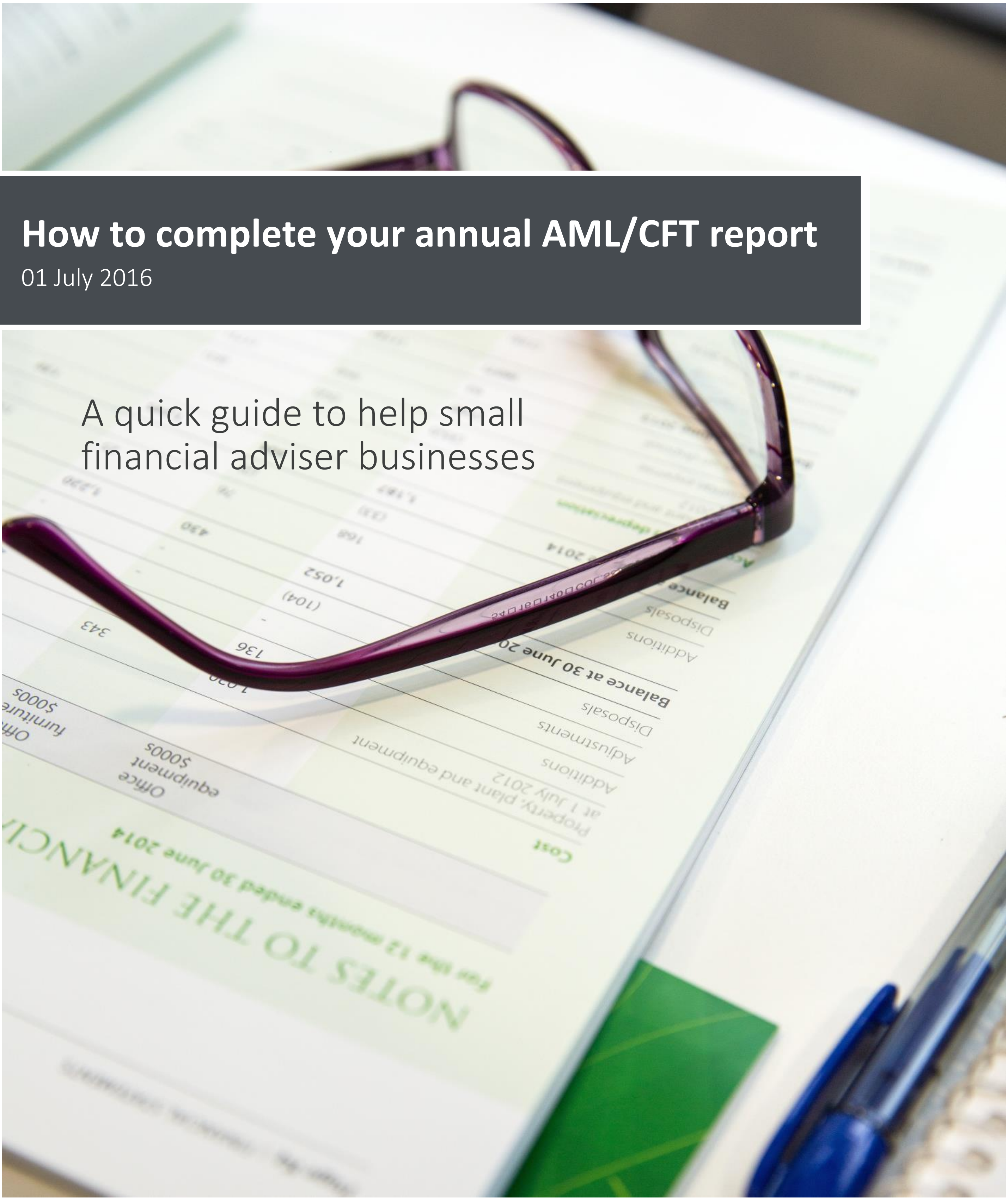
FMA
FINANCIAL MARKETS AUTHORITY
TE MANA TATAI HOKOHOKO - NEW ZEALAND

How to complete your annual AML/CFT report

01 July 2016



A quick guide to help small financial adviser businesses

www.fma.govt.nz

AUCKLAND OFFICE | Level 5, Ernst & Young Building | 2 Takutai Square, Britomart | PO Box 106 672 | Auckland 1143
WELLINGTON OFFICE | Level 2 | 1 Grey Street | PO Box 1179 | Wellington 6140

Contents

Introduction

About this guide

This user guide is designed to help financial advisers to complete their annual AML/CFT report (annual report) quickly and easily. It clarifies the questions in the report template that may be open to interpretation and identifies questions that are unlikely to be relevant to small financial adviser businesses. It does not include the questions that don't need explanation.

This guide is current for 2016. It has been updated to reflect minor changes to the annual report form, and the questions.

This guide has been prepared for authorised financial advisers and small financial adviser businesses that come under Regulation 16 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 (regulations). If you are a reporting entity because of your other financial activities (for example, managing individual or collective portfolios) you should also read the standard user guide.

Part 1 (questions 1–3)

Adviser businesses must answer all questions in this section	
2.1 FSPR number	To complete the annual report on our portal you will need an FSPR number. If you have two FSPR numbers (one for your business and one for your AFA status) you may be unsure about which number to use for your annual report. If in doubt, you should use the number the individual or entity uses to provide financial services. This is the one most likely to be considered the 'trading entity' and the 'reporting entity'. If the reporting entity does not have an FSPR number, please check whether this entity needs to be registered on the FSPR or contact the FMA.

Part 3 (questions 6-8)

6 Products and services

6.1 Value and number of transactions
While not all business facilitated by an adviser business needs to be counted, a 'zero' response is unlikely to be correct. This question must be answered in full. Please read and familiarise yourself with the relevant FAQs published on the FMA website as a first step. Appendix 1 of this guide provides a scenario to help you with the gross number and gross value of transactions.

6.2 Percentage (%) of your annual revenue that these products and services represented
You would have covered the dollar value of concluded business or premium income in your response to question 6.1. This next question is about in-scope authorised adviser income or gross revenue of your financial adviser business. You only need to report revenue from activities captured by the Act and its regulations in your annual report. Appendix 2 of this guide provides an example of typical services offered by a small financial adviser business and explains: – which of these services need to be captured in the form – where in the form these services should be captured.

While you may expect to complete only question 42 (financial advice or financial planning), you should also consider providing information on all other products and services you may provide.

Leave products and services not relevant for your business blank.

Note: Relevant services (including financial advice) provided on risk-based insurance policies are exempt from all of the provisions of the Act under exemption 12 of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011.

Your total should add up to 100%.

Products and services unlikely to be relevant

The following products and services are unlikely to be relevant to small financial adviser businesses.

Domestic

Question 1 Domestic account and deposit-taking services

Question 2 Domestic lending

It is unlikely that small financial adviser businesses will earn revenue from providing their own term deposits and lending products.

Question 3 Residential mortgage lending

It is unlikely that small financial adviser businesses will earn revenue from providing their own mortgage lending products.

Financial advisers may earn revenue from giving advice on and acting as an intermediary for residential mortgage lending, however this revenue need not be included in the annual report as it is not in scope.

Questions 4-8

International

Question 9-16

Trust and company service providers (TCSPs)

Questions 17-21

Providing general services

Questions 23-28

Cash and card services

Questions 29-33

Investing

Question 46A – 46D

Question 50 Reinsurance associated with life insurance

Casinos

Questions 51-70

Other

Questions 71-73

Trust and company service providers (TCSPs)	
22 Professional trustee services	This question is only relevant for financial advisers providing professional trustee services. Revenue earned from acting as a professional trustee must be included, but revenue from providing advice on trusts does not.
Investing – We believe this section is the most significant to the majority of adviser businesses.	
34 Share broking	This is where you report revenue from trading transferable securities, either as principal or on behalf of clients - for example as an NZX participant firm. It is not revenue from providing advice on the purchase of equity or debt securities.
35 Derivatives trading	This is where you report revenue from trading derivatives over-the-counter (OTC) or on an exchange (exchange-traded derivative – ETD).
36 Issuing derivatives,	This is where you report revenue from dealing in other derivatives, such as swaps, contracts for difference, forward exchange contracts, margin foreign exchange contracts, or rolling spot foreign exchange contracts.
37 Providing a brokers' cash management account	This is where you report revenue - including fees and margin on interest earned - from providing a cash management account to clients, either in-house or by outsourcing to an investment administration service (such as a wrap platform provider) or custodian. Do not include income earned by the wrap provider itself.
38 Providing other brokering services	This is where you report other revenue/fees earned by advisers who are providing broking services. Financial advisers likely to have broker obligations include those who: – receive, hold, pay or transfer client money or property – contract with their client to provide broking services, but outsource them (for example contract out the broking services) – are insurance intermediaries who handle client premiums (for example where you invoice a client for an insurance premium, the client pays into the intermediary's premium account, who in turn sends the payment on to the insurance provider). Financial advisers unlikely to have broker obligations include those who: – are insurance intermediaries who do not handle client money or property (including insurance premiums) are not brokers under the Financial Advisers Act 2008 (FAA). Custodians also provide broking services under the FAA, but revenue earned from these activities should be included in your response to question 43. Please refer to Section 77B of the FAA for the definition of a broking service.
39 & 40 Funds management	Although it is rare, we are aware that certain small financial adviser businesses sometimes act as a trustee or investment manager for managed investment schemes. Revenue from these financial activities should be reported in 39 for superannuation

	and KiwiSaver funds and 40 for other funds.
41 DIMS (including class and personalised)	This is where you report revenue from offering a discretionary investment management services (DIMS), including class and/or personalised service. This applies to both DIMS licensees under Financial Markets Conduct Act 2013 (FMCA) and DIMS services covered under section 12 of the FAA.
42 Financial advice or financial planning	This is where you report fees or other revenue associated with 'financial advice' as defined in section 10 of the FAA, and fees or other revenue associated with an 'investment planning service' as defined in section 11 of the FAA. On the basis that most of your in-scope revenue is likely to be generated from financial planning services or financial advisory services, we expect that most adviser businesses will enter responses (and perhaps 100% of their responses) to question 6.2 in question 42.
43 Custodian services	This is where you report fees or other revenue associated with: – providing custodial services (as defined in section 77B of the FAA) or – acting as a custodian of MIS under the FMCA (retail or wholesale). You should include revenue earned from maintaining physical possession or legal ownership of securities on behalf of another. Please separate revenue earned from acting as a custodian from what's earned from broking services. This will help you avoid duplication with question 38 'other broking services', which also includes custodial services under the FAA. Please do not double count. Few small financial adviser businesses provide custodial services themselves. However, if you have outsourced custodial services to a third party (for example a wrap platform) and earned revenue from this, please include that revenue in this section.
44 & 45 Issuing debt or equity securities	This is where you report fees or other revenue from the issue of securities or from providing financial services of securities issues. It is unlikely that a small financial adviser business is also an issuer of securities to the public. However some financial adviser business may earn revenue from financial services offered in a securities issue. Revenue from these activities should be included here if, in the ordinary course of your business, you are: – providing a financial service to the issuer or another person participating in the issue, or – promoting the issue of those securities. This does not include revenue you earn from providing advice and arranging for your customers to participate in the issue of securities, for example buying shares in an initial public offer. Revenue earned from providing advice and arranging for your customers to participate in the issue of securities should be included under question 42. Please read our issuer guideline if you are unsure whether this category applies to

	you.
Insurance	
47 Term life insurance	We recognise that many adviser businesses derive significant revenue from providing advice and acting as an intermediary for pure risk-based insurance policies, but it does not need to be included in your AML/CFT report.
48-49 Permanent life, other life or other related products and services	If an insurance contract has a value on its cancellation or surrender, then revenue earned from providing advice and acting as an intermediary on these contracts is in scope for AML/CFT. Revenue earned from providing financial advice related to such products should be included under question 42.
74 Other relevant products/services	This is where you report fees or other revenue from any other products/services covered by the Act, but not easily recorded under any of the questions above.

7 Customers

7 Customers and members	
7.1-7.5	Only include customers related to the financial activities that are in scope for your business.

8 Channels

8 Channels	
8.1 method of on-boarding	Only include the methods your adviser business uses for accepting in-scope customers. Only include new customers for the period of this report. Exclude repeat annual business for an existing customer.
Channel 3 (domestic intermediaries) Channel 4 (overseas intermediaries)	Intermediaries include all third parties making referrals and introductions of business. Please include accountants, solicitors, brokers and agents, whether independent or advisers related to the reporting entity.
Channel 5 (other)	If you have had no new customers, please write 100% against 'other' and make a comment in the notes.

Part 4: Questions from the FMA

Sub-sector per the current form	You can select more than one option.
Issuer of securities	Some financial advisers may be participating in an FMC offer by providing financial services related to an issue of equity or debt securities, or promoting the issue of those securities.
Licensed supervisors	Small financial adviser businesses sometimes act as a trustee for managed investment schemes.
Fund managers	Small financial adviser businesses sometimes act as an investment manager for managed investment schemes.
Brokers and custodians	Some small financial adviser businesses may offer a broking and/or custody service. Includes brokers and custodians who fall under the FAA, and custodians under the FMCA
Financial advisers	Those providing a financial adviser and financial planning service (excluding DIMS). Includes advisers brought into the scope of the Act by regulation 16.
Derivatives issuers	Unlikely to be relevant
DIMS providers	Some financial advisers may be offering DIMS
Peer-to-peer lenders	Unlikely to be relevant
Equity crowd funding service providers	Unlikely to be relevant
Other	Check this category for any other sector not listed above.

Part 6: Additional notes, declaration and signature

You are welcome to use this free text field to provide any additional comments relevant to the FMA annual report.

Definitions:

AML/CFT	Anti-Money Laundering and Countering Financing of Terrorism
FSPR	Financial Services Provider Register
The Act	Anti-Money Laundering and Countering Financing of Terrorism Act 2009
In scope	Anyone conducting a business that comes within the scope of section 5 of the Act or Regulations.
Regulation 16	Regulation 16 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011.
Securities	Financial products, defined in section 7 of the Financial Markets Conduct Act 2013
FAA	Financial Advisers Act 2008
FMCA	Financial Markets Conduct Act 2013

Appendix 1 – Question 6.1 example

Please read and familiarise yourself with the FAQs published on the FMA website relevant for advisers and adviser businesses.

There have been different interpretations of the wording in the annual report on how to calculate the answers to question 6.1. We do not believe a ‘zero’ response is likely to be correct.

Estimate	In determining the value and number of transactions during the year, you only need to provide an estimate. We expect submissions to be based on an approximate calculation or judgement of the value or number, rather than an exact count of transactions and values.
Transactions	For advisory businesses covered under Regulation 16, their ‘transactions’ refer to instances where they arrange for other reporting entities/third parties to supply a relevant product or service. Not all businesses facilitated by a reporting entity must be counted. Only include transactions that fall within the scope of Regulation 16. In this context, the ‘transactions’ refer to each time an adviser ‘arranges’ such a transaction.
Settled by	‘Settled by’ in this context should be interpreted as when adviser businesses have concluded the arrangement for another reporting entity to provide a relevant service to their client. ‘Settled by’ does not mean the entity must have physically handled client money or client property.

Reporting entities are also reminded of their record-keeping obligations under section 49 of the Act. Reporting entities should put in place a repeatable system or process, so that the information requested can be provided easily for each year's annual report.

When completing the annual report, adviser businesses will note that the total number and value of transactions may be reported multiple times (such as, by the adviser business, the product provider and possibly the custodian). This is because we are trying to understand the money laundering/terrorist financing risk (not compliance risk) at an individual reporting entity level. When it comes to annual reports, we look at reporting entities in isolation to understand that risk.

We have provided a scenario below to help illustrate how to interpret our requirements.

Scenario parameters

Between 1 July 2015 and 30 June 2016, an adviser undertook the following financial activities:

New ’lump sum‘ investment clients:

1. $100,000 and, as per statement of advice (SOA)/financial plan, the client invested a further $1,500 per month, starting 1 January 2016.
2. $400,000.
3. $1 million, and as per SOA/financial plan, this new retiree begun a standing order **withdrawal** of $2,000 per month beginning 1 April 2016.
4. $500,000.

New regular payment arrangements clients:

5. Two new 'regular monthly-saver' clients (no lump sums), each contributing $1,000 per month (one started 15 November 2015 and the other 4 February 2016).
6. One existing client received a raise and starts a regular savings programme on 1 October 2015 for $500 per month.

New withdrawals arranged for clients (either lump sum withdrawals or new regular withdrawal arrangements):

7. Over the period, seven clients have withdrawn a total of $150,000 over 15 withdrawal transactions (ie, existing clients who withdraw capital/cash for personal spend such as a car, a holiday or other non-recurring reason).
8. Two clients terminated during the year, closing their respective investment portfolios with a value of $200,000 and $75,000.

Transfers between financial products for clients:

9. A report from the adviser's wrap platform provider shows 300 total direct buys, maturity cash and sale by redemption transactions (ignoring corporate actions, investment earnings, switches done at fund manager level). The dollar value of these transactions equals $4m. Of that $2m represents the four new 'lump sum' investment clients.

Part I: Counting transactions

To estimate the number of transactions:

a) Estimate the total number of new lump sum business transactions arranged in the year (4).
b) Estimate the total number of new regular payment arrangements (or other non-lump sum deposits) set up in the year (4).
c) Estimate the total number of new withdrawals arranged for clients (either lump sum withdrawals or new regular withdrawal arrangements) in the year (15 lump sum withdrawals plus one new standing order withdrawal for the new retiree plus two terminating account withdrawals, or 18).
d) Estimate the total number of times the adviser has arranged for clients to transfer between financial products (296) – excluding the four lump sum transactions.

Guidelines

Interpret 'withdrawals' to mean withdrawals from the client's investment portfolio, into his or her own bank account.

- Count the number of instances for non-recurring, lump sum cash withdrawals. This could be from an existing client, or a client terminating adviser/client engagement.
- Count the number of instances where a new regular withdrawal programme has been established during the year. Do not count existing clients (pre-1 July 2015) who have standing order withdrawals.
- The estimates for (a), (b), (c) and (d) should be added together to get the estimate of the total number of transactions.
- Answer for 6.1 on number of transactions = a + b + c + d or '322'

Part II: Counting the value of transactions

a) Estimate the total value of new lump sum business transactions arranged in the year ($100,000 + $400,000 + $1m + $500,000 = $2m).

b) Estimate the total annual value of new regular payment arrangements (or other non-lump sum deposits) set up in the year ($1,500*12 + $1,000*12 + $1,000*12 + 500*12 = $48,000). You do not need to count regular payments set up in a previous reporting period unless you have arranged for the payments to be changed within the reporting period. Where new regular payments have been set up in the reporting period, please estimate the annual value of the regular payments (even if the regular payments were only effective for a part of the year.

c) Estimate the total annual value of new withdrawals arranged for clients (either lump sum withdrawals or the annual value of new regular withdrawal arrangements) in the year ($2,000*12 + $150,000 + $200,000 + $75,000 = $449,000).

d) Estimate the total value of transfers of financial products arranged for clients during the year. For example, a transfer of $1000 from ABC Limited to XYZ Limited arranged by the adviser would count as $1,000 ($4m - $2m = $2m).

The estimates for (a), (b), (c) and (d) should be added together to get the estimate of the total value of transactions.

Answer for 6.1 on value of transactions = a + b + c + d = $4.497m

Appendix 2 – Question 6.2 example

Consider the activities performed by our example of a small financial adviser business below. We have explained which activities are likely to be 'in scope' for AML/CFT and where they should be populated in the products and services offered in 6.2.

#	Category	Sources of revenue / fees for our example adviser business	% of total adviser revenue	In scope for AML/CFT?	% of total in scope revenue	Where to report in 6.2
1	Mortgage 'broking'	Providing advice on and arranging mortgages	15%	No	nil	
2	Insurance related	Providing advice on and arranging medical insurance	4%	No	nil	
3		Providing advice on and arranging insurance (with no surrender value) including: total and permanent disablement trauma term life	15%	No	nil	
4		Arranging life insurance (with a surrender value)	2%	Yes	5% (2/40)	42
5		Providing advice on and arranging: key person and rural cover insurance fire and general; house insurance income protection	17%	No	nil	
6	Investment related	Arranging KiwiSaver placements, transfers or withdrawals	8%	Yes	20% (8/40)	42
7		Providing personalised DIMS	4%	Yes	10% (4/40)	41
8		Arranging investment portfolios	15%	Yes	37.5% (15/40)	42
9		Providing advice on investment portfolios only (not arranging or acting as an intermediary)	2%	No	nil	
10		Providing a broking service per FAA	6%	Yes	15% (6/40)	38
11		Acting as a promoter in an equity securities issue	5%	Yes	12.5%	45

#	Category	Sources of revenue / fees for our example adviser business	% of total adviser revenue	In scope for AML/CFT?	% of total in scope revenue	Where to report in 6.2
					(5/40)	
12	Business services	Tax advice, providing a tax return service and other taxation services	1%	No	nil	
13		Provision of accounting services	2%	No	nil	
14		Rental income from premises, interest on business accounts	4%	No	nil	
		Total	100%	No	100%	

For the example above, write:
62.5% (5+20+37.5) against question 42 (Financial advice or financial planning)

10% against question 41 (DIMS service)

15% against question 38 (other broking services)

12.5% against question 45 (participating in an issue of equity securities).

When we review the responses above, it will be clear to us that 62.5% of your revenue comes from providing financial advice within the scope of Regulation 16.

In question 6.1, only include transactions related to activities within the scope of Regulation 16. So in our example above, all the transactions for activities numbers 1, 2, 3, 5, 9, 12-14, for example, will not be included in the calculation.