

# 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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#### 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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## 06. Is there a register of financial services employees that individuals will need to be listed on to undertake particular business activities? If so, what are the steps required for registration?



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There is no one-point register for financial services employees that individuals need to be listed on to undertake business activities. Such a register may vary depending upon the industry one is seeking and whether the post is that of a specialist or a generalist. Specialists like IT professionals, lawyers etc., working in financial services are bound by registration requirements mandated by the practice rules of their domains. For example, IT or ITES industry professionals may register themselves with the "National Skills Registry"<sup>[1]</sup>, an initiative of the technology industry body NASSCOM. This registry maintains a central database of their qualifications, experiences and demographic information. NASSCOM also runs a BFSI Sectoral Skill Council (BFSI SSC) to cater to the financial services sector. The National Institute of Securities Market (NISM) Skills Registry is another similar initiative by the NISM.

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<sup>[1]</sup> FAQs on Understanding NSR, available at <<https://nationalskillsregistry.com/faq-understanding-nsr.htm>>

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### Switzerland

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There is no universal register of all financial services employees. Rather, different Swiss financial market laws provide for a registration requirement that may apply to individual financial service employees. Whether a particular financial market law, and, consequently, a registration requirement, applies to a financial services employee depends specifically on the regulatory status of the employing entity and the particular activity of that employee.

- Also, client advisers of Swiss or foreign financial service providers (eg, investment advisers) may be required to register with the adviser register, unless an exemption applies. Client advisers are the natural persons who perform financial services on behalf of a financial service provider or in their own capacity as financial service providers. Client advisers are entered in the register of advisers if they prove that i) they have sufficient knowledge of the code of conduct set out in the financial services regulations and the necessary expertise required to perform their activities, ii) their employee has taken out professional indemnity insurance or that equivalent collateral exists, and iii) their employee is affiliated with a recognized Swiss ombudsman in their capacity as a financial service provider (if

such affiliation duty exists).

Furthermore, “non-tied” insurance intermediaries (ie, persons who offer or conclude insurance contracts on behalf of insurance companies) are required to register with FINMA’s register of insurance companies. To register, persons must inter alia prove that they have sufficient qualifications and hold professional indemnity insurance or provide an equivalent financial surety. “Tied” intermediaries will no longer be able to register voluntarily in the FINMA register (unless this is required by the respective country of operation for activities abroad).

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