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## **The AMF Enforcement Committee fines two individuals and three legal entities for insider trading breaches, failure to fulfil their reporting obligations and for trading during a closed period**

**In its decision of 28 April 2021, the Committee imposed fines from €100,000 to €10 million, totalling over €18 million, on French and foreign players in the wine and spirits sector.**

The objections notified to the Moroccan company Diana Holding, which at the time of the events was the majority shareholder of Marie Brizard Wine & Spirits (MBWS) listed in France, to Rita Zniber, its Chairperson and CEO, and to DF Holding, a Luxembourg company specialising in the wine and brewery trade, were related to the acquisition of MBWS securities by taking advantage of information relating to the overachievement of its EBITDA target, reinforcement of its financial structure, and the update of a strategic plan announcing new targets and revising its revenue and EBITDA forecasts upwards.

Having found that this information constituted inside information, the Committee held that Mrs Zniber, in her capacity as a member of the MBWS board of directors, held the inside information relating to the overachievement of the company's EBITDA target. The Committee also considered that she was presumed to have used this information to acquire MBWS shares since the mandate under which the disputed transactions were carried out was not discretionary. At the very least, Mrs Zniber had interfered with the agent's



management. This breach was attributed to Diana Holding, in whose name and on whose behalf it was committed.

However, the Committee dismissed the second insider trading objection against Mrs. Zniber and Diana Holding, considering that there was no evidence of the use of inside information relating to the strategic plan update. It found that the sales of MBWS shares at stake were made by Diana Holding's agent, in accordance with its strategy consisting in disposing of shares to obtain the cash needed to finance the acquisition of share warrants to be contributed to an exchange offer and to pay the interest on the debt contracted for the purchase of MBWS shares, and that the agent was fully aware of the characteristics and mechanism of this exchange offer.

The Committee also dismissed a breach of the obligation to refrain from recommending investments on the basis of inside information relating to MBWS overachievement of its EBITDA target and the reinforcement of its financial structure, alleged against Mrs. Zniber, since it had not been established that she held this information at the time of the alleged facts.

It also considered that the objection according to which Serge Heringer, Diana Holding's representative and a standing guest member of MBWS board of directors, had disclosed this inside information to DF Holding, was not substantiated since the evidence gathered by the investigation did not make it possible to establish such disclosure. It also dismissed the alleged breach by DF Holding of having used this inside information, as well as the alleged breach of attempting to use such information.

The Committee found, however, that Mr Heringer had recommended that DF Holding invest in MBWS, based on this inside information.

It also upheld the objections against Diana Holding, DF Holding and Compagnie Financière Européenne de Prises de Participation (COFEPP), the parent company of a wine and spirits group, that they had failed to report acquisitions of MBWS shares to the AMF, even though some of MBWS directors were related to these three companies.

Lastly, the Commission sanctioned COFEPP for having traded in MBWS shares during a closed period, during which it was obliged to refrain from dealing in MBWS securities.

The Committee imposed fines of €10 million on Diana Holding, €6 million on Mrs Zniber, €2 million on Mr Heringer and €100,000 each on DF Holding and COFEPP.



An appeal may be lodged against this decision.

### **About the Enforcement Committee**

*The Enforcement Committee, which is made up of judges and professionals, has total freedom to make decisions. It can impose sanctions on any person or company whose practices contravene laws and regulations that fall within the jurisdiction of the AMF. It ratifies settlement agreements signed by the Secretary General and respondents. And it takes part in the AMF's educational efforts by clarifying financial regulations when explaining its decisions.*

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