

# Employment in Financial Services

## Contributing Editor

*Louise Skinner at Morgan Lewis & Bockius*

### **03. What documents should be put in place when engaging employees within the financial services industry? Are any particular contractual documents required?**

#### Hong Kong

Author: *Charles Mo, Joanne Mok*  
at Morgan Lewis & Bockius

In addition to an employment contract, there are additional documentation requirements in connection with the application or transfer of the employee's licence with the financial regulators.

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#### Ireland

Author: *Karen Killalea, Ciara Ni Longaigh*  
at Maples Group

The following documents should be in place:

- written statement of terms of employment e.g., a written contract of employment that complies with the Terms of Employment (Information) Act 1994-2014 and the European Union (Transparent and Predictable Working Conditions) Regulations 2022;
- grievance and disciplinary policy;
- protected disclosures policy;
- dignity at work policy (anti-harassment and bullying prevention);
- safety statement; and
- where possible, an employee handbook that details all the statutory leave policies and other bespoke policies of the RFSP.

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## Singapore

Author: *Ian Lim, Mark Jacobsen, Nicholas Ngo, Elizabeth Tan*  
at TSMP Law Corporation

Reference checks, declarations and other documentation to ensure that the employee is a fit and proper person should be requested. In addition, notices to MAS or MAS' approval may be required for more senior roles (see question 2).

There should also be an employment contract in place, addressing matters such as individual licences (where required) and continued compliance with all applicable MAS guidelines, notices, advisories and regulations. In drafting these contracts, FIs should take into account MAS' Guidelines and Advisories, including the Guidelines on Fit and Proper Criteria, Individual Accountability and Conduct, and (where relevant) Risk Management Practices – Board and Senior Management. Robust confidentiality obligations and other restrictive covenants are also commonplace.

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## Switzerland

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

No special contractual documents are required when engaging employees within the financial services industry.

However, it is generally recommended to conclude a written employment contract with each employee. FINMA, for instance, requires a copy of employment contracts concluded with senior management of regulated entities.

In particular, the employment contract should reference the employer's (regulatory) set of directions and the employee's obligation to comply with said instructions. In addition, because regulated companies such as banks, securities firms, fund management companies, managers of collective assets or asset managers are required to obtain authorisation from FINMA before the engagement of key personnel, it may be sensible to include a condition precedent relating to FINMA's acceptance of the relevant employee in the employment contract.

The mandatory, partially mandatory, and optional elements of an individual employment contract are outlined in article 319 et seq of the CO (in particular regarding remuneration, working time, vacation, and incapacity for work). Further regulations may apply based on collective bargaining agreements.

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### Contributors



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Joanne Mok  
*Morgan Lewis & Bockius*



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Ciara Ni Longaigh  
*Maples Group*



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Ian Lim  
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