

THE LAWYER

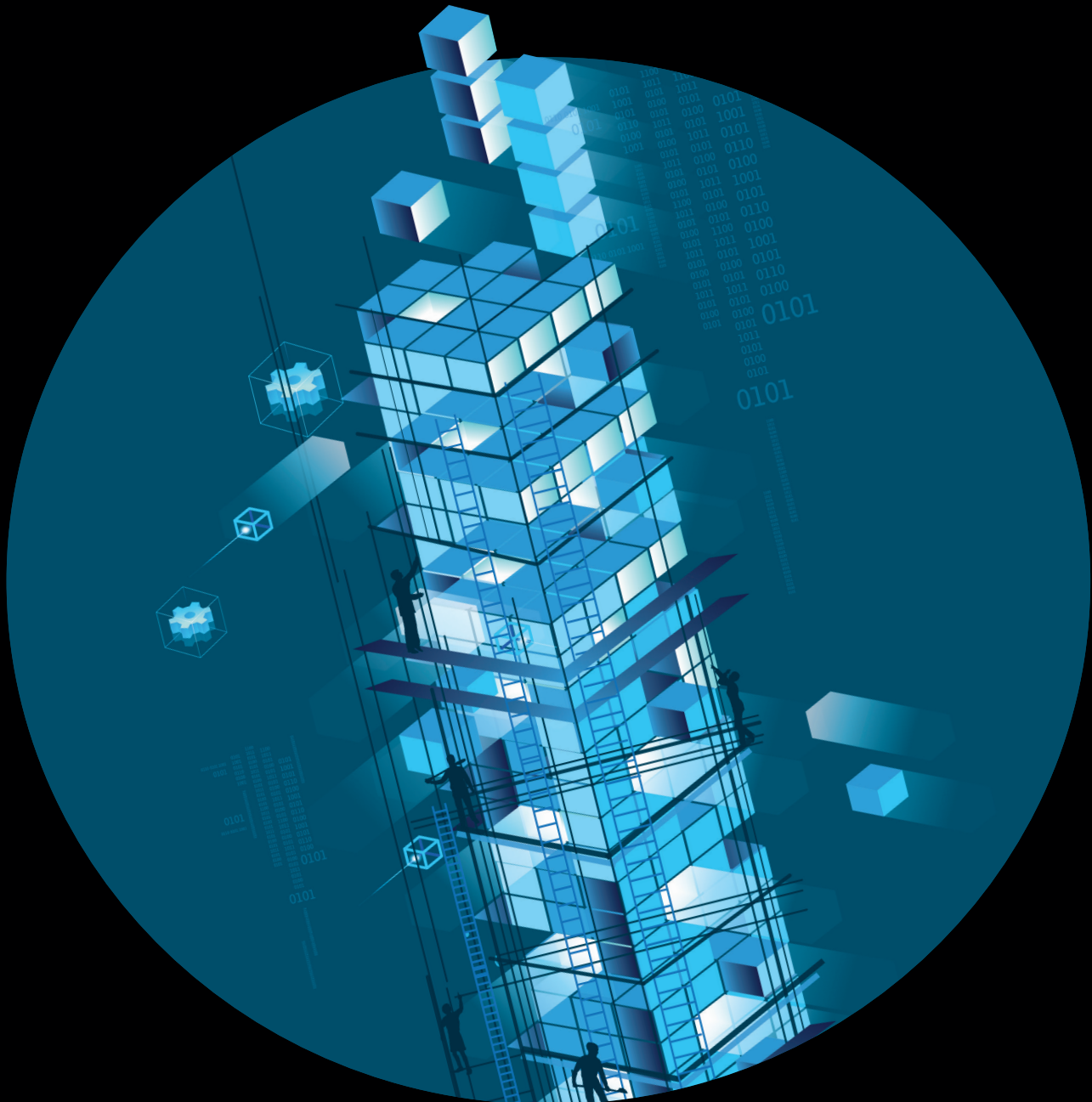
THELAWYER.COM

The Fintech Issue

APRIL 2021

THE NEW AGE OF BANKING

The lawyers behind the fintech revolution





Culture and attitudes holding back women



Gabriella Kane

Swiss female lawyers face many obstacles in their career paths, but they are fighting back against a system which expects them to care for children and work part-time

This year marks the 50th anniversary of voting rights for women on a federal level in Switzerland, more than a century after the first demands for universal suffrage in the country (in some cantons women had to wait until the 1990s).

Despite being one of the most progressive and developed countries in the world, the movement towards gender equality has been slow. Like many other industries, the legal profession has historically been male-led, particularly on the top of the corporate ladder. A number of law firms have achieved gender parity at associate level; something which was not guaranteed some 10 or 20 years ago; however, there still is an imbalance at partner level.

The question Swiss female lawyers are still asking is: “Why do we lose so many women on the way up?” Our panel, featuring lawyers from across a range of practices within Swiss law firms, concur that the answers lie in the systems in place in Switzerland, as well as deep-rooted prejudices against working women.

“Switzerland is a rather conservative country,

with a fairly strong no-work or part-time work culture for mothers. This is the result of a lack of affordable childcare, relatively short schooling hours, no meaningful paid paternity leave, and enduring social pressure for women to be the primary care givers,” says LaLive partner Domitille Baizeau.

“All of this makes it particularly hard for women to thrive in demanding and traditionally conservative industries like the legal profession.”

Froriep managing partner Nicola Benz notes that there is very little financial incentive for working mothers: “Childcare is very expensive. There are limited nursery places and for school-age children limited places for lunch and after-school care. Due to the progressive tax rate, married couples face a disproportionately high tax rate on the income of the second earner.”

The lawyers report a broad acceptance that mothers should, and will, work part-time in casual comments and attitudes in the workplace. As one lawyer puts it however, “glass ceilings are made to break”. The panel discuss the issues in further detail and what action needs to be taken. ▶

On the panel



Domitille Baizeau, dispute resolution partner, LaLive



Nicola Benz, managing partner, Froriep



Caroline Clemetson, banking and finance partner, Schellenberg Wittmer



Valérie Menoud, banking and finance partner, Lenz & Staehelin



Cécile Berger Meyer, head of real estate, Lenz & Staehelin



Catherine Grun Meyer, private client partner, Niederer Kraft Frey (NKF)



Q *What a) administrative and b) cultural shortfalls are holding women back in the legal profession in Switzerland?*

Grun Meyer, NKF: One of the main challenges on an organisational level seems to be that the nature of the legal profession requires permanent availability. In this service-oriented business, it is crucial to react to client requests immediately in order to be the reliable and trusted adviser every client desires. For a lawyer, every day is different and workload is not always predictable – and neither are working hours.

Therefore, combining a part-time/flexible working model (which is very attractive to many female lawyers who wish to have both – family and career) with the legal profession is very challenging, both for the individual lawyers as well as on an organisational level.

Besides the fact that Switzerland has been praised continuously for its economic stability, neutrality and strong financial sector, its efforts towards achieving gender equality have historically lagged behind its European neighbours.

This becomes especially visible in terms of the support working mothers get. Very often talented women (and, of course, female lawyers as well) experience weak support when it comes to combining a career with family. A rather short maternity leave, expensive and a shortage of accessible childcare facilities and infrastructure, partially non-flexible working models, all combined with adverse tax consequences for married couples, make some women stay at home. Law firms are losing talented and well-trained women/people, in whose education and training they have already invested.

Q *How can gender representation barriers be meaningfully broken down?*

Clemetson, Schellenberg Wittmer: When diversity is specifically implemented into the strategy of a law firm. And if clients request it.

Q *What commitments need to be made to women to encourage them to return to work after giving birth?*

Grun Meyer: It is crucial to seek a continuous dialogue between the employer and the employee. In order to avoid losing talented and well-trained female lawyers, it is important to express appreciation towards each individual. As mentioned above, organisations certainly have to provide women with flexible and individual working models on all levels, to avoid missing out on talented women.

Today, women make up to 60 per cent of law graduates and many of them are highly talented. For our firm’s success, it is essential to hire young and talented female lawyers, retain them and ultimately foster them into partner roles.

Two out of five members on the firm’s executive committee are female. Dispute resolution partner Valerie Meyer Bahar and I (also being vice chair of the executive committee) are both working mothers and full equity partners.



We initiated a special “female partner model” in 2010, enabling these career paths for female lawyers.

Menoud, Lenz & Stachelin: A successful return after maternity leave requires planning ahead and having sufficient support, both personally and professionally, during the challenging phase directly afterwards.

Depending on each individual case, a range of measures may be appropriate to ensure a smooth transition, such as a gradual return to work, allowing for part-time on request, flexible working hours and a remote working policy.

Surprisingly, and contrary to popular belief, large law firms are by nature equipped to offer such flexibility, as all practice groups are structured to ensure that the absence of one person does not affect the practice group’s ability to deliver client services. Establishing mentoring programmes and adequate support processes can ensure that women returning to work do not see their role fall through the cracks and can continue to be given challenging work and responsibilities.

Outside of work, it must be acknowledged that, for the time being, public childcare structures in Switzerland are not sufficiently flexible and affordable to allow young professional parents to rely on them.

This needs to be addressed both by individual companies and society as a whole, to ensure women returning to the workplace are confident that professional commitments and family life are compatible. ▶

“

Law firms are losing talented and well-trained women/people, in whose education and training they have already invested”

Catherine Grun Meyer, Niederer Kraft Frey



“

Find the right mentor for you (man or woman); and pick the right employer – some still do not take gender equality seriously enough”

Domitille Baizeau, LaLive

Q *In what ways is the gender pay gap being targeted in Switzerland?*

Grun Meyer: Despite Switzerland being one of the world’s top economies, the latest Swiss Federal Statistical Office identifies a gender pay gap of up to 20 per cent. However, the importance and necessity of a constitutional right to equal pay for men and women is certainly being tackled. On 21 August 2019, the Swiss Federal Council approved the revised Federal Act on Gender Equality (Gender Equality Act – GEA), which includes the obligation for certain employers to conduct an internal pay equity analysis. The adopted amendments, as well as the strengthening in the ordinance on the review of the Equal Pay Analysis of 21 August 2019, entered into force on 1 July 2020 and pursue the goal of ensuring the constitutional right to equal pay for equal work and work of equal value with government measures that focus on the employer side.

Q *Do the quotas within recent reforms (ie the Corporate Law Reform) go far enough in tackling inequality?*

Grun Meyer: According to the revision of stock corporation law, large listed companies headquartered in Switzerland must have more women in their management, effective from January 2021: the proportion of women on the boards of directors must be 30 per cent (with a transition period of five years); the proportion of women on the highest management level must be 20 per cent (with a transition period of 10 years). Those new reforms and predefined quotas certainly lay an initial foundation in tackling inequality even though the obligations are stated as ‘comply or explain’ rules

Baizeau, LaLive: The corporate law reform is a step in the right direction, in particular for a country like Switzerland it is commendable. That said, 30 per cent must not become the new ceiling and more needs to be done at a societal level. I am very pleased that LaLive has already met the 30 per cent target in our partnership, but even more so that we strive to reach parity over time, consistent with the gender distribution in our pool of associates. Until we do, we are effectively losing talent.

Benz: Quotas do not go far enough. They are too little, too slowly. They give the impression that the cultural and administrative issues are being solved, without

effecting real change. At the board level, 30 per cent of directors of listed companies should be female by 2026, at the executive level 20 per cent should be female by 2031. There are no sanctions for non-compliance, only a requirement to explain.

Q *Are you seeing pressure from clients and is it having a material impact?*

Baizeau: We have seen more diversity conditions coming from clients, including for pitches. These can go as far as imposing fee reductions when the required diversity is not met on a particular matter. This is terribly effective, even for a firm like ours that can meet those requirements fairly easily, because it validates our ongoing efforts in this area.

Q *What are some of the women you went to law school with doing now?*

Baizeau: I went to law school in New Zealand more than 25 years ago. Many of those I kept track of went on to work for government agencies, in various sectors, justice system, environment, Maori affairs, foreign affairs and also for the prime minister’s office.

Not many went into private practice, because back then this was perceived as hardly compatible with having a family. In my first firm in New Zealand, about 20 per cent of the partners were women, but most without children and those who eventually did have children ended up quitting or changing their status to consultants and the like.

Menoud: Most women I went to law school with stayed in the legal profession. Most are practising lawyers, one is even a part-time writer, some moved in-house, a few work with NGOs, some work with government institutions or as judges or clerks, and one is a university professor.

Q *What advice would you give to a female student looking to enter the legal profession?*

Baizeau: Do not hold back, it is a wonderful job; be prepared to work hard, there is no lift to the top; show ambition but also team spirit and care for others; find the right mentor for you (man or woman); and pick the right employer – some still do not take gender equality seriously enough.

Berger Meyer, Lenz & Staehelin: Students should try to get to know early on the different types of jobs that exist in the profession. Unlike some other professions, there is an incredible variety of jobs in the law, most of which increasingly offer workplace flexibility. The wider the range of options, the higher the probability that women will get involved at a decision-making level across the piece, allowing women independently to pursue the career they want and think suits their needs with energy and enthusiasm.

Clemetson: Specialise in a certain field so you have a given expertise that will empower you. Don’t hesitate to have a family also – both can be achieved – and believe in yourself and be ambitious – it’s worth it!