

Employment in Financial Services

Contributing Editor

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

Singapore

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Employees who are managers and executives or above generally have enhanced responsibilities, particularly regarding corporate governance.

MAS' Guidelines on Individual Accountability and Conduct provide that senior managers (ie, those principally responsible for day-to-day management) should be clearly identified, fit and proper for their roles, and responsible for the actions of employees and the conduct of the business under their purview. As for material risk personnel (ie, individuals who have the authority to make decisions or conduct activities that can significantly impact the FI's safety and soundness, or cause harm to a significant segment of the FI's customers or other stakeholders), they should be fit and proper for their roles, and subject to effective risk governance, appropriate incentive structures, and standards of conduct.

Subsidiary legislation or other MAS guidelines specific to the FI's sector also contain corporate governance regulations, prescribing responsibilities to the board of directors, nominating committees, or senior management.

MAS' Guidelines on Risk Management Practices – Board and Senior Management further states that an FI's board and senior management are responsible for governing risk within an institution. This includes setting up appropriate risk management systems, stress-testing programmes and business contingency plans.

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Switzerland

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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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10. Are there any circumstances in which notifications relating to the employee or their conduct will need to be made to local or international regulators?



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Forms need to be submitted to the MAS when an individual ceases to act as a representative in regulated activities or financial advisory services. Depending on the FI, the MAS may also have to be informed of appointments or changes of representatives, directors, chief executive officers, and other key officeholders (see questions 2 and 4).

MAS notices are also required for the reporting of misconduct for employees who are representatives of certain capital market service providers, financial advisers, and insurance broking staff. Examples of reportable misconduct include acts involving fraud, dishonesty or other offences of a similar nature, and non-compliance with regulatory requirements. Specific declaration forms and timelines may apply depending on the FI. An FI may also be required to submit updates on cases where investigations have not concluded or disciplinary action was not taken, or submit a declaration that there was no misconduct reported in a given calendar year.

While not specific to financial services employees, the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 requires any person with knowledge, or reasonable grounds to suspect, that any property is being used in connection with criminal activity to file a Suspicious Transaction Report with the Suspicious Transaction Reporting Office. MAS notices concerning the prevention of anti-money laundering and incidents of fraud emphasise this obligation.

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As a general principle, supervised companies are required to ensure that persons holding, in particular, executive, overall management, oversight or control functions fulfil the requirements of the "fit and proper" test. Consequently, such persons must be of good repute and can guarantee compliance with applicable laws and regulations.

If a person cannot guarantee that the regulatory requirements are fulfilled at all times (eg, because of a material breach of its duties) the employing entity and its audit companies may be required to immediately

report to FINMA, respectively, any incident that is of significance.

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