

Employment in Financial Services

Contributing Editor

Louise Skinner at Morgan Lewis & Bockius

02. Are there particular pre-screening measures that need to be taken when engaging a financial services employee? Does this vary depending on seniority or type of role? In particular, is there any form of regulator-specified reference that has to be provided by previous employers in the financial services industry?



Author: *Rebecca Ford*
at Morgan Lewis & Bockius

In the DIFC, an individual who performs a “licensed function” must be approved in advance by the DFSA. The roles which fall within the meaning of an authorised person for the DFSA includes someone appointed as:

- the Senior Executive Officer, who has ultimate responsibility for the day-to- day management, supervision and control of one or more (or all) of an authorised firm’s financial services carried on, in or from the DIFC;
- the Finance Officer;
- Compliance Officer;, and
- Money Laundering Reporting Officer.

Where a firm proposes to appoint an authorised individual, an application to the DFSA must be made in advance; the DFSA will make an assessment of the individual in order to satisfy itself that they are fit and proper to be an authorised individual. The Regulator will consider the individual’s integrity, competence and capability, financial soundness, their proposed role, and any other relevant matters. That individual may not be considered as fit and proper where they have been declared bankrupt, convicted for a serious criminal offence, or incapable - through mental or physical incapacity - of managing their affairs.

In the ADGM, an individual who performs a “controlled function” must be approved in advance by the ADGM. A controlled function includes someone appointed as the Senior Executive Officer, Finance Officer, Compliance Officer, and Money Laundering Reporting Officer.

Where a firm proposes to appoint someone in a controlled function, an application to the ADGM must be made in advance. The ADGM will make an assessment of that individual in order to satisfy itself that they are fit and proper to be an approved individual. The Regulator will consider the individual's integrity, competence and capability, financial soundness, their proposed role and any other relevant matters. That individual may not be considered as fit and proper where they have been declared bankrupt, convicted for a serious criminal offence, or incapable - through mental or physical incapacity - of managing their affairs.

Last updated on 24/04/2024

04. Do any categories of employee need to have special certification in order to undertake duties for financial services employers? If so, what are the requirements that apply?



UAE

Author: *Rebecca Ford*
at Morgan Lewis & Bockius

As noted in question 2 -, employees undertaking certain regulated roles must obtain the pre-approval of the relevant regulatory authority. The regulators in each case will assess the fitness and propriety of the relevant individual.

Last updated on 24/04/2024

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



UAE

Author: *Rebecca Ford*
at Morgan Lewis & Bockius

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

Last updated on 24/04/2024

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?



UAE

Author: *Rebecca Ford*
at Morgan Lewis & Bockius

There is no public register of authorised individuals.

Last updated on 24/04/2024

07. Are there any specific rules relating to compensation payable to financial services employees in your jurisdiction, including, for example, limits on variable compensation, or provisions for deferral, malus and/or clawback of monies paid to employees?



UAE

Author: *Rebecca Ford*
at Morgan Lewis & Bockius

Both the DFSA General Rulebook and FSRA General Rulebook contain Best Practice Guidance for remuneration structure and strategies of authorised entities. In particular, the guidance identifies that the governing body of an authorised entity ought to consider the risk to which the firm could be exposed to as a result of the conduct or behaviour of its employees, and to consider the ratio and balance between fixed and variable remuneration components, the nature of the duties and functions performed by the relevant employees, the assessment criteria against which performance based components of remuneration are to be awarded, and the integrity and objectivity of any performance assessment against that criteria.

Last updated on 24/04/2024

08. Are there particular training requirements for employees in the financial services sector?



UAE

Author: *Rebecca Ford*
at Morgan Lewis & Bockius

The DFSA General Rulebook requires authorised entities to ensure that the Senior Executive Officer, Compliance Officers, and Money Laundering Reporting Officer, must complete a minimum of 15 hours of continuing professional development in each calendar year. This continuing professional development

must be relevant to the employee's role and professional skill and knowledge, and consist of structured activities, such as courses, seminars, lectures, conferences, workshops, web-based seminars or e-learning, which require a commitment of 30 minutes or more. The employee must also ensure that they maintain adequate records to be able to demonstrate that these requirements have been met.

The FSRA General Rulebook requires an authorised entity to ensure that its directors and senior managers are fit and proper and its guidance suggests that whether any training has been undertaken or is required should be considered. In addition, an authorised entity should satisfy itself that an employee continues to be competent and capable of performing the role, has kept abreast of market, product, technology, legislative and regulatory developments that are relevant to the role, through training or other means, and is able to apply this knowledge.

Last updated on 24/04/2024

09. Is there a particular code of conduct and/or are there other regulations regarding standards of behaviour that financial services employees are expected to adhere to?



UAE

Author: *Rebecca Ford*
at Morgan Lewis & Bockius

In the DIFC, the DFSA General Rulebook provides that authorised individuals must adhere to six principles, as follows:

- Principle 1 – Integrity
- Principle 2 – Due skill, care and diligence
- Principle 3 – Market conduct
- Principle 4 – Relations with the DFSA
- Principle 5 – Management, systems and control
- Principle 6 – Compliance

In the ADGM, the FSRA General Rulebook provides that authorized individuals must adhere to eleven principles, as follows:

- Principle 1 – Integrity
- Principle 2 – Due skill, care and diligence
- Principle 3 – Management, systems and control
- Principle 4 – Resources
- Principle 5 – Market conduct
- Principle 6 – Information and interests
- Principle 7 – Conflicts of Interest
- Principle 8 – Suitability
- Principle 9 – Customer assets and money
- Principle 10 – Relations with regulators
- Principle 11 – Compliance with high standards of corporate governance

Last updated on 24/04/2024

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?



UAE

Author: *Rebecca Ford*
at Morgan Lewis & Bockius

Both the DFSA General Rulebook and FSRA General Rulebook provide that where an authorised firm requests the withdrawal of an authorised individual, they must provide to the regulator details of any circumstances in which they consider the individual is no longer fit and proper. Where the individual is to be dismissed or has requested to resign, the firm must provide to the regulator a statement of the reason, or reasons, for the dismissal or resignation.

In addition, the DFSA and FSRA General Rulebooks contain broad obligations on any authorised firm to report to the regulator if it becomes aware of a range of occurrences, including any matter which could have a significant adverse effect on the authorised firm's reputation, or a matter in relation the authorised firm which could result in serious adverse financial consequences to the financial system or to other firms, or a significant breach of a rule by the authorised firm or its employees.

Last updated on 24/04/2024

12. Are there any particular rules or protocols that apply when terminating the employment of an employee in the financial services sector, including where a settlement agreement is entered into?



UAE

Author: *Rebecca Ford*
at Morgan Lewis & Bockius

As noted in question 7, the DFSA General Rulebook and FSRA General Rulebook contain Best Practice Guidance for remuneration structure and strategies of authorised persons. In this regard, both sets of guidance provide that where an authorised entity provides discretionary payouts on termination of employment (either by way of severance payments, or other payments, such as "golden parachutes"), these should be subject to appropriate limits or shareholder approval. In addition, they should be aligned with the firm's overall financial status and performance.

Last updated on 24/04/2024

13. Are there any particular rules that apply in relation to the use of post-termination restrictive

covenants for employees in the financial services sector?



Author: *Rebecca Ford*
at Morgan Lewis & Bockius

The DFSA and FSRA Rulebooks do not regulate the use of post-termination restrictive covenants. It is fairly typical for financial services firms in both free zones to include non-dealing, non-solicitation, non-compete and similar restrictive covenants in their employment contracts. These are subject to the same common law rules on interpretation and enforceability as in any other sector. In addition, whilst the courts in both the DIFC and ADGM will award injunctive relief, there is no similar right in the federal courts. This means that the enforceability of an injunctive order outside of the geographic scope of the two free zones is uncertain.

Last updated on 24/04/2024

Contributors



Rebecca Ford
Morgan Lewis & Bockius

www.internationalemploymentlawyer.com