Chapter 6

Compliance, internal audit and financial crime

6

6.3 Financial crime

6.3.1 R A *firm* must ensure the policies and procedures established under ■ SYSC 6.1.1 R include systems and controls that:

(1) enable it to identify, assess, monitor and manage *money laundering* risk; and

(2) are comprehensive and proportionate to the nature, scale and complexity of its activities.

6.3.2 G "*Money laundering* risk" is the risk that a *firm* may be used to further *money laundering*. Failure by a *firm* to manage this risk effectively will increase the risk to society of crime and terrorism.

6.3.3 R A *firm* must carry out a regular assessment of the adequacy of these systems and controls to ensure that they continue to comply with ■ SYSC 6.3.1 R.

6.3.4 G A *firm* may also have separate obligations to comply with relevant legal requirements, including the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the *Money Laundering Regulations*. ■ SYSC 6.1.1 R and ■ SYSC 6.3.1 R to ■ SYSC 6.3.10 G are not relevant for the purposes of regulation 76(6) or 86(2) of the *Money Laundering Regulations*, section 330(8) of the Proceeds of Crime Act 2002 or section 21A(6) of the Terrorism Act 2000.

6.3.5 G The *FCA*, when considering whether a breach of its *rules* on systems and controls against *money laundering* has occurred, will have regard to whether a *firm* has followed relevant provisions in the guidance for the *United Kingdom* financial sector issued by the Joint Money Laundering Steering Group.

6.3.6 G In identifying its *money laundering* risk and in establishing the nature of these systems and controls, a *firm* should consider a range of factors, including:

(1) its customer, product and activity profiles;

(2) its distribution channels;

(3) the complexity and volume of its transactions;

(4) its processes and systems; and

(5) its operating environment.

6.3.7 G A *firm* should ensure that the systems and controls include:

(1) appropriate training for its employees in relation to *money laundering*;

(2) appropriate provision of information to its *governing body* and senior management, including a report at least annually by that *firm's money laundering reporting officer* (*MLRO*) on the operation and effectiveness of those systems and controls;

(3) appropriate documentation of its risk management policies and risk profile in relation to *money laundering*, including documentation of its application of those policies (see SYSC 9);

(4) appropriate measures to ensure that *money laundering* risk is taken into account in its day-to-day operation, including in relation to:

(a) the development of new products;

(b) the taking-on of new customers; and

(c) changes in its business profile; and

(5) appropriate measures to ensure that procedures for identification of new customers do not unreasonably deny access to its services to potential customers who cannot reasonably be expected to produce detailed evidence of identity.

6.3.8 R (1) A *firm* must allocate to a *director* or *senior manager* (who may also be the *money laundering reporting officer*) overall responsibility within the *firm* for the establishment and maintenance of effective anti-*money laundering* systems and controls.

(2) A *firm* may not allocate overall responsibility under (1) to a *person* who is approved to perform the *other overall responsibility function*.

The money laundering reporting officer

6.3.9 R A *firm* (with the exception of a *sole trader* who has no employees) must:

(1) appoint an individual as *MLRO*, with responsibility for oversight of its compliance with the *FCA's rules* on systems and controls against *money laundering*; and

(2) ensure that its *MLRO* has a level of authority and independence within the *firm* and access to resources and information sufficient to enable him to carry out that responsibility.

6.3.10 G The job of the *MLRO* within a *firm* is to act as the focal point for all activity within the *firm* relating to anti-*money laundering*. The *FCA* expects that a *firm's MLRO* will be based in the *United Kingdom*.

Financial crime guidance

6.3.11 G The *FCA* provides *guidance* on steps that a *firm* can take to reduce the risk that it might be used to further *financial crime* in *FCG* (Financial Crime Guide: A firm's guide to countering financial crime risks) and *FCTR* (Financial Crime Thematic Reviews).