

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?

Belgium

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Financial services employees are primarily subject to general employment law, such as the Employment Contracts Act of 3 July 1978.

Moreover, sectoral collective bargaining agreements (CBAs) also apply. The main concerned joint committees (JCs) are JC No. 310 for banks (including savings banks and stockbroker companies) and JC No. 341 for banking and investment services intermediaries

JC No. 309 for stockbroker companies is abolished since 1 July 2023 and the employees who were covered by it are now covered by joint committee No. 310. A specific CBA was adopted to regulate employees' rights following this change (Collective bargaining agreement of 3 July 2023 concluded within the Joint Commission for Banks concerning the transfer of stockbroker companies from JC No. 309 to JC No. 310).

Due to the peculiarities of the financial sector, they are also governed by specific regulations, such as Regulation (EU) No. 468/2014 of the European Central Bank; Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms; Directive 2014/65/EU on markets in financial instruments; the Status and Supervision of Credit Institutions Act of 25 April 2014, the Prevention of Money Laundering and Terrorist Financing Act of 18 September 2017; and the Supervision of the Financial Sector and on Financial Services Act of 2 August 2002.

Finally, the regulations adopted by supervisory authorities, such as the National Bank of Belgium (NBB), the European Central Bank and the Financial Services and Markets Authority (FSMA), apply to the sector. The Belgian Financial Sector Federation (Febelfin) also issues guidelines.

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Brazil

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The main regulatory regime applicable to financial services employees is the Brazilian Labour Code (CLT). However, several rules created from collective bargaining have been formalised in the Collective Labour Contract. That contract established additional standards with a validity period determined by the contract.

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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).

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Germany

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Financial services industry employers and their employees are subject to a multi-layered legal framework, which varies depending on the business activity of the respective institution. In each case, it comprises a patchwork of overarching EU law, local law, and ordinances issued by the regulatory watchdog, the Federal Financial Supervisory Authority (BaFin). Employees are particularly affected by specific remuneration principles targeted at avoiding excessive risk-taking.

Banks and financial services

These providers are subject to the German Banking Act (KWG), with a few exceptions (eg, certain provisions do not apply to some institutions due to the nature of their business (section 2 KWG)). The KWG provides, inter alia, a slightly reduced level of dismissal protection for certain banking employees and sets out rules for an appropriate ratio between variable and fixed annual remuneration for employees and managing directors. Bonuses may not exceed the fixed salary, unless the institution's shareholders approve an increase of up to twice the fixed salary by qualified majority vote. Further details are set out in the Remuneration Ordinance for Financial Institutions (IVV) issued by BaFin. In addition, banks and financial service providers are under certain prerequisites subject to the EU Capital Requirements Regulation (Regulation (EU) No. 575/2013 (CRR) as modified by Regulation (EU) No. 2019/876 of 20 May 2019).

Insurance providers

These are subject to the Commission Delegated Regulation (EU) 2015/35 (Solvency II Regulation), which applies directly and takes precedence over national law. The Insurance Regulation Act governs regulatory supervision and forms the basis for a BaFin-issued insurance compensation ordinance. Compared to banking's IVV, this is much broader in scope and only applies when not overridden by rules set out in the Solvency II Regulation.

Investment funds

These are subject to the German Capital Investment Code (KAGB), which provides specific rules on remuneration for employees, as well as Annex II of Directive 2011/61/EU for alternative investment funds and articles 14a, 14b of Directive 2009/65/EC for undertakings for collective investments in transferable securities. There is no BaFin ordinance (comparable to IVV for banks) for this sector yet, although BaFin could be authorised to issue one. Section 37 paragraph 1 KAGB provides that investment funds should establish a remuneration system for certain employees, such as managers, that is consistent with and conducive to a sound and effective risk management system, that does not create incentives to take inappropriate risks, and does not prevent the investment fund from acting dutifully in the best interests of the investment assets.

Investment firms

Finally, these are subject to a different regulatory regime depending on their size and impact. Larger investment firms are subject to the risk and remuneration regime for banks, while medium-sized investment firms (since June 2021) are subject to the new German Securities Act (WpIG). The Act implements the Investment Firm Directive (Directive (EU) 2019/2034) and is complemented by the Investment Firm Regulation (Regulation (EU) 2019/2033). Commission Delegated Regulations specify the standards to identify risk-takers, and Guidance by the European Securities and Markets Authority further detail the requirements for sound remuneration policies. In January, 2024, a new remuneration regime – the Investment Firm Remuneration Ordinance (WpI-VergV) – was introduced by BaFin after a multi-year consultation phase. Quite similar to the regime for banks and financial services, but with a few subtle differences, these rules must now be applied to the remuneration of medium-sized investment firms and especially their risk takers. Small investment firms are only subject to a low level of regulation. Further regulatory rules are set out, inter alia, in the German Securities Trading Act (WpHG) and the Financial Investment Mediation Ordinance, setting out behavioural standards for employees interacting with customers.

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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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India

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The important labour laws that may apply to financial services employees are:

- Industrial Disputes Act, 1947 (IDA)
- Contract Labour (Regulation & Abolition) Act, 1970
- Payment of Gratuity Act, 1972
- Payment of Bonus Act, 1965
- Equal Remuneration Act, 1976
- Maternity Benefit Act, 1961
- Apprentices Act, 1961
- Employees' Compensation Act, 1923
- Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- Shops and Establishments Act(s)[\[1\]](#).

In addition, there are financial services regulations in India such as the Banking Regulation Act, 1949; Reserve Bank of India Act, 1934; Securities and Exchange Board of India Act, 1992 (and the regulations thereunder); Insurance Act, 1938; Income-tax Act, 1961; and the Foreign Exchange Management Act, 1999 (and the regulations thereunder). There are also multiple regulators established under these laws.

[\[1\]](#) State-specific.

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Ireland

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The Central Bank of Ireland (CBI) is responsible for the authorisation and supervision of regulated financial service providers (RFSPs) in Ireland. RFSPs can include credit institutions, credit unions, brokers/retail intermediaries; and other RFSPs such as electronic money institutions, insurance and reinsurance undertakings, investment firms and payment institutions. The regulatory regime applies in a bespoke way to each sector and its employees and tailored legal advice should be taken for a specific situation. The

general principles of the regulatory framework are set out below.

Fitness and Probity

The primary regulatory regime applicable to employees of RFSPs is the Fitness & Probity ("F&P") framework under the CBI Reform Act 2010 (2010 Act) as amended. Its function is to assess and monitor the suitability of individuals for certain key positions, known as Controlled Functions (CFs), including Pre-approved Controlled Functions (PCFs). The general rule is that an RFSP cannot permit a person to perform a controlled function unless the RFSP is satisfied on reasonable grounds that the person complies with the F&P Standards prescribed under the 2010 Act and further set out in the regulations and Guidance prescribed by the CBI. A link to resources governing the F&P Standards is [here](#).

Fitness relates to an individual's competency, experience, qualifications and capacity to perform the role (including time commitments and being free from conflicts of interest).

Probity relates to an individual's honesty, diligence, independence, ethics and integrity in performing their role.

Employers are required to perform due diligence to confirm that individuals they propose placing in CF roles are fit and proper. Employers are also required to hold a certificate of compliance in respect of each in scope employee, certifying that the employee complies with the F&P Standards. Employees of RFSPs must agree in writing to comply with the F&P Standards.

A breach of an individual's F&P obligations can result in criminal and administrative sanctions for the RFSP and suspension and disqualification for the individual from holding a controlled function.

Minimum Competency Requirements

The CBI also operates a minimum competency regime under the Minimum Competency Code 2017 and the CBI (Supervision and Enforcement) Act 2013 (section 48(1)) Minimum Competency Regulations 2017, which set out professional standards and competencies, and continuing professional development (CPD) requirements, for persons providing certain financial services and products across certain sectors e.g., credit union and insurance services. The aim is to protect consumers by ensuring a minimum acceptable level of competence from individuals acting for or on behalf of RFSPs providing advice and information and associated activities (such as dealing with insurance claims or complaints), in connection with in-scope financial products.

The Individual Accountability Framework

The CBI (Individual Accountability) Act 2023 (the "2023 Act") was signed into law on 9 March 2023. The 2023 Act introduced a new Individual Accountability Framework ("IAF"):

- An enhanced Fitness and Probity Framework;
- New Common Conduct Standards, including Additional Conduct Standards for PCFs, applicable to employees and officers of RFSPs as well as Business Conduct Standards;
- The Senior Executive Accountability Regime ("SEAR"); and
- Administrative Sanctions Procedures ("ASP") which empowers the CBI to investigate and sanction individuals for breaches of their obligations under the IAF including the Conduct Standards and their F&P obligations.

The IAF commenced in Ireland from 29 December 2023. The F&P Framework and the application of the new Conduct Standards became effective from this date. Other parts of the IAF will be effective later in 2024.

Conduct Standards

Under the 2010 Act, both CFs and PCFs must take any step that is reasonable in the circumstances in the performance of their role, to ensure that they meet the requirements of the Common Conduct Standards. The Common Conduct Standards are explained in Guidance published by the CBI [here](#). The Conduct Standards include the requirement to act with honesty and integrity, due skill and care, co-operate in good faith with the CBI, act in the best interests of customers and comply with applicable rules governing market conduct and trading as applicable to the relevant RFSP's sector. The F&P Standards set a standard that CFs and PCFs must meet to ensure that they are sufficiently skilled and have the competence and capability to

perform their roles. Whereas the Common Conduct Standards impose positive, enforceable legal obligations on individuals in those roles, governing their conduct and requiring them to act in accordance with a single set of standards of expected behaviour. Employers must train their employees on the applicable Conduct Standards. Employees are required to attend at that training and to fully understand and comply with the Conduct Standards. Additional Conduct Standards apply to PCFs.

Senior Executive Accountability Regime

SEAR which applies to senior managers/officers holding PCF and CF1 roles, will be applicable from 1 July 2024. SEAR will come into force in respect of Non Executive Directors (NEDs) and Independent Non Executive Directors (INEDs) with effect from 1 July 2025.

In terms of the scope of application, SEAR will be introduced on a phased basis and will initially apply from 1 July 2024 to credit institutions, insurance undertakings (excluding reinsurance undertakings, captive (re)insurance undertakings and insurance special purpose vehicles) and investment firms that underwrite on a firm commitment basis, deal on own account, or are authorised to hold client monies or assets; and third-country branches of the above.

However, the CBI has noted in its Consultation Paper 153 (CP153) that "there is much in the spirit of the SEAR that firms not initially falling within scope should consider as aligned with good quality governance". RFSPs which are not in Phase 1 of SEAR should therefore consider the presence of the new regime and whether it may be appropriate to comply with the spirit of SEAR by ensuring that individual responsibilities for senior managers are mapped and clearly allocated across the firm's senior management. This is to ensure that it is very clear who is individually accountable for what and in order to ensure that the business and its risks are being properly managed.

Business Standards

The 2023 Act provides for the ability of the CBI of Ireland (CBI) to prescribe the "Business Standards" for the purposes of ensuring that in the conduct of its affairs a firm:

1. acts in the best interests of customers and of the integrity of the market;
2. acts honestly, fairly and professionally; and
3. acts with due skill, care and diligence.

The Business Standards are obligations which apply to the RFSP.

Protected Disclosures Legislation - Whistleblowing

The Protected Disclosures Act 2014 as amended provides that all employers (with 50 or more employees) and most RFSPs regardless of head count (including MiFID firms, UCITS management companies, AIFMs, externally managed UCITS and externally managed AIFs) have and maintain secure, confidential and effective internal reporting channels and investigation procedures that comply with its requirements. Employees and other workers, including INEDs and NEDs as well as contractors have significant anti retaliation protection in connection with making a protected disclosure. Employers are required to appoint a designated person to acknowledge a report within 7 days, make diligent inquiries and to follow up with the reporter within three months in relation to the progress/outcome of the investigation. The Central Bank (Supervision and Enforcement) Act, 2013 as well as the European Union (Market Abuse) Regulations, 2016 set out whistleblowing requirements for in scope employees and anti retaliation protection.

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Isle of Man

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The Employment Act 2006 and the Equality Act 2017 prescribe general employment rights and obligations for both employers and employees, including those in the financial services industry.

The Isle of Man Financial Services Authority (IoM FSA) is responsible for the regulation and supervision of financial services providers in the Isle of Man. Among other things, regulated financial institutions must comply with the rules set down by the IoM FSA in its Financial Services Rule Book 2016 (as amended) (the Rule Book). The IoM FSA applies “fitness and propriety” criteria to holders of certain key roles within a licence holder. This entails the IoM FSA assessing an individual’s integrity, financial standing, competency and capacity to undertake the role.

The requirement for an individual to be “fit and proper” depends on the nature of the role rather than their job title, but generally applies to key person or senior managerial roles (also known as Controlled Functions), where the individual has significant influence or control over the regulatory matters of the financial institution or to roles that have a bearing on the regulatory objectives of the IoM FSA and its ability to meet them.

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Mexico

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Articles 5 and 123 of the Constitution of the United Mexican States provide express protection of labour rights and establish that legal rights are protected by the Federal Labour Law (the FLL).

Pursuant to article 5 thereof, no-one can be stopped from providing services in industry, commerce, or any other activity, provided it is not illegal; thus, individuals may only be prohibited from performing their duties as financial services employees if there is a legal justification. The activity may only be prohibited by a judicial declaration. Also, the law will define occupations that require a licence, the conditions to be met to obtain that licence and the issuing authorities.

Furthermore, no contract or provision that affects an individual’s freedom will be enforced.

All employers and employees within the private financial services sector are primarily subject to the FLL. Additionally, financial entities and their employees are subject to different laws and general provisions depending on the entities’ core business and activities, such as:

- Law to Regulate Finance Associations;
- Credit Institutions Law;
- General Provisions of Credit Institutions, issued by the supervisory authorities;
- Law to Regulate Credit Information Entities;
- General Law of Auxiliary Credit Organizations and Activities;
- Investment Funds Law;
- Popular Savings and Credit Law;
- Law to Regulate Technological Finance Institutions;
- General Provisions of Technological Finance Institutions, issued by the supervisory authorities;
- Law of Transparency and Promotion of Competition in Guaranteed Credit;
- Securities Market Law;
- Law for the Transparency and Regulation of Financial Services;
- Federal Law for the Prevention and Identity of Transactions with Illegally Obtained Resources;
- General Provisions applicable to securities operations carried out by counsel, managers and employees of financial entities and other obligated parties, issued by the supervisory authorities;
- Insurance and Bonding Institutes Law; and
- Insurance and Bonding Agents Regulations.

Some of the financial entities regulated are the following (Financial Entities):

- controlling entities (controlling entities of financial groups);
- credit institutions;
- credit information entities;

- multiple purpose financial entities;
- exchange bureaus and brokerage houses;
- auxiliary credit organisations;
- technological finance institutions;
- investment funds;
- financial cooperative associations and community finance entities; and
- insurance and bond institutes.

Authorities that regulate and supervise the compliance of financial laws and provisions are the National Banking and Securities Commission (CNBV), National Insurance and Bonding Commission (CNSF), National Commission of Retirement Savings Fund (CONSAR), National Commission for Financial Service Consumer Protection, Bank of Mexico, and the Ministry of Finance and Public Credit (SHCP).

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Netherlands

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The Dutch Financial Supervision Act (Wft) and the Dutch Remuneration Policies for Financial Institutions Act.

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Singapore

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All private-sector employers and employees in Singapore are regulated by the Ministry of Manpower (MOM). Legislation such as the Employment Act 1968, the Employment of Foreign Manpower Act 1990, and the Workplace Safety and Health Act 2006 prescribe general employment rights and obligations for both employers and employees, and are supplemented by various tripartite advisories and guidelines. Anti-workplace discrimination legislation is also expected in the second half of 2024.

From the perspective of financial services, financial institutions (FIs) and FI employees are regulated by the Monetary Authority of Singapore (MAS). FIs are broadly categorised into four sectors: banking, capital markets, insurance, and payments. Statutes specific to each FI sector also apply. These include the Banking Act 1970, Securities and Futures Act 2001, Trust Companies Act 2005, Financial Advisers Act 2001, Insurance Act 1966, and Payment Services Act 2019. These are supplemented by MAS-issued directions, guidelines, codes, practice notes, circulars and policy statements.

A new Financial Services and Markets Act 2022 (FMSA) was also passed by Parliament in April 2022, consolidating and enhancing MAS' powers. The FMSA will be implemented in phases, with the first phase having been implemented on 28 April 2023. This first phase addresses the porting over of provisions under the Monetary Authority of Singapore Act 1970 which relates to the MAS' general powers over financial institutions, the anti-money laundering / countering of terrorism financing framework, and the Financial Dispute Resolution Schemes framework. The MAS has stated that the remaining phases are targeted for implementation in 2024.

2024 also saw the introduction of the Financial Institutions (Miscellaneous Amendments) Bill 2024. If passed, the bill will enhance, clarify and consolidate MAS' powers across various acts to investigate, reprimand, supervise and inspect potential breaches and offences.

Contravening legislation (primary or subsidiary) and directions would generally constitute a criminal

offence. Contravening advisories, guidelines, codes and practice notes would not generally constitute a criminal offence, but may result in regulatory or administrative consequences such as reprimands, censures or prohibition orders (in the case of MAS) or other administrative actions, such as a curtailment of work-pass privileges (in the case of MOM) – which is significant as work passes are a requirement for employing foreign nationals in Singapore.

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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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UAE

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The UAE has four different regulators responsible for the authorisation and supervision of banks, insurers, and other financial institutions.

There are two regulators "on-shore" in the UAE, namely, (i) the UAE Central Bank, which is the state institution responsible for banking and insurance regulation, as well as monetary policy, and has authority over all licensed financial institutions in the UAE, including those in the financial free zones; and (ii) the Emirates Securities and Commodities Authorities (ESCA) that regulates markets, listed companies, and securities brokers.

There are two financial free zones in the UAE, the Dubai International Financial Centre (DIFC) and Abu Dhabi Global Market (ADGM), who were established as special economic zones with independent jurisdictions through amendment to the UAE Constitution. Within the free zones, the Dubai Financial Services Authority (DFSA) is the regulator of the DIFC and the Financial Services Regulatory Authority (FSRA) is the regulator of the ADGM.

As the DIFC and ADGM free zones have been established as special economic zones in which financial services are conducted, most of the applicable legislation in the UAE which governs financial services is found in the two free zones. Therefore, unless expressly referenced, the responses for the UAE in this guide consider the position in the DIFC and ADGM only.

The Dubai Financial Services Authority is the financial regulatory body of financial services conducted in or

from the DIFC. The key legislation is the Regulatory Law of 2004, as amended, which is administered by the DFSA and is described as the cornerstone legislation of the regulatory regime.

The ADGM Financial Services Regulatory Authority is the financial regulatory body of financial services conducted in or from the ADGM. The key legislation is the Financial Services and Markets Regulations (FSMR), which sets out the legislative and regulatory framework for financial services in the ADGM. The FSMR was modelled on the UK's Financial Services and Markets Act 2000 and other related legislation.

Finally, all employees in the private sector (excluding the two financial free zones) are subject to Federal Decree-law No. 33 of 2021, as amended (the Labour Law). In the DIFC, employees are subject to DIFC Law No. 2 of 2019, as amended (the DIFC Employment Law) and in the ADGM, employees are subject to the ADGM Employment Regulations 2019 (the ADGM Employment Regulations). In addition to the employment legislation described above, a number of other laws will be applicable to employees in the UAE, including Federal Decree-law No. 30 of 2021 containing the Penal Code.

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United Kingdom

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In the UK, there are two main regulators responsible for the supervision of financial institutions. These are:

- The Prudential Regulation Authority (the PRA) – The PRA supervises over 1,500 financial institutions, including banks, building societies, credit unions, insurance companies and major investment firms. It creates policies for these institutions to follow and watches over aspects of their business.
- The Financial Conduct Authority (the FCA) – The FCA regulates the conduct of approximately 50,000 firms, prudentially supervises 48,000 firms, and sets specific standards for around 18,000 firms.

Some financial institutions are regulated by both the PRA and FCA (dual-regulated). Those financial institutions must comply with rules set down by the PRA in its rulebook (the PRA Rulebook) and by the FCA in its handbook (the FCA Handbook). Other firms are regulated solely by the FCA (solo-regulated) and must comply with the FCA handbook alone. Different rules can apply depending on the nature and size of the firm. The PRA and FCA work closely on certain issues and firms, but the FCA focuses specifically on ensuring fair outcomes for consumers.

The Senior Managers and Certification Regime (SM&CR) sets out how the UK regulators oversee people in businesses supervised and regulated by them, and how those people must act. As the FCA has summarised, “The SM&CR aims to reduce harm to consumers and strengthen market integrity by making individuals more accountable for their conduct and competence” (<https://www.fca.org.uk/firms/senior-managers-certification-regime>).

SM&CR consists of three elements:

- The Senior Managers Regime (SMR) – This applies to the most senior people in a firm (senior managers) who perform one or more senior management functions (SMFs). These functions are specified in the PRA Rulebook and the FCA Handbook. Senior managers must be pre-approved by the PRA or FCA before starting their roles. Each senior manager must also have a “Statement of Responsibilities” (that sets out what they are responsible and accountable for), which may include (depending on the firm) certain responsibilities prescribed by the regulator known as “Prescribed Responsibilities”. Every year, senior managers must be certified as fit and proper to carry out their role by their firm.
- The Certification Regime (CR) – This applies to employees who, because of their role, could pose a risk of significant harm to the firm or its customers, such as employees who offer investment advice (certified staff). For solo-regulated firms, these roles are generally called certification functions. Firms must certify that these employees are fit and proper for their roles both at the outset of their employment and continuously.

- The Conduct Rules – The Conduct Rules set minimum standards of individual behaviour in financial services in the UK. They apply to almost all employees of a firm. They also include particular rules applicable only to senior managers.

Certain parts of SM&CR apply to particular firms only. This is outside the scope of this note, which sets out the general position under SM&CR.

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United States

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In the United States, there are different regulatory environments, depending on the nature of the employer.

- The Securities and Exchange Commission (SEC) regulates the offer and sale of securities, the various obligations of public companies, and the registration and conduct of broker-dealers. The SEC also regulates investment advisers.
- Every state has its own securities laws, known as Blue Sky Laws. These laws vary from state to state, but most, including New York and California, impose registration requirements on broker-dealers. State laws also require employees of brokers and dealers engaged in securities transactions to register as agents or salespersons.
 - The California Corporate Securities Law of 1968 covers securities offerings in the state of California.
 - The New York General Business Law and the New York Compilations of Codes, Rules and Regulations cover securities offerings in the state of New York.
- The Financial Industry Regulatory Authority (FINRA) is a private self-regulatory organisation that oversees exchange markets and brokerage firms and regulates the conduct of broker-dealer member firms.
- The Commodity Futures Trading Commission (CFTC) regulates commodities or future brokers and exchanges under the Commodity Exchange Act (CEA).
- Banks are regulated by both federal and state regulators, including the Federal Reserve Board, the Office of the Comptroller of the Currency, the Consumer Financial Protection Bureau, and the Federal Deposit Insurance Corporation.
- Commodities or future brokers or exchanges are covered by the CEA and are regulated by the CFTC.
- The Protocol for Broker Recruiting is an agreement signed by more than 2,000 broker-dealers. This Protocol specifically places limits on the restrictions a signatory firm can place on representatives who move to another signatory firm.

Most states have their own financial regulatory regimes. For example:

- The New York Department of Financial Services has regulatory authority over banks and certain other financial services entities within the state of New York.
- The California Department of Financial Protection and Innovation has regulatory authority over financial services entities within the state of California.

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

Belgium

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To keep the “fit and proper” authorisation, the concerned persons must ensure that they follow the relevant training.

Regarding the prevention of money laundering, financial institutions must ensure that personnel whose function requires it is aware of the legislation, knows the internal policies, is aware of the internal reporting procedure and receives special continuing education programmes (article 11, §1, Act of 18 September 2017).

At a sectoral level, JC Nos. 310 and 341 provide for an individual right to five days of training per year per full-time equivalent employee.

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Brazil

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No uniform training is required by law, except for activities that require certification.

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France

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In general, "the employer shall ensure that employees are adapted to their workstation" and "shall ensure that their ability to hold a job is maintained, particularly with regard to changes in jobs, technologies and organizations". This general obligation is imposed on the employer if there is a change in the job description.

In addition, the FMA General Regulation requires all persons mentioned in article 325-24 of the Monetary and Financial Code, including investment service providers, salespersons, managers, and persons responsible for clearing financial instruments, to undergo annual training appropriate to their activity and experience.

Law 2016-1691 of 9 December 2016 on transparency, the fight against corruption and the modernisation of economic life also provides that in companies employing at least 500 people, or belonging to a group of companies whose parent company has its registered office in France and whose workforce includes at least 500 people, and whose revenue or consolidated revenue is more than €100 million, a training system must be set up for managers and staff most exposed to the risks of corruption and influence peddling.

Decree no. 2022-894 of 15 June 2022 on the conditions governing the exercise of the profession of intermediary in banking operations and payment services introduces a new obligation in terms of continuing training. From now on, all intermediaries in banking operations and payment services carrying out intermediary activities in real estate credit and their staff must update their professional knowledge and skills, as part of their continuing education, “through professional training of sufficient duration adapted to their activities, taking particular account of changes in the applicable legislation or regulations” (article L. 519-11-3 of the Monetary and Financial Code). Finally, as we have seen, some positions in the financial services industry may require specific training and certification.

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Germany

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Qualification requirements exist for specific roles (eg, traders), and employers must ensure they comply with them by only contracting employees with the required skills, certifications and experience. The expertise of employees providing investment advice, sales representation, and compliance advice must also be continuously maintained and regularly updated.

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Hong Kong

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SFC

Persons engaging in regulated activities are required to continuously update their knowledge and skills through continuous professional training (CPT). The “Guidelines on Continuous Professional Training” published by the SFC provides for the following CPT requirements:

- a minimum of 10 CPT hours a year for licensed representatives and relevant individuals; and
- a minimum of 12 CPT hours a year for responsible officers and executive officers (including 2 CPT hours on topics relating to regulatory compliance).

In addition, an individual should attend at least five CPT hours a year (out of the 10 hours for licensed representatives and relevant individuals and 12 hours for responsible officers and executive officers) on topics directly relevant to the regulated activities for which he or she is licensed at the time the CPT hours are undertaken.

HKMA

The HKMA has implemented the “Enhanced Competency Framework”(ECF) for banking practitioners. While the ECF is not a mandatory regime, banks are strongly encouraged to adopt it as the benchmark for enhancing the level of core competence and ongoing professional development of banking practitioners.

IA

Under the “Guideline on Continuing Professional Development for Licensed Insurance Intermediaries”, licensed insurance intermediaries who are individuals are required to receive training through CPD to preserve their professional competence and standards in providing service to policyholders and potential policyholders.

The minimum number of CPD hours for individual licensees is 15 CPD hours for each assessment period, including a minimum of three compulsory CPD hours on “Ethics or Regulations” courses.

Financial services employees are also required to receive training on anti-money laundering and counter-financing of terrorism. New staff should be required to attend initial training as soon as possible after being hired or appointed. Apart from the initial training, refresher training should be provided regularly to ensure that staff are reminded of their responsibilities and are kept informed of new developments.

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India

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Financial services employees may undergo necessary training once they are selected and onboarded.

Financial services sectors categorise employees as specialists and generalists. On one hand, those in charge of specialist roles are deployed in treasury, derivatives trading, IT, forex, risk management, service delivery groups, product roles, legal, etc., while on the other, the generalists are deployed in branches, administrative functions, finance, some areas of treasury, taxation, general management, operations, relationship or sales managing, etc. They should possess differentiated requisite academic qualifications with skill certifications (if any) or obtain competitive scores in recruitment tests.

As such, there are no legal requirements for prior training of employees in the financial services sector. There are various certificate courses, workshops and diplomas by financial institutions and agencies, which are recommended to be attended regularly to stay abreast of industry knowledge and to secure an edge in intra-organisational promotions.

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Ireland

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Yes. A CF employee, subject to the Minimum Competency regime, will be required to complete CPD training. Evidence of meeting that CPD requirement is also a factor in determining a person's F&P. RFSPs must maintain records of CPD training provided to CFs to demonstrate compliance with the minimum competency regime.

The 2023 Act also introduces new training obligations for those subject to the Common and Additional Conduct Standards, with firms being required to train those persons on how these obligations apply to them and their new duties of responsibility. Attendance at, or completion of, training in respect of the Conduct Standards should be mandatory and such attendance should be carefully documented with refresher training rolled out periodically.

Employers within the scope of the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 - 2021 (including RFSPs) are required to provide annual training to relevant staff and directors on its requirements and the RFSP must have procedures in place to comply with that legislation and associated guidance.

Depending on the RFSP's business, additional mandatory training may be needed annually, for example, on topics such as market abuse.

The designated person for responding to protected disclosures should be trained and competent in the identification and handling of protected disclosures.

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Isle of Man

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The IoM FSA's "Training and Competence Framework" sets the minimum standards that must be achieved by individuals working in the financial services industry. The framework sets out the IoM FSA's expectations regarding competency, not only for employees who carry out a Controlled Function (and who are subject to

fitness and propriety criteria) but for all staff.

The framework is split into two segments: general training and competence requirements for all staff; and training and competence expectations for Controlled Functions and Other Functions – essentially additional expectations for individuals undertaking or aspiring to undertake certain Controlled Functions or other designated functions.

The IoM FSA also sets requirements concerning continuing professional development (CPD) for different types of regulated entities and staff at different levels. For example, Rule 8.5 of the Rule Book specifies that directors and key persons within a licence holder must undertake a minimum of 25 hours of relevant CPD per year or meet the level prescribed by their professional body (where higher). There are further CPD requirements on individuals who provide investment advice to retail investors.

Even absent a prescribed minimum level of CPD, the IoM FSA believes that ongoing training and CPD for all financial services staff and officers is good practice. Such training and CPD should be relevant to the role of the individual and take account of new developments (ie, changes to tax legislation, new regulatory requirements and new products).

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Mexico

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In terms of articles 132, 153-A to 153-X of the FLL, employers must provide employees with training so they can render their services and comply with the duties of their positions, and employees should receive such training under the plans and programmes formulated by mutual agreement of the employer and employees. Nevertheless, as indicated in previous questions, for employees to occupy certain positions, they must meet the requirements, and for brokerage houses proxies must be authorised to exercise their duties under their position within the brokerage houses.

According to article 117 bis 9 of the general provisions applicable to brokerage houses, general managers are responsible for implementing, maintaining and distributing the continuity plan of the business within the brokerage house. Therefore, the general manager must establish a training programme outlining the actions to be carried out if an operation contingency arises.

On the other hand, the AMIB provides courses and training for interested individuals to obtain the necessary skills and capacity to perform the activities of proxies in brokerage houses, and thereafter, to obtain authorisation from the AMIB and CNBV to act and perform the corresponding duties of the position.

A Finance Educational Committee has been created by several financial institutions, authorities, and the Bank of Mexico and is presided over by the SHCP. This committee is in charge of, among other things, defining a finance educational policy; preparing a national strategy for financial education and guidelines; and identifying new work areas and proposing new actions and programmes in financial education.

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Netherlands

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Please see question 4.

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Singapore

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Examinations (see question 4) and continuing education requirements apply to certain employees in the capital markets services, financial advice and insurance sectors.

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Switzerland

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In general, regulated companies (eg, banks, insurance companies or asset managers) are required to set up and maintain an organisation that ensures compliance with applicable financial market laws. Given the organisational measures and depending on the regulatory status of the employing entity and the position and activities of the financial services employee, there are training requirements.

While Swiss financial market regulations do not have an exhaustive list of exact training requirements, FINMA requires, among others, that the highest bodies of supervised companies (eg, executives of board members of banks, securities firms, insurance and reinsurance companies, fund management companies, managers of collective assets or asset managers) can fulfil the requirements of the so-called fit and proper test. These requirements extend to all character-related and professional elements that enable an officeholder to manage a supervised company in compliance with applicable laws. Part of the professional elements are relevant work experience and education. In addition, persons holding key positions (eg, compliance and risk officers and their deputies) are required to demonstrate sufficient know-how because of their work experience and education.

That said, the Swiss financial services and insurance supervisory regulations provide for more concrete training requirements. In particular, client advisers of Swiss and foreign financial service providers (eg, investment advisers) may need to demonstrate that they have sufficient knowledge of the code of conduct rules of the Swiss financial services regulation and the necessary expertise required to perform their activities. In addition, insurance intermediaries registered with FINMA's insurance intermediary register have to prove that they have undergone sufficient education and have sufficient qualifications. On its website, FINMA has published a list of different educational Swiss and foreign qualifications that it deems to be sufficient.

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UAE

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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.

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United Kingdom

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The PRA and FCA training and competence regimes set the minimum standards that must be achieved by individuals working in the financial services industry. These regimes aim to ensure that authorised firms have arrangements in place to satisfy themselves that their employees are competent.

All FSMA-authorised firms are required to have adequately trained and competent senior management and employees. The training and competence requirements include:

- Threshold conditions on suitability – All firms must show that persons connected with the firm are fit and proper, taking into account all the circumstances. When assessing the suitability threshold of an employee, the FCA and the PRA will consider:
 - the nature of the regulated activity the firm carries on or is seeking to carry on;
 - the need to ensure that the firm's affairs are conducted soundly and prudently;
 - the need to ensure that the firm's affairs are conducted appropriately, considering especially the interests of consumers and the integrity of the UK financial system; and
 - whether those who manage the firm's affairs have adequate skills and experience and act with probity.
- FCA Principles for Businesses or PRA Fundamental Rules – These rules lay out the parameters of the “fit and proper” standard set for firms in the threshold condition on suitability, and require firms to undertake the following:
 - recruit staff in sufficient numbers;
 - provide employees with appropriate training, with competence assessed continuously;
 - make proper arrangements for employees involved with carrying on regulated activities to achieve, maintain and enhance competence; and
 - train employees to pay due regard to the interests of a firm's customers and treat them fairly.
- Competent employees rule in chapters 3 and 5 of the Senior Management Arrangement Systems and Controls Sourcebook – This is the main employee competence requirement in the training and competence regime under the FSMA and applies to individuals engaged in a regulated activity in UK-regulated firms. The application of this rule can be complex and dependent upon the firm and the activities it undertakes, but in general, it provides that firms must employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.
- Detailed training and competence requirements in the FCA's training and competence handbook (TC) – The TC rules are designed to supplement the competent employees rule, especially concerning retail activities carried on by firms. Among others, these rules include the following:
 - rules on assessing and maintaining competence;
 - supervision of employees who have not yet been assessed as competent;
 - appropriate qualifications; and
 - recordkeeping and reporting for firms within its scope, including how a firm assessed its employees as competent, and how it has ensured that its employees remain competent.

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United States

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All employees in some states, including California and New York, are required to receive periodic sexual harassment training. Additionally, employees may be required to pass certain skills tests before registering with regulators or engage in continuing education programmes (most notably FINRA, see question 4).

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