6: Financial advisers (including financial planners)

Note: This sectoral guidance is incomplete on its own. It must be read in conjunction with the main guidance set out in Part I of the Guidance.

Overview of the sector

6.1 Financial advisers give customers advice on their investment needs (typically for long-term savings and pension provision) and selecting the appropriate products, and on tax issues related to these investments.

Typical customers

6.2 The typical customers of financial advisers are personal clients (including high net worth individuals), trusts, companies and charities.

6.3 Financial advisers, whether they only give advice or whether they act on behalf of their customers in dealing with a product provider, are subject to the full provisions of UK law and regulation relating to the prevention of money laundering and terrorist financing. The guidance in Part I therefore applies to financial advisers.

6.4 Other sectoral guidance in Part II that is relevant to financial advisers includes:

- Sector 5: *Wealth Management*
- Sector 7: *Life assurance, and life-related pensions and investment products*
- Sector 8: *Non-life providers of investment fund products*
- Sector 9: *Discretionary and advisory investment management*

6.5 Generally, financial advisers do not hold permission from the FCA to handle client money, so in practice there is unlikely to be any involvement in the placement stage of money laundering. There is, however, considerable scope for financial advisers being drawn in to the layering and integration stages.

6.6 Whether or not financial advisers hold permission to handle client money, they should consider whether their relationship with their customers means that the guidance in sector 5: *Wealth management* or in sector 9: *Discretionary and advisory investment management* applies more directly to them.

What are the money laundering or terrorist financing risks for financial advisers?

6.7 The majority of financial advice business is conducted on a face-to-face basis, however other business models are increasingly common and investors generally have easy access to the funds involved.

6.8 Some criminals may seek to use financial advisers as part of the layering and integration stage of money laundering (i.e. disguising the origins of criminal funds and reintegrating them into the financial system).

6.9 The offences of money laundering or terrorist financing include aiding and abetting those trying to carry out these primary offences, which include tax evasion. This is the main risk generally faced by financial advisers. In carrying out its assessment of the risk the firm faces of becoming involved in money laundering or terrorist financing, or entering into an arrangement to launder

criminal property, the advisory firm must consider the risk related to the product, as well as the risk related to the client.

6.10 Clearly, the risk of being involved in money laundering or terrorist financing will increase when dealing with certain types of client, such as offshore trusts/companies, politically exposed persons and customers from higher risk or non-FATF countries or jurisdictions, and may also be affected by other service features that a firm offers to its customers. Customer activity, too, such as purchases in secondary markets – for example, traded endowments – can carry a higher money laundering risk.

Customer due diligence

6.11 Having sufficient information about customers and beneficial owners, and using that information, underpins all other anti-money laundering procedures. A firm must not enter into a business relationship until all due diligence has been completed (including EDD where necessary) in accordance with the guidance in Part I, Chapter 5. Depending on the nature of their business, firms should also have regard to the requirements of product providers (see Part II sectors, 7, 8 and 9).

6.12

The process will involve information gathering, an understanding of the customer's needs and priorities and anticipated funds available for investment. The amount of information held about a client will build over time, as there will often be ongoing contact with the customer in order to review their circumstances.

Whose identity should be verified?

6.13 Guidance on who the customer is, whose identity has to be verified, is given in Part I, paragraphs 5.3.8 to 5.3.16. Guidance on who the beneficial owner is, whose identity also has to be verified, is given in Part I, paragraphs 5.3.8 – 5.3.13 generally, and in Part II sector 7, Annex 7-I, FAQs, increased risk (v), specifically for investment bonds.

Private individuals

6.14 Guidance on verifying the identity of private individuals is given in Part I, paragraph 5.3.59. Guidance on circumstances where it may be possible to use the source of funds as evidence of identity is given in Part I, paragraphs 5.3.102to 5.3.107

6.15 The firm’s risk assessment procedures will take account of the money laundering and terrorist financing risks identified in the sectors in which the relevant product provider operates (see paragraph 6.4). Customers may be assessed as presenting a higher risk of money laundering, whether because they are identified as being a PEP, or because of some other aspect of the nature of the customer, or their business, or its location, or because of the product features available. In such cases, the firm must conduct enhanced due diligence measures (see Part I, section 5.5). For such customers, the financial adviser will need to consider whether to institute enhanced monitoring (see Part I, section 5.7).

6.16 Some persons cannot reasonably be expected to produce the standard evidence of identity. This would include persons such as individuals in care homes, who may not have a passport or driving licence, and whose name does not appear on utility bills. Where customers cannot produce the standard identification evidence, reference should be made to the guidance set out in Sector 1: *Retail banking*, Annex 1-I.

Non-personal customers

6.17 Guidance on verifying the identity of non-personal customers is given in Part I, paragraphs 5.3.126 to 5.3.293. The following are examples of non-personal customers that are likely to be of relevance to financial advisers:

- Private companies (paragraphs 5.3.163 to 5.3.176)
- Partnerships and unincorporated businesses (paragraphs 5.3.177 to 5.3.191)
- Pension schemes (paragraphs 5.3.228 to 5.3.237)
- Charities, church bodies and places of worship (paragraphs 5.3.238 to 5.3.257)
- Other trusts and foundations (paragraphs 5.3.258 to 5.3.282)
- Clubs and societies (paragraphs 5.3.283 to 5.3.293)

Non face-to-face

6.18 Business conducted with clients on a non-face-to-face basis should not mean that such interactions be considered to represent a higher risk provided there are sufficient safeguards and controls in place (see Part I paragraph 5.3.76 - 5.3.94).

Using verification work carried out by another firm

6.19 The responsibility to be satisfied that a customer's identity has been verified rests with the firm entering into the transaction with the customer. However, where two or more financial services firms have an obligation to verify the identity of the same customer in respect of the same transaction, in certain circumstances one firm may use the verification carried out by another firm. Guidance on the circumstances in which such an approach is possible is given in Part I, section 5.6.

6.20 Financial advisers should bear in mind that they are often the party which is carrying out the initial customer identification and verification process. As such, it is they who will be asked to confirm to a product or service provider that such verification has been carried out, and such confirmation must not be given if appropriate CDD has in fact not been done.

6.21 Product providers often rely on customer verification procedures carried out by financial advisers, which underlines the importance of their systems and procedures for risk assessment being effective.

6.22 Where the financial adviser has carried out verification of identity, the adviser must be able to make available to the product provider, on request, copies of the identification and verification data and other relevant documents on the identity of the customer or beneficial owner obtained by the adviser (see paragraph 6.29). This obligation extends throughout the period for which the financial adviser has an obligation under the ML Regulations to retain these data, documents or other information.

Suspicious transactions

6.23 Financial advisers are ideally placed to identify activity which is abnormal, or which does not make economic sense, in relation to a person's circumstances. Obtaining details on the source of a customer's wealth, and identifying the purpose of an activity are all mandatory parts of the normal advice process. Financial advisers do not have to handle the transaction personally to have an obligation to report it.

6.24 Guidance on monitoring customer transactions and activity is set out in Part I, section 5.7. Guidance on internal reporting, reviewing internal reports and making appropriate external reports to the NCA, is given in Part I, Chapter 6. This includes guidance on when a firm needs to seek consent to proceed with a suspicious transaction, with which financial advisers need to be familiar.

Staff awareness and training

6.25 One of the most important controls over the prevention and detection of money laundering is to have staff who are alert to the risks of money laundering/terrorist financing and well trained in the identification of unusual activities or transactions, which may prove to be suspicious.

6.26 Guidance on staff awareness, training and alertness is given in Part I, Chapter 7. This guidance includes suggested questions that staff should be asking themselves, and circumstances that should cause them to ask further questions about particular transactions or customer activity.

Record-keeping

6.27 General guidance on record-keeping is given in Part I, Chapter 8. The position of financial advisers means that some of the guidance in Part I, Chapter 8 cannot easily be applied. Generally, financial advisers will verify customers' identities by means of documentation, as they will often not have access to electronic sources of data. Where documents are used, it is preferable to make and retain copies.

6.28 Financial advisers may, from time to time, be asked by product providers for copies of the identification evidence that they took in relation to a particular customer. Financial advisers' record-keeping arrangements must therefore be capable of enabling such material to be provided in a timely manner (see Part I, paragraph 5.6.18).

6.29 Documents relating to customer identity must be retained for five years from the date the business relationship with the customer has ended (see Part I, paragraph 8.12).