

# Employment in Financial Services

## Contributing Editor

*Louise Skinner at Morgan Lewis & Bockius*

### 05. Do any categories of employee have enhanced responsibilities under the applicable regulatory regime?

#### France

Author: *Béatrice Pola*  
at DS Avocats

The activities of certain categories of employees in the financial services sector benefit from greater supervision, due to the risky nature of their activity. These include employees who have business dealings with individuals and employees who may have exposure to the financial markets.

Thus, Article L.533-10 of the Monetary and Financial Code provides that portfolio management companies and investment service providers must, on the one hand, put in place rules and procedures to ensure compliance with the provisions applicable to them. On the other hand, they must put in place rules and procedures defining the conditions and limits under which their employees may carry out personal transactions on their behalf.

They must still take all reasonable steps to prevent conflicts of interest that could affect their clients. In practice, these employees may be referred to as "sensitive personnel".

In addition, Law No. 2013-672 of 26 July 2013, on the separation and regulation of banking activities introduced several provisions constraining employees who may expose their company to the financial markets. These employees must comply with strict obligations in their activity to limit risk-taking.

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#### Germany

Author: *Till Heimann, Anne-Kathrin Bertke, Marina Christine Csizmadia*  
at Kliemt.HR Lawyers

Employees who qualify as risk-takers have enhanced responsibilities due to their influence on an institution's risk profile, including documentation requirements. Investment brokers advising private clients are also subject to strict rules and extensive documentation requirements, inter alia, on the investment

advice provided and how the investment was tailored to the preferences, investment objectives, and other characteristics of the investor.

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## Switzerland

Author: *Simone Wetzstein, Matthias Lötscher, Sarah Vettiger*  
at Walder Wyss

Specifically, employees holding executive, overall management, oversight or control functions in regulated companies are responsible for ensuring that the companies' organization ensures the continued compliance with applicable financial market laws. Swiss financial market laws do not have enhanced responsibilities for different employee categories. Instead, a person's fitness and propriety are assessed within the context of the specific requirements and functions of a given company, the scope of activities at that company, and the complexity of that company.

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### Contributors

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Béatrice Pola  
*DS Avocats*

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Till Heimann  
Anne-Kathrin Bertke  
Marina Christine Csizmadia  
*Kliemt.HR Lawyers*

#### Switzerland

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Sarah Vettiger  
*Walder Wyss*