of Article 24 of this [Regulation]:

- (a) a person with whom the person has a family relationship;¹
- (b) a professional adviser, trustee, or nominee of the person; or
- (c) a company or trust in which that person owns an interest, directly or indirectly;

“*investment research*” means a general recommendation as mentioned in section B(5) of Annex I to the Directive which:

- (a) concerns one or more financial instruments or issuers of financial instruments; and
- (b) is labelled as investment research or in similar terms, or is otherwise presented as an objective or independent explanation of the matters contained in the recommendation;²

“*related financial instrument*” in relation to another financial instrument means a financial instrument whose price is closely affected by price movements in that other financial instrument (including a derivative on that other financial instrument).

Article 24

Additional organisational requirements where a firm produces and disseminates material presented as investment research³

When an investment firm produces or arranges for the production of investment research, and subsequently disseminates it to clients or to the public under its own responsibility⁴, that firm shall:

- (a) ensure the implementation of the measures set out in Article 21(4) of this [Regulation] as between the analysts concerned and those⁵ whose responsibilities or business

¹ This term is defined in ESC/17/2005.

² A Recital will be included as follows: “Any opinion as to the present or future value or price of a financial instruments will normally qualify as recommends or suggests an investment strategy or expresses a particular investment recommendation, explicitly or implicitly, concerning on or more financial instruments or issuers thereof”.

³ A Recital will be included as follows: “The measures adopted by the firm to manage the conflicts of interests that might arise from the production and dissemination of material that is presented as investment research should be appropriate to protect the objectivity and independence of analysts and of the material they produce which is presented as investment research. Those measures should ensure that analysts enjoy an adequate degree of independence from the interests of the investment firm, or of its clients, where they may conflict with the interests of the persons to whom the material is disseminated.”

⁴ C.f. Market Abuse Directive Implementing Directive 2003/125/EC, Article 7.

⁵ A Recital will be included: “For the purposes of Article 24, those whose responsibilities or business interests may reasonably be considered to conflict with the interests of the persons to whom the investment research is

interests may conflict with the interests of the persons to whom the investment research is disseminated, in order to ensure the objectivity and independence of the analysts concerned; and

- (b) have in place additional measures under Article 13(3) of the Directive to ensure that:
- i) analysts, their associates, and employees or agents of the firm other than analysts, do not trade in a personal capacity or on behalf of the firm in financial instruments to which investment research relates, or any related financial instruments, with knowledge of the likely timing or content of that investment research, where that knowledge is not publicly available and cannot readily be inferred from what is publicly available;
 - ii) in circumstances not covered by paragraph i), analysts and their associates do not trade in a personal capacity in financial instruments to which the investment research relates, or any related financial instruments, contrary to current recommendations, except in exceptional circumstances⁶ with the written approval of a member of the firm's legal or compliance function;
 - iii) analysts and their associates do not accept material inducements from those (such as issuers) with a material interest in the subject-matter of the investment research;⁷ and
 - iv) analysts, or any other persons on behalf of the investment firm, do not promise issuers favourable research coverage.

disseminated include issuers, corporate finance personnel and persons involved in proprietary trading on behalf of the firm.

⁶ A Recital will be included: "Exceptional circumstances for the purposes of Article 24 will include those circumstances where for personal reasons relating to financial hardship an analyst or other person is required to liquidate a position."

⁷ A Recital will be included: "A material inducement shall not include gifts or minor hospitality below a level specified in the firm's conflicts policy."