

Employment in Financial Services

Contributing Editor

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09. Is there a particular code of conduct and/or are there other regulations regarding standards of behaviour that financial services employees are expected to adhere to?

Netherlands

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Under Dutch law, financial services companies must maintain integrity and ensure safety, stability and integrity within their company. This also means that financial services companies must prevent their employees from committing criminal offences, other violations of the law or socially inappropriate behaviour that undermines confidence in the financial services sector or financial markets. For these reasons, it is common to implement company-specific codes of conduct.

There are many statutory general regulations and standards of behaviour that financial services employees are expected to adhere to. Moreover, all industries have their own specific industry-wide guidelines and codes of conduct.

An important statutory obligation for directors, (other) policymakers and employees with customer contact is to take an oath or promise before entering into employment. The oath or promise contains a declaration that – among other things – the employee will perform his or her duties with care and integrity, will put customer interests first and will make every effort to maintain and promote confidence in the financial services sector.

In addition to the oath or promise as mentioned above, there is also the “banker's oath”. This oath goes further than the oath or promise mentioned above and is mandatory for all employees who work for banks.

Breaching guidelines, codes of conduct or the statutory oath could lead to disciplinary sanctions being taken by the company itself (such as termination of the employment contract) or by disciplinary supervisors (such as a reprimand or a fine).

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Yes. Both the FCA and PRA have established their own high-level required standards of conduct known as the Conduct Rules. The FCA's conduct rules are set out in the FCA's Code of Conduct sourcebook. The PRA's conduct rules are set out in the PRA Rulebook (and different versions apply to different types of PRA-regulated firms).

The FCA's conduct rules apply to most individuals working at an SM&CR firm. The PRA's conduct rules apply to more limited individuals working at dual-regulated SM&CR firms: senior managers (approved by the PRA or FCA); individuals within the PRA's certification regime; key function holders; and non-executive directors.

The Conduct Rules apply to conduct relating to the carrying out of an individual's role. They do not extend to conduct within an individual's private life, provided that the conduct is unrelated to the activities they carry out for their firm. Nevertheless, an individual's behaviour outside of work can still be relevant to the separate consideration of their fitness and propriety.

There are two tiers of Conduct Rules: a first tier of rules applicable to all individuals subject to the Conduct Rules; and a second tier applicable to senior managers only.

The rules of the first tier are:

- Rule 1 – You must act with integrity.
- Rule 2 – You must act with due skill, care and diligence.
- Rule 3 – You must be open and cooperative with the FCA, PRA and other regulators.
- Rule 4 – You must pay due regard to the interests of the customer and treat them fairly.
- Rule 5 – You must observe proper standards of market conduct.

The rules of the second tier (applicable to senior managers) are:

- SC1 – You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively.
- SC2 – You must take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system.
- SC3 – You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively.
- SC4 – You must disclose appropriately any information for which the FCA or PRA would reasonably expect notice.
- SC5 (certain dual-regulated firms only) – When exercising your responsibilities, you must pay due regard to the interests of current and potential future policyholders in ensuring the provision by the firm of an appropriate degree of protection for their insured benefits.

Firms must notify the FCA if they take disciplinary action against an individual for a breach of the Conduct Rules.

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