

# Employment in Financial Services

## Contributing Editor

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## 01. What is the primary regulatory regime applicable to financial services employees in your jurisdiction?

### France

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Due to the unique activities of the financial sector, which involve confidential information, the handling of funds, possible conflicts of interest, etc, there is a special legal framework, specific to financial services employees, which is deployed at national and European levels.

Companies and employees in the sector are subject to private law. As such, they are bound by all the norms of French law, such as Law No. 2016-1691 dated 9 December 2016, on transparency, the fight against corruption and the modernisation of economic life; Ordinance No. 2017-1387 of 22 September 2017, on the predictability and securitisation of labour relations; Law No. 2022-401 of 21 March 2022, aimed at improving the protection of whistleblowers, or Law No. 2022-1598 of December 21, 2022 on emergency measures relating to the functioning of the labor market with a view to full employment. Most legal provisions specific to financial services employees are contained in the Monetary and Financial Code.

In addition, collective agreements govern the working conditions of financial services employees. The most common collective agreements in the financial services sector are:

- The national collective agreement of financial companies of 22 November 1968;
- The national collective agreement for financial market activities of 11 June 2010; and
- The national collective agreement of the bank of 10 January 2000.

Finally, two authorities supervise operators in the financial services sector: the Financial Markets Authority (FMA), which is an independent administrative authority that regulates and supervises financial services operators, through its General Regulations; and the French Prudential Supervision and Resolution Authority (ACPR), which is part of the Banque de France and is responsible for supervising banks.

At a European level, several instruments provide a framework for the financial services sector, including:

- for investment funds (Annex II of Directive 2011/61/EU for alternative investment funds (AIF) and Articles 14a, 14b of Directive 2009/65/EC for UCITS) ;
- for investment firms (Directive 2019/2034/EU, on the prudential supervision of investment firms) ; and
- for markets in financial instruments (Directive 2014/65/EU).



## Hong Kong

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The primary regulatory regime applicable to financial services employees in Hong Kong are as follows:

- Under the Banking Ordinance (BO), the Hong Kong Monetary Authority (HKMA) is responsible for regulating all authorised institutions (banks, restricted-licence banks and deposit-taking companies). In particular, the HKMA needs to ensure that the chief executive, directors, controllers and executive officers of the authorised institutions are “fit and proper”.
- Under the Securities and Futures Ordinance (SFO), the Securities and Futures Commission (SFC) is responsible for regulating the securities and futures markets. Employees performing any regulated functions under the SFO must obtain the requisite licence from the SFC. Relevant individuals engaged by the authorised institutions who perform regulated functions (eg, bank staff working in the securities dealing department) are not required to be licensed or registered with the SFC but their names have to be entered in the register maintained by the HKMA.
- Under the Insurance Ordinance (IO), the Insurance Authority (IA) is responsible for regulating the insurance industry. Employees carrying on a regulated activity under the IO must obtain the requisite licence from the IA.

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## Switzerland

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Employment law in Switzerland is based mainly on the following sources, set out in order of priority:

- the Federal Constitution;
- Cantonal Constitutions;
- public law, particularly the Federal Act on Work in Industry, Crafts and Commerce (the Labour Act) and five ordinances issued under this Act regulating work, and health and safety conditions;
- civil law, particularly the Swiss Code of Obligations (CO);
- collective bargaining agreements, if applicable;
- individual employment agreements; and
- usage, custom, doctrine, and case law.

Depending on the regulatory status of the employer and the specific activities of financial services employees, respectively, Swiss financial market laws may also apply. They are, in particular, the Federal banking, financial institutions and insurance supervision regulations.

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