



International Employment Lawyer

GUIDE TO EMPLOYMENT IN FINANCIAL SERVICES

ITALY

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Overview

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

In the Italian legal system, the management of the employment relationship in the financial sector is identical to that foreseen for other sectors.

The employment relationship is largely regulated by the:

- Italian Constitution, which has a fundamental role as it recognises work as a founding value of the Italian Republic by guaranteeing and ensuring work in all of its forms and applications (Article 35); protecting workers by providing entitlement to remuneration for their work as well as to rest and leave (Article 36); and establishing a social security system for those unable to work (Article 38);
- Italian Civil Code, state law, decree laws, and delegated legislative decrees;
- National Collective Bargaining Agreements (“Collective Bargaining Agreements” [CBA] or “Contratti Collettivi Nazionali di Lavoro” [CCNL]) for Employee and Executives in the Financial sector, which represents the regulatory source for economic and regulatory rules governing the employment relationship; and
- individual employment contract entered into between the parties (the employer and the employee).

The activities of all the entities operating in the financial sector are also subject to the supervision of the Bank of Italy.

Engagement

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?

In the financial sector there are specific rules that require compliance with requirements of integrity, competence and transparency. These principles particularly concern top management positions but are generally applicable to all employees working in the Italian Financial Services sector.

In addition, there are specific anti-money laundering regulations that are transversal to labour law and more specifically relate to controls on financial transparency (Italian Legislative Decree no. 231/2001) in coordination with the European Banking Authority (EBA). These rules also influence the codes of conduct, with which workers are also required to comply.

Legislative Decree no. 385/1993 – the Consolidated Banking Act – identifies some fundamental principles for governance in the financial sector. For example, requirements may include:

- honour and integrity – candidates must not have any convictions or previous offences that could compromise trust in the financial system; and
- competence and experience – candidates must demonstrate proven experience and knowledge of the sector, which are essential elements for fully managing the risks and complexities of this market

The Consolidated Banking Act also requires credit institutions to scrupulously verify that these requirements are met, with the aim of safeguarding the solidity and transparency of the entire system.

In addition to the Consolidated Banking Act, Italian Financial sector labour regulations (in reference to the transparency and integrity of those working in the financial sector) are dictated by the Consolidated Finance Act (Legislative Decree no. 58/1998) which establishes rules to protect investors and ensure fairness in stock market transactions.

The Bank of Italy is entrusted with the role of supervising credit institutions operating on the peninsula. This Authority also provides specific Guidelines that specify, in an operational way, how to implement these principles (see, for example, [Italian Circular no. 285/2013](#)).

The CBA for the Italian financial sector also includes more specific rules regarding transparency, even if not directly related to the management of disciplinary proceedings in case of fraud. As a general rule, it is expected that a worker who becomes aware, by act of the judicial authority (Public Prosecutor or other competent magistrate), that preliminary investigations are being carried out against them or that criminal proceedings have been brought for an offence involving the application of a custodial sentence, even as an alternative to a fine, they must immediately inform their employer. A similar obligation applies to workers who have only received information about the suspicion of a pending investigation.

The CBA also provides for specific protections. If an employee is notified about an investigation, or similar measure, or criminal action is taken in relation to acts committed in the performance of his or her duties, any financial penalties and legal costs, including those for legal assistance, shall be borne by the employer, without prejudice to the right of the employee to choose a lawyer of his or her own choice. This protection does not apply in the case of criminal proceedings resulting from facts or acts committed in violation of instructions or provisions issued by the company and in all cases in which the worker's behaviours conflict with the company itself. Similar provisions are contained in the CBA for Managers in the financial sector.

03. What documents should be put in place when engaging employees within the financial services industry? Are any particular contractual documents required?

There are no specific preliminary requirements regarding documents or background checks (such as drug testing or criminal records) before hiring – in general and as well in the financial sector. The rules are the same for any other sector. Pre-employment investigations, such as drug testing, are prohibited. Criminal background checks on a candidate are mandatory only for those workers who will be responsible for minors (ie, in school environments).

Italian law, in implementing European Union legislation, provides for the general prohibition of discrimination in hiring (Article 15, Law no. 300/1970).

In practice, a potential candidate for a job position can be subject to a professional test of their skills to show they are qualified for a role. The tests in the pre-hiring phase must be in line with the legal requirements. The employer is prohibited, for the purposes of hiring, as well as throughout the employment relationship, from carrying out investigations, data-processing, or pre-selection searches (including through third parties) that involves (according to Article 8 of Italian Law no. 300/1970):

- an individual's political, personal, religious opinions;
- an individual's trade union opinions;
- an individual's ethnic origin;
- any disputes with previous employers; and
- facts which are not relevant for the purposes of the evaluation of the worker's professional aptitude.

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?

In the financial sector, the supply or sale of financial products can only be carried out by specific types of consultants. The Consolidated Banking Act (Legislative Decree No. 385/1993) establishes that a financial agent is a person who promotes and concludes contracts relating to the granting of loans in any form or to the provision of payment services, by direct mandate of financial intermediaries provided by subjects operating in the financial sector, payment institutes, electronic money institutes, banks or Poste Italiane (a bank run by the Italian Post Office) as per Article 128quater of Italian Legislative Decree No. 385/1993.

The Italian Consolidated Finance Act also provides for the figure of these consultants, for the activity of offering financial instruments and investment services outside the offices or branches of business of the issuers or proponents of the investment. This activity can only be entrusted to financial advisors and can only be carried out in the interest of a single party (Article 31, c. 2 of Italian Legislative Decree No. 58/1998).

In general, a financial advisor in the Banking sector, as defined by the Italian Consolidated Banking Act, is a figure within the credit institution subject to the general supervision of the Bank of Italy. On the other hand, a financial advisor is defined by the Consolidated Finance Act too as an independent figure (a sole financial agent) who addresses the market directly and for this purpose is subject to the supervision of Consob (the National Commission for Companies and the Stock Exchange). Consob, on the other hand, has no specific role in the regulation of employment relationships in this sector – as it is the responsibility of the Bank of Italy. Consob plays a fundamental role in the Italian financial market, protecting investors in the framework of the Consolidated Finance Act (Italian Legislative Decree No. 58/1998).

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

The sector does not have any specific rules or responsibilities, with the exception of the documentation required for financial agents in accordance with Article 128 quarter and the subsequent articles of the Consolidated Banking Act, whose activities are supervised by Consob and the Consolidated Finance Act.

Some categories of subjects are, however, subject to specific checks in terms of integrity and transparency:

- members of the administration and control bodies – declarations (and, in some cases, certifications) must be presented attesting to the absence of criminal records or other elements that could compromise trust in the system; and
- executive and management roles – for roles that involve risk management and the coordination of operational activities, banks require documentation relating to qualifications, academic qualifications and previous experience, together with evidence of personal integrity and transparency.

It is up to the Bank of Italy, which performs supervisory functions, to establish guidelines for the collection and management of this information.

The figures specifically involved are defined by sector regulations as 'company representatives' – which includes any board of directors, supervisory boards, management boards, board of statutory auditors, and general managers. Some specific rules which dictate the responsibilities of 'company representatives' are extended by the sector's regulations and are applied to the managers of the main company departments of the larger banks or those with greater operational complexity. In this latter instance we are speaking of managers of anti-money laundering, compliance, risk control and internal auditing, executives in charge of particular functions such as the company's financial management or the preparation of corporate accounting documents (see Ministerial Decree No. 169 of 23 November 2020).

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?

The Italian Consolidated Banking Act establishes that the activity of granting loans in any form to the public is reserved for authorised financial intermediaries registered in a special register kept by the Bank of Italy (Article 106 of Italian Legislative Decree No. 385/1993). Italian Legislative Decree No. 58 of 1998 also establishes that financial advisors must be registered in a special professional register governed by the Consolidated Finance Act.

Registration in the register of professional consultants is subject to verification of the requirements of integrity and professionalism laid down in a specific regulation drawn up by Consob and also depends on the passing of a special assessment test. The single register of financial advisors is divided into three distinct sections: financial advisors authorised to make off-premises offers; independent financial advisors; and financial advisory companies.

The criteria for registration are defined by a specific Consob Regulation which requires with the financial services profession to present specific documentation:

- good repute requirements – to prove that the person in charge has no criminal convictions or other previous offences that could jeopardise the reliability and trust of clients;
- requirements of professionalism and technical expertise – it is necessary to have specific qualifications or degrees in economics and finance, or to demonstrate sufficient operational experience in financial consulting. In some cases, it may be necessary to pass exams or to have recognised certifications attesting to competence in the analysis of financial instruments and markets; and
- commitment to continuous training – given the dynamic nature of financial markets, the candidate must commit to mandatory training and periodic refresher programmes aimed at ensuring that their knowledge is constantly aligned with regulatory and market developments.

Remuneration and training

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?

The Italian Constitution provides that a worker is entitled to remuneration commensurate with the quantity and quality of their work and that the remuneration is sufficient to ensure the employee and their family a free and dignified life (Article 36 of the Italian Constitution).

The remuneration envisaged under CBAs is equitable because it is in line with the constitutional requirement of sufficient remuneration and is established on a national level (Italian Supreme Court No. 5139, 9 March 2005). Minimum remuneration does not include other payments agreed to by the parties or pursuant to any CBAs, for example additional remuneration or a bonus (Italian Supreme Court No. 5598, 15 March 2005).

The principle of equal pay for equal work in the same enterprise does not exist in the Italian legal system. This means that workers who perform the same duties may be paid a different wage, while respecting the equitable wage and the minimum wage guaranteed by CBAs as also set out in the Constitution (Article 36 of the Italian Constitution; Article 16, Law No. 300/1970). There are no limits on variable compensation.

Clawback clauses may also be agreed only in cases of variable compensation as any other agreement would be null and void on the basis of Art. 2103 c.c. (principle of the irreducibility of remuneration). A clawback clause may be agreed on the basis of the rules lined up by Banca d'Italia (the Bank of Italy) and in case of some other specific trigger events such as: restatement of financial results due to accounting manipulations or inaccuracies; fraud, serious regulatory violations or behaviour contrary to the principles of transparency and fairness; significant irregularities that compromise the solidity of the declared result detected by supervisory bodies; and events such as mergers and acquisitions that can lead to a significant change in governance.

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

In this context, it must be considered that compulsory periodic training and refresher courses specific to the sector and for financial advisors are required to maintain registration as professional financial consultants.

Culture and conduct

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?

The rules in this area are already indicated, both with reference to the obligations of transparency and integrity defined by sector regulations and by supervisory bodies. This is in addition to compliance with the principles of diligence, loyalty and non-competition provided for in the context of the employment relationship by articles 2104 and 2105 of the Italian Civil Code.

Violation of the code of conduct can also result in the application of disciplinary sanctions if the behaviour affects the transparency and honourability of the sector.

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?

In some cases, the rules require notification if any of the following matters occur:

- financial crime or fraud – if an employee is suspected of involvement in fraud, money laundering, insider trading, or other illicit activities, regulators must be informed to protect investor interests and maintain market integrity;
- serious breaches of compliance – when an employee's actions result in significant non-compliance with internal policies or regulatory standards (for instance, major errors in reporting or misconduct that violates established procedures), the firm is often legally required to report the incident; and
- material events affecting financial reporting – situations like the restatement of financial results – if attributable to an employee's actions – may trigger a regulatory notification, ensuring transparency and safeguarding public trust.

11. Are there any particular requirements that employers should implement with respect to the prevention of wrongdoing, for example, related to whistleblowing or the prevention of harassment?

In this context, the rules for managing labour relations are identical to those in other sectors. On the non-discrimination front, Law No. 903, 9 December 1977, established the principles of equal treatment in the employment relationship.

This doesn't just refer to non-discrimination – as it also includes equal opportunities through the application of the principle of equality at work which commences at the moment of appointment and continues throughout the employment relationship in accordance provision with the principle of “substantive equality” which was introduced by Italian Law No. 125/1991 (so-called “positive actions”). The specific transparency rules are also defined by a law which offers protection to employees in the event of whistleblowing (Legislative Decree No. 24/2023).

Termination and restrictive covenants

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?

In this area too, the rules are no different from those for other sectors. In addition to the legal provisions, reference must be made to the specific regulations provided for by the CBA for the Italian financial sector and by the CBA for Managers in the financial sector.

Furthermore, considering the sensitivity of the functions and the presence of bodies such as the Bank of Italy and Consob that perform a supervisory function, the company must report these issues to the relevant oversight bodies.

This reporting requirement is built into both internal compliance protocols and regulatory frameworks, ensuring that any conduct which could undermine market trust is addressed transparently and promptly.

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?

Article 2125 of the Italian Civil Code establishes the post termination restrictive covenants for employees. The rules are the same for all sectors, however, regulatory bodies (such as Banca d'Italia) again play an important role in overseeing that the use of such covenants aligns with broader market and labour standards.

Their guidelines ensure that these restrictions do not conflict with the principles of fair competition or unduly restrict the employee's right to work, even within the framework of Article 2125 of the Civil Code which requires: writing form; subject, duration and territorial extension well defined; and specific and proper compensation for the employee.

14. Are non-disclosure agreements (NDAs) potentially lawful in your jurisdiction? If so, must they follow any particular form or rules?

The employment relationship implies, in legal terms, a contract with corresponding performances characterised by the subordination of the employee – that is the employee is subject to the managerial and organisational authority of the employer (Article 2094 of the Italian Civil Code).

The employee is obliged to be:

- diligent and to follow instructions (Article 2104 of the Italian Civil Code); and
- loyal and not to engage in competitive practices (Article 2105 of the Italian Civil Code).

Additional specific non-disclosure agreements (NDAs) may be signed between the parties in connection with the role played in the company and the duties assigned.