

# Employment in Financial Services

## Contributing Editor

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

#### India

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There are no provisions that lay down enhanced responsibilities for a particular category of employees in the financial services sector.

However, the conduct rules for employees in the financial sector mandate employees to adhere to higher standards of code of conduct and self-discipline. Their codes of conduct include inter alia anti-bribery obligations, prohibition from accepting gifts in an official capacity, making representations to media, making contribution to political parties, holding demonstration against public interest, exercising undue influence to secure appointments of family members at same organisation or granting banking facilities without permission. They are supposed to observe secrecy in general and specifically, maintain financial secrecy about stocks too.

This question was upheld in *Harinarayan Seet v. Andhra Bank*<sup>[1]</sup>, wherein the Andhra Pradesh High Court recognised that banking sector employees are mandated to exhibit higher standards of honesty, integrity, devotion and diligence and any failure to discharge such duty with diligence may trigger dismissal.

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<sup>[1]</sup> WP No. 23310 of 2011.

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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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## United Kingdom

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Every senior manager under the SMR has a "duty of responsibility" concerning the areas for which they are responsible. If a firm breaches a regulatory requirement, the senior manager responsible for the area relevant to the breach could be held accountable for the breach if they failed to take reasonable steps to prevent or stop the breach.

In addition, for most firms, the FCA requires that certain responsibilities – "prescribed responsibilities" – are allocated to appropriate senior managers. These responsibilities cover key conduct and prudential risks. They include, among others, responsibility for a firm's performance of its obligations under the SMR; responsibility for a firm's performance of its obligations under the CR; and responsibility for a firm's obligations around conduct rules training and reporting. Firms must give careful thought to the best person to allocate each prescribed responsibility.

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