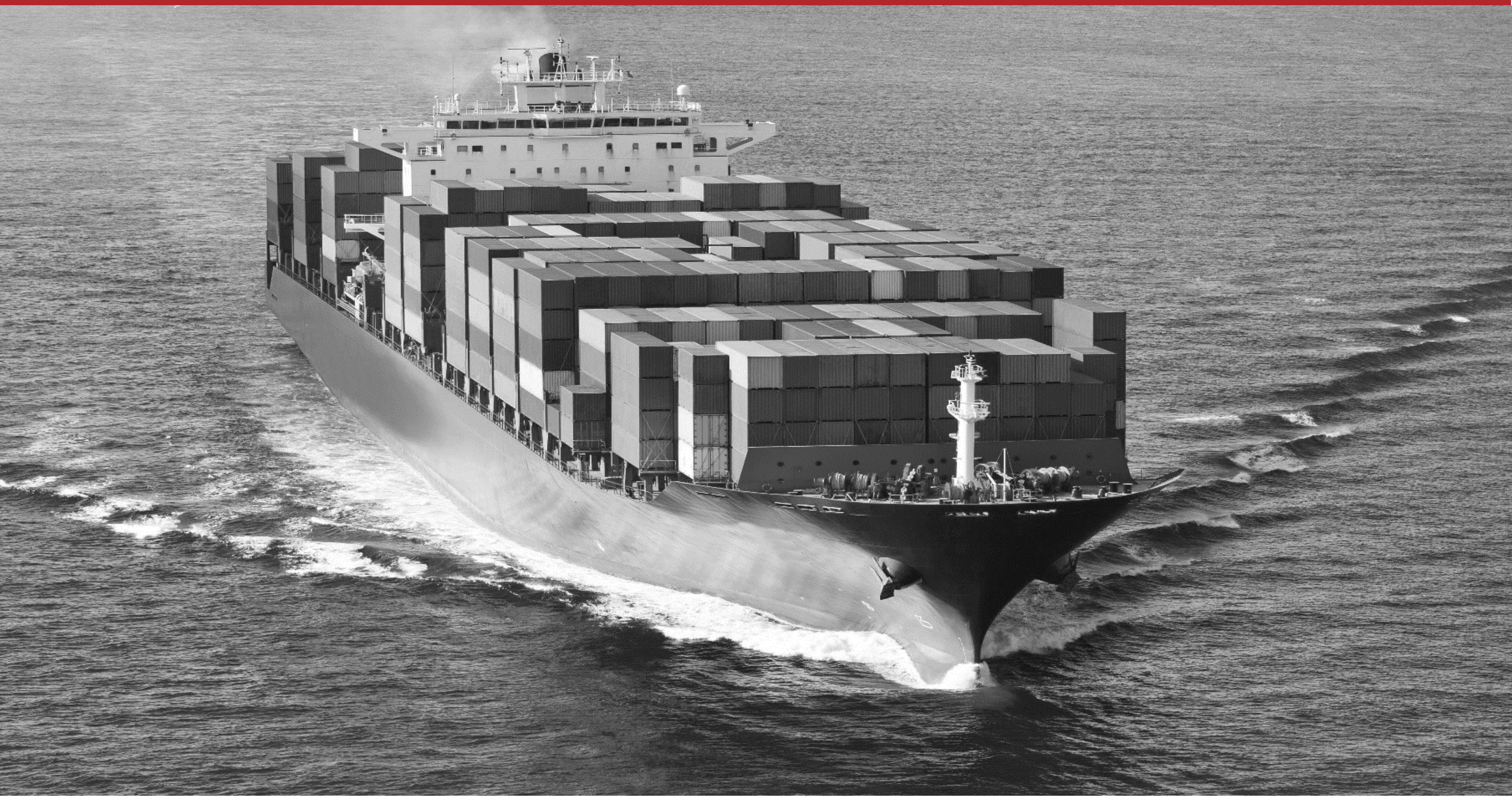
Importers and exporters

Financial Sanctions Frequently Asked Questions

Office of Financial Sanctions Implementation
HM Treasury



Purpose of this document

This document covers questions relevant to those involved in importing and exporting goods and services, especially those operating in areas where financial sanctions are in force. It should be read alongside the Office of Financial Sanctions Implementation's (OFSI's) Financial Sanctions Guidance. Helpful sources of information are listed at the end of this document.

What are sanctions?

Financial sanctions help the United Kingdom meet its foreign policy and national security aims, while maintaining confidence in its business sectors. Sanctions regimes are imposed for a variety of reasons such as proliferation of nuclear weapons, terrorist activity, and violation of human rights. Effective implementation and enforcement of sanctions is essential in helping to stop these actions.

Sanctions are imposed by the United Nations, European Union, UK and other countries, such as the United States, Canada and Japan. They include arms embargoes, trade sanctions and financial sanctions.

Sanctions are used to:

- coerce designated persons into changing their behaviour
- deny them access to resources they need to continue their 'offending behaviour'
- signal disapproval, stigmatise and potentially isolate them
- send broader political messages to domestic and international audiences, and
- protect assets that have been misappropriated.

- a ban on the export of arms and related material, e.g. ammunition, weapons and military goods
- all goods and technologies on the UK military list unless otherwise stated
- goods not listed may also need a licence either under military end-use controls or weapons of mass destruction end-use controls

- controls on the supply of certain goods from a country outside the UK and EU (a third country) to another third country that is an embargoed destination
- specific sanctions on dual-use goods such as petrochemicals or telecommunication items
- specific sanctions imposed on certain industrial sectors e.g. oil and gas
- sanctions on the provisions of certain services

- asset freezes which restrict access to funds and economic resources
- restrictions on dealing with various financial markets
- restrictions to cease business of a specified type, e.g with suspected links to terrorism
- directions to cease all business with certain sanctioned individuals or organisations

ECJU and OFSI

OFSI works closely with the Export Control Joint Unit (ECJU) in the Department for International Trade (DIT).

OFSI deals with **financial sanctions** and the ECJU with **trade sanctions**. These different types of sanctions have different processes, for instance, in licensing activity. Therefore, it's important to consider the relevance of both financial and trade sanctions to your business.

Financial sanctions licences are **NOT** covered by the ECJU's online export licensing system, SPIRE.

You may need a licence from OFSI **as well as** from the ECJU.

The ECJU is responsible for implementing trade sanctions and issuing export and trade control licences.

HM Treasury, through OFSI, is responsible for:

- the implementation and administration of financial sanctions in effect in the UK
- licensing exemptions to financial sanctions
- domestic designations under the Terrorist Asset-Freezing etc. Act 2010
- promoting awareness of, and compliance with, financial sanctions
- imposing monetary penalties for financial sanctions breaches

Financial sanctions may apply to individuals, entities and government bodies who may be resident in the UK or abroad. Certain financial sanctions may also prohibit providing or performing other financial services, such as insurance, to designated individuals or governments.

It is an offence to breach a financial sanction, punishable by up to 7 years in prison and/or a monetary penalty.

We publish a consolidated list of individuals and organisations subject to financial sanctions, known as designated persons, as well as general guidance to help you comply. This is available on the government website – see back page.

> Please refer to OFSI's GOV.UK web pages and Financial Sanctions Guidance if you know or suspect that you're working in areas where designated persons may operate.

Export Licences

While trade sanctions and arms embargoes target the export of arms or military equipment, some sanctions measures have exemptions that allow for the export of, or trade activity relating to, sanctioned goods in certain circumstances.

These exceptions will be set out in each sanctions regime. Where this is the case for trade sanctions, export and/or trade licence applications should be submitted to the ECJU through SPIRE.

https://www.spire.trade.gov.uk/spire/fox/espire/LOGIN/login

Remember financial sanctions licences are **NOT** covered by SPIRE.

If you're doing business with or through a designated person or entity, you will need a separate licence from OFSI.

For more information on the steps to take to see if you need an export or trade control licence, and the assessment of your application, contact the Export Control Joint Unit:

https://www.gov.uk/government/organisations/export-control-organisation

> Please refer to the FAQs section in OFSI's Financial Sanctions Guidance for questions that apply to all sectors

Contact OFSI

Helpline:

0207 270 5454

Monday – Friday, 9am – 5pm

Email enquiries:

ofsi@hmtreasury.gov.uk

Visit OFSI's web pages:

https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation

OFSI's Financial Sanctions Guidance:

https://www.gov.uk/government/publications/financial-sanctions-faqs

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OFSI blog:

https://ofsi.blog.gov.uk/

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General questions about financial sanctions

1. Should I consider financial sanctions when importing to or exporting from the UK?

Yes. You should consider:

- **who** and **where** the goods or services are coming from or going to. It is possible that financial sanctions such as an asset freeze may apply to one of the parties or to the financial aspects of the trade.
- **who** is shipping the goods, and whether they are being shipped on a sanctioned vessel.
- **whether** a designated person is based in a different country to the one you are operating in, but is still subject to financial sanctions in that country. For example, companies from Malaysia, Turkey and UAE are listed under the Iran (nuclear proliferation) regime.

OFSI's consolidated list is a regularly updated list of designated persons published on the GOV.UK site.

2. Are all financial sanctions covered by the consolidated list?

No. Sectoral sanctions imposed because of Russia's actions in destabilising Ukraine appear on a separate list. There are no individuals on this list, only organisations, and they are not subject to asset freezes.

Restrictions that apply under this regulation include:

- restrictions to capital markets for certain Russian banks, energy companies and defence companies
- an arms embargo and restrictions on certain dual-purpose technologies which, although intended for civilian use, might have military applications
- restrictions on exports of high-tech goods and services in the energy sector.

Therefore, if you're doing business with Russian organisations, you may also need to check the list for Ukraine (Sovereignty and Territorial Integrity) that supports Council Regulation (EU) No 833/2014.

https://www.gov.uk/government/publications/financial-sanctions-ukraine-sovereignty-and-territorial-integrity

Please note that the OFSI 833/2014 consolidated list only includes entities subject to financial sanctions. For trade sanctions, please contact the ECJU.

Further guidance on this regulation has been produced by the EU and can be found here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/658457/Commission_Guidance_note_on_the_implementation_of_certain_provisions_of_Regulation__EU__No_833-2014.pdf

3. What do I need to do if I think I'm dealing with a designated person?

You should review the information you have about the individual or organisation, checking OFSI's lists of those subject to financial sanctions on its pages of the GOV.UK website. If you're unsure and there's no physical risk to yourself, consider asking the individual or organisation for more information.

If you find out that you're dealing with a designated person, take these steps:

1. Contact OFSI immediately
2. Freeze their funds and economic resources in your possession
3. Notify the relevant institution
4. Don't make funds or economic resources available to them.

Section 3 of our Financial Sanction's Guidance contains more detailed information. We've also included a glossary of terms at the back of the general guidance which defines what we mean by economic resources.

You should also consider if individuals or organisations are 'owned' or 'controlled' by designated persons. If individuals or organisation are 'owned' or 'controlled' by a designated person, you will need to take the same kinds of actions.

Chapter 4 of OFSI's Financial Sanction Guidance includes more information on 'ownership and control'. However, if you're still unsure, contact OFSI for guidance.

4. Does HMRC's CHIEF system take care of my financial sanctions obligations?

The HMRC Customs Handling of Import and Export Freight (CHIEF) system records the declaration to customs of goods being shipped by land, sea or air.

Goods subject to export controls such as high risk or strategic exports must provide details of the appropriate licences prior to export clearance being granted.

OFSI's consolidated lists aren't covered by the CHIEF system as they list individuals and organisations subject to financial sanctions.

OFSI's lists cover **who** you shouldn't be doing business with, unless you have a licence or there is an exemption in the relevant regulations, rather than **what** you're importing or exporting. You are responsible for exercising due diligence.

5. Can you give me any tips to help my company comply with financial sanctions?

Each organisation should assess their own risks and put due diligence measures in place to manage these risks. However, we can provide tips.

Top Tips

1. Make yourself aware of the financial sanctions imposed by the UK and other jurisdictions that apply to you, and who they impact. OFSI publishes an up-to-date, online list of those subject to financial sanctions in the UK as well as a separate list relating to Russia's actions destabilising the situation in Ukraine (*see section A, question 2*): https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases
2. Assess all aspects of your proposed project to identify if any partners, contractors or financial institutions appear on the above sanctions list.
3. Tailor your compliance approach on the likelihood of you dealing with these individuals and organisations, directly or indirectly.
4. Consider other financial crime risks such as: terrorist financing, corruption or laundering the proceeds of crime – they all form part of a comprehensive compliance approach.
5. Talk to your bank before you agree a contract which may have a financial crime risk. Check that the bank is willing to process a payment from your counterparty. Your bank may require information on your

compliance approach before processing payments as it needs to ensure compliance with financial crime laws applicable to both you and itself.

6. Where there are risks, such as a project being based in a high-risk location, conduct thorough checks of who you're dealing with, checking:
   - all points in the payment chain and
   - those involved in your project on the ground.

If you think you may be conducting business with individuals or organisations subject to financial sanctions:

- contact OFSI
- consider if you need to apply for a licence from OFSI
- consider seeking independent legal advice.

6. My product is not subject to trade sanctions or export controls. Do financial sanctions regulations still apply to me?

Yes. Trade sanctions, export controls and financial sanctions are different so you will still need to consider financial sanctions if funds or economic resources are being made available – directly or indirectly – to, or for the benefit of, a designated person.

Equally, if payments are coming from or through a designated person, such as a designated bank, and there is no exemption in the relevant financial sanctions regulation, you will require an OFSI licence to deal with the funds.

Some sanctions breaching activity, particularly **Proliferation Finance** activity, is not just about the acquisition or purchase of a controlled good or service.

In many cases sanctions breaching activity has the sole aim of generating access to foreign currency and the international financial system. This can be through what appears to be a legitimate trading entity. For this reason, it is important to understand the full payment chain and consider how any trade may be used to enable illicit activity.

For more information on proliferation finance, visit the Financial Action Task Force website: http://www.fatf-gafi.org/publications/financingofproliferation/?hf=10&b=0&s=desc(fatf_releasedate)

B Licensing

1. Do I need an OFSI licence if I already have an export or trade control licence?

You may do. The Export Control Joint Unit (ECJU) issues licences for **strategic goods**. OFSI issues licences that **permit financial transactions** with a designated person that, otherwise, would be prohibited.

Having an export or trade control licence is no guarantee that an OFSI licence will be granted. To apply for an OFSI licence:

- use the application form on our website
- apply for the licence well before you need it
- identify the appropriate licensing grounds
- provide a full description of the payment chain.

Licences cannot be issued retrospectively. If you have carried out an act that required a licence without having obtained one beforehand, you may have breached financial sanctions and you should contact OFSI immediately.

2. What OFSI licensing grounds may apply to importers and exporters?

If you're importing from or exporting to a designated person, you will need to apply for an OFSI licence. An OFSI licence is a written authorisation that permits an otherwise prohibited financial activity. You may want to check that your bank will allow the transaction before entering into a contract.

Potential licence grounds for importers or exporters include existing obligations under a prior contract – a contract that existed before the individual or entity was designated under financial sanctions legislation.

You should check if your activity is exempt. Specific exemptions are contained in financial sanctions regulations. These apply automatically in defined circumstances and do not require a licence. These could include provision of goods for humanitarian purposes.

For more information about licensing grounds and details on how to apply for a licence please refer to the 'exemptions and licensing' section in our general guidance.

https://www.gov.uk/government/publications/financial-sanctions-faqs

3. Does it make a difference if my goods are for humanitarian, medical or diplomatic purposes?

You need to consider carefully the restrictions in place against the designated person or company. For example, if a person is subject to financial sanctions under the Syrian regime, you need to look at the regulation that underpins that regime.

Some regimes have exemptions or licensing grounds for the provision of goods or funds for humanitarian, medical or diplomatic purposes. OFSI seeks to process applications for licences where there is a risk to life as a priority.

We list the relevant regulations on our regime pages:
https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases

4. How long does it take to receive an OFSI licence?

OFSI aims to engage with applicants on the substance of a completed licence within four weeks. This does not mean a licence will necessarily be issued within four weeks. Each case is dealt with on a case-by-case basis. More complex cases may take longer to resolve and we may need to come back to you for more information.

Sometimes we may need to notify, or seek approval from, the European Commission or the relevant United Nations Sanctions Committee before we can issue a licence. These requirements are set out in the relevant United Nations Security Council resolutions or EU regulations. These requirements will lengthen the processing time for such licence applications and may, in some cases, prevent a licence being issued.

Financial sanctions along the export chain

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1. Should I be checking other parties involved in import/export activities and related financial transactions, such as vessels, airlines, road hauliers, banks and insurers?

Vessels, airlines, road hauliers, banks and insurers could be subject to financial sanctions. You may require an OFSI licence if:

- payments are coming from or through a designated person, such as a listed bank, and there is no exemption in the relevant regulation
- any goods are being transported by a designated person.
- If you are forwarding goods to a third party, you could be making funds or economic resources available – directly or indirectly – to a designated person.

2. Do financial sanctions apply to import and export agents?

Yes. Agents such as couriers, express operators and freight forwarders are responsible for their own due diligence.

If you find that you have funds or economic resources in your possession that belong to a designated person, you must freeze them. You mustn't make funds available to or for the benefit of a designated person unless:

- there is an exemption in the relevant financial sanctions regulation you can rely on, or
- you have a licence from OFSI.

3. As a shipper, do I need to consider financial sanctions?

If you're transporting goods supplied by or going to a designated person, you could be in breach of financial sanctions.

Ports can also be subject to financial sanctions and two ports are on the consolidated list as of April 2018: Sevastopol and Kerch. If you pay any fees to these ports, you could be in breach of financial sanctions.

4. Do financial sanctions apply to port or landings fees?

Financial sanctions can apply to port or landing fees if the port or shipping company is on the consolidated list or is owned or controlled by a designated person.

Several ships have been added to the consolidated list as part of sanctions against North Korea. Other ships which are flagged from non-sanctioned regimes have also been designated. For example:

- *Nadine*, formerly *Capricorn*, (IMO 8900878) now has a Palau flag but is listed under Libyan sanctions
- *Lynn S* (IMO 8706349) has a flag from Saint Vincent and the Grenadines but is also listed under Libyan sanctions (April 2018).

A port that accepts fees from these ships could be in breach of financial sanctions.

5. Do financial sanctions apply to bills of lading?

A bill of lading is issued by a ship owner to acknowledge the receipt of a cargo for transportation to a specified destination. Bills of lading are classified as 'funds' for the purposes of financial sanctions.

If you know or suspect that you have a bill of lading that belongs to a designated person, you must freeze it, and not deal with it or make it available to a designated person (or for their benefit) in the absence of a licence or exemption.

D Financial sanctions breaches and penalties

1. What should I do if I breach financial sanctions?

Contact OFSI immediately, even if you're unsure and want to make further checks.

It's in your interests to declare a breach or potential breach as early as possible to reduce the risk of action being taken against you.

OFSI considers self-disclosure of information when deciding:

- what action to take
- whether a monetary penalty for a breach is appropriate and, if so
- the level of the penalty.

For example, the benefit of voluntary disclosure could include a reduction of up to 50% of any monetary penalty amount.

2. What if I suspect someone is a designated person or has committed a breach?

EU citizens and organisations have an obligation under EU law to 'facilitate compliance' with financial sanctions. This could include:

- reporting someone that you suspect is a designated person, or
- reporting a suspected breach of financial sanctions such as activities that circumvent an asset freeze.

Relevant institutions such as financial services providers and relevant professions such as auditors, casinos and accountants also have specific reporting obligations under UK law.

These professions must report to OFSI as soon as practicable if they know or have reasonable cause to suspect that someone is a designated person or has committed an offence under UK regulations. Failure to do so could result in a criminal prosecution or monetary penalty.

> To report to OFSI, please use the form on our website:
>
> https://www.gov.uk/guidance/suspected-breach-of-financial-sanctions-what-to-do
>
> For more information, please see the reporting obligations section in chapter 5 of our general guidance.

3. Does a breach need to occur within the UK's borders to involve OFSI?

No, if there's sufficient connection to the UK, it will be within OFSI's remit. This could include:

- a UK company working overseas
- actions taking place overseas but directed from the UK
- actions taken by a local subsidiary of a UK company
- financial transactions using clearing services in the UK.

These examples are not definitive.

4. Do financial sanctions imposed by other countries apply to me?

As a member of the UN and the EU, the UK imposes all financial sanctions agreed in these two international organisations as well as some of its own financial sanctions.

Financial sanctions imposed by other governments may also impact your ability to operate where:

- your operations are within their jurisdiction
- goods originate from that country (if exporting goods)
- you are dealing in their currency.
- If you operate in (or through) another country, check:
- what financial sanctions are in place in that country
- if you need a licence with the relevant foreign licensing body.

> Example:
>
> If you plan to transact in US dollars or work with US persons or companies, check that you comply with US sanctions.
>
> You can liaise with the US sanctions administrator, the Office of Foreign Assets Control (OFAC), for more information.
>
> **You may need a licence from OFAC as well as from OFSI and a strategic goods licence from ECJU.**
>
> OFAC has its own website:
>
> https://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx

5. What are the penalties for breaching financial sanctions?

Breaches of financial sanctions are a serious criminal offence. The Policing and Crime Act 2017 increased the maximum criminal penalty for financial sanctions breaches to 7 years in prison.

The 2017 Act also gave OFSI the power to impose monetary penalties of up to £1 million or 50% of the total breach, whichever is greater in value.

Please see OFSI's guidance for more information about monetary penalties:

https://www.gov.uk/government/publications/financial-sanctions-faqs

6. What potential risks should I be aware of?

We've put together some potential situations that could signal that you are dealing with a designated person. These are not definitive.

> Red flags for exporters:
>
> 1. An individual or company is:
>   - a name match (on OFSI's consolidated list)
>   - a partial match (on OFSI's consolidated list)
> 2. A company uses overly complex payment methods and complex ownership structures
> 3. Refusal to do business with company A is followed by a request for the same equipment from company B, which has a similar profile to company A
> 4. Multiple requests for the same quantities of equipment at the same time from a number of different individuals or companies.

E Helpful sources of Information

1. Office of Financial Sanctions Implementation (OFSI)

Part of HM Treasury, it has published the following on its GOV.UK web pages:

- a list of those subject to financial sanctions
- information on those subject to financial sanctions
- General Guide to Financial Sanctions
- Guide to Monetary Penalties

OFSI helpline: 020 7270 5454 (Mon-Fri, 09:00-17:00)

https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation

2. Export Control Joint Unit

Part of the Department for International Trade, it provides information on when you might need an export or trade control licence and how to apply:

https://www.gov.uk/government/organisations/export-control-organisation

You can view the goods and technologies on the UK military list and the EU's dual-use list:

https://www.gov.uk/government/publications/uk-strategic-export-control-lists-the-consolidated-list-of-strategic-military-and-dual-use-items-that-require-export-authorisation

and goods not listed that might also need a licence at:

https://www.gov.uk/guidance/export-military-or-dual-use-goods-services-or-technology-special-rules

3. European Union (EU)

Its Best Practice Guide contains recommendations on the implementation of sanctions:

http://data.consilium.europa.eu/doc/document/ST-10254-2015-INIT/en/pdf

The European Commission has published Frequently Asked Questions on EU Restrictive Measures in Syria:

http://ec.europa.eu/dgs/fpi/documents/faqs_post_isc_clean_en.pdf

The European Union has also published a factsheet for EU businesses operating in Crimea and Sevastopol:

https://eeas.europa.eu/sites/eeas/files/information_note_to_eu_business_on_operating_and_or_investing_in_crimea-sevastopol.pdf

4. US Treasury's Office of Foreign Assets Control (OFAC)

It publishes guidance on US sanctions:

https://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx

5. Joint Money Laundering Steering Group (JMLSG)

Made up of trade associations within the UK financial services industry, it publishes industry guidance on countering money laundering. Some of this is relevant to financial sanctions, particularly around due diligence and knowing your customer.

http://www.jmlsg.org.uk/

6. Financial Action Task Force

FATF is an inter-governmental body set up to implement measures to combat money laundering, terrorist financing and other related threats to the financial system. They publish country evaluation reviews including a list of high-risk and non-cooperative jurisdictions.

http://www.fatf-gafi.org/