



# SANCTIONS ALERT

**Reference: FIU-2022-SANC02**  
**18 March 2022**

## **Russia Sanctions Regulations 2022 enacted**

The Russia Sanctions Regulations 2022 ('the Regulations') are made under sections 9 and 32 of the Russia Sanctions Act 2022 ('the Act') and set out prohibitions and restrictions as defined by section 6 of the Act. The Regulations come into force on 18 March 2022.

These regulations sanction 159 people, 19 entities, and five classes of people who are listed in the Regulations schedule. Given the broad nature of the sanctioned classes, it is likely that associates of the named entities and people will potentially include hundreds of Russian citizens who are not specifically [named in the regulations](#).

The New Zealand Police Financial Intelligence Unit (FIU) is alerting all duty holders to be aware of efforts to evade the sanctions and other New Zealand-imposed restrictions implemented in connection with the Russian Federation's invasion of Ukraine.

This alert provides general guidance on the activities prohibited by the Regulations, as well as red flags to assist in identifying potential sanctions evasion activity. It is critical that all duty holders identify and quickly report suspicious activity associated with potential sanctions evasion, and conduct appropriate risk-based customer due diligence, or, where required, enhanced due diligence.

## **New Zealand sanction laws**

On 8 March 2022, the Russia Sanctions Act 2022 ('the Act') was passed to respond to the gravity of Russia's violation of the sovereignty and territorial integrity of Ukraine, and came into force on 9 March 2022. The Act establishes a framework to impose and enforce sanctions on persons, assets, and services where appropriate to respond to threats to the sovereignty or territorial integrity of Ukraine or other countries threatened by Russia's actions. While the focus of the Act is on Russia, it allows for sanctions against any country providing assistance to Russia, including Belarus. Designated persons, ships, and aircraft may also be prohibited from entering or remaining in New Zealand.

The Ministry of Foreign Affairs and Trade has further information about the situation in Ukraine on [their website](#).

## Obligations of duty holders

### *Asset Freezing*

The Act places asset **freezing obligations** on all duty holders, including entities captured as reporting entities under the AML/CFT Act. This means if a duty holder currently has a sanctioned asset under their control or they are currently providing services to a sanctioned person, they must cease all activity by either freezing the assets and/or stopping any transactions or services involving the sanctioned entity.

### *Reporting*

The Act places **reporting obligations** on duty holders, including entities captured as reporting entities under the AML/CFT Act. If a duty holder has reasonable grounds to suspect that they are in possession of or control a sanctioned asset, or are providing services to a designated person, they must report this to the Commissioner as soon as practicable, but no later than three working days. Duty holders who are not reporting entities under the AML/CFT Act can report using the prescribed form on the [NZ Police 105 website](#).

Duty holders who are reporting entities under the AML/CFT Act are reminded that their AML/CFT programmes must include provisions to identify any grounds for reporting suspicious activity (s31(2)). This includes where there are reasonable grounds to suspect a transaction or activity is or may be relevant to the investigation or prosecution of an offence including a sanctions related offence (s39A)(b)(v)). Reporting entities must submit a Suspicious Activity Report (SAR) to the FIU within three working days. The SAR should provide the FIU with as much information and context that can reasonably be provided to inform next steps, with the 'SANC' indicator chosen in goAML.

### *Due Diligence and Monitoring*

Duty holders are responsible for undertaking the due diligence checks necessary to ensure the persons or entities connected with the proposed activity are not subject to targeted financial sanctions. They are also responsible for undertaking due diligence to ensure no assets or services are indirectly provided to any sanctioned individual (including members of a class of individuals) or entity such as through opaque beneficial ownership within complex trusts and companies. Understanding who has effective control of a legal structure is a key part of this due diligence and every effort should be made to work back through any layers of ownership to determine who the beneficial owner is.

Duty holders should check the list of sanctioned persons before undertaking an activity to ensure they do not contravene New Zealand sanctions law. If a proposed activity in any way involves a designated person, entity, asset, or service then in addition to submitting a sanctions breach report or a SAR, duty holders should seek legal advice before taking further action.

## Sanctions offences

**It is a criminal offence to breach a sanction in the Act.** For individuals this is punishable by 7 years imprisonment or a fine not exceeding \$100,000. For an entity, this is punishable by a fine not exceeding \$1 million.

In practice this means it is prohibited for any person in New Zealand to deal with a sanctioned individual, entity, asset, or service listed in the Regulations. Examples of prohibitions include:

- Dealing with an asset, both in New Zealand and offshore, that is owned or controlled by a sanctioned person (e.g. buying property from a sanctioned person)
- Dealing with an asset that would result in a benefit to a sanctioned person (e.g. sending money to a sanctioned person)
- Providing any financial or other related legal or accounting services in respect of such a dealing
- Providing any financial or related service to, or for the benefit of, a sanctioned person including company formation and trusts creation, or acting as a trustee
- Dealing with a service provided by, to, or for the benefit of, a sanctioned person (e.g. receiving a financial service from a sanctioned person)

To avoid any confusion, if a duty holder suspects a customer is a sanctioned person, they should submit a sanctions breach report or a suspicious activity report (SAR) to the FIU and seek legal advice before proceeding with any activity.

## Sanctions evasion attempts using the New Zealand financial system

As a result of the Act, sanctioned Russian actors may seek to evade sanctions through various means, including through non-sanctioned Russian financial institutions and financial institutions in various countries. Sanctions evasion activities could be conducted by a variety of actors, including virtual asset service providers (VASPs) within or outside Russia, that have access to the international financial system.

Whilst it is unlikely that a government such as the Russian Federation would attempt to evade sanctions using VASPs, sanctioned persons, illicit actors, and their related networks or facilitators may attempt to use VASPs to evade New Zealand sanctions and protect their assets around the globe.

## Financial Red Flags

### *Financial Institutions*

- Use of third parties to shield the identity of sanctioned persons and/or politically exposed persons (**PEPs**) seeking to hide the origin or ownership of funds.
- Accounts in jurisdictions or with financial institutions that are experiencing a sudden rise in value being transferred to their respective areas or institutions, without a clear economic or business rationale.
- Jurisdictions previously associated with Russian financial flows that are identified as having a notable recent increase in new company formations.
- Newly established accounts that attempt to send or receive funds from a sanctioned institution or an institution removed from the Society for Worldwide Interbank Financial Telecommunication (SWIFT).

- Non-routine foreign exchange transactions that may indirectly involve sanctioned Russian financial institutions, including transactions that are inconsistent with activity over the prior 12 months.
- Use of corporate entities (i.e. shell companies, legal arrangements) to obscure ownership, source of funds, or countries involved; particularly sanctioned jurisdictions.
- Use of shell companies to conduct international wire transfers, often involving financial institutions in jurisdictions distinct from company registration.
- Use of jurisdictions that remain allies to, or supporters of, Russia to conduct transactions that would distance the source of the funds from Russian entities and associates.

#### ***Trust and Company Service Providers***

- Instructions received from the customer or beneficial owner since the start of the Russian invasion on 24 February 2022 that request action to protect assets or create layers that further obscure beneficial ownership.
- Instructions received from the customer to set up unnecessarily complicated legal and banking structures across different (high-risk) jurisdictions without justifiable business reasons.
- During the initial onboarding, customer asks detailed questions about AML/CFT or tax compliance matters including the application of New Zealand's beneficial ownership transparency, customer due diligence or transaction reporting requirements.
- Reluctance by the customer to share information (including data, information and documents), avoiding personal contact, insisting on using an intermediary, avoiding communication after the initial incorporation, or is non-responsive to CDD/ECDD requests.
- Opening several trusts or accounts with the same beneficiary or declaring a different business for each trust as the source of funds to avoid 25% beneficial ownership thresholds.
- The settlors, trustees, directors, or shareholders do not have any presence on professional platforms such as LinkedIn or they use email addresses from non-professional domains such as Yahoo, Hotmail or Gmail.
- Use of family or business associates as nominee shareholders or directors without any legitimate tax, business, or economic reason.
- Use of jurisdictions that remain allies to, or supporters of, Russia to conduct transactions that would distance the source of funds from Russian entities and associates.

#### ***VASPs***

- A customer's transactions are initiated from or sent to the following types of Internet Protocol (IP) addresses:
  - non-trusted sources;

- locations in Russia, Belarus, FATF-identified jurisdictions with AML/CFT deficiencies, and comprehensively sanctioned jurisdictions; or
- IP addresses previously flagged as suspicious.
- A customer uses a VASP or foreign-located money services business (MSB) in a high-risk jurisdiction with AML/CFT deficiencies, including inadequate 'know-your-customer', record-keeping, risk management, or ongoing customer due diligence measures.

### ***Real Estate***

- The purchase, sale, donation, or legal ownership transfer of high-value real estate in the name of a foreign legal entity with obscure beneficial ownership, especially if the transaction or deposit-taking:
  - is far above or below fair market value
  - involves all-cash transfers
  - involves wire transfers via complex trust and company structures
  - involves financial transfers from weakly regulated remittance agents connected to offshore law, accounting and trust and company service providers
  - is originally funded by a third party with a known connection to sanctioned persons and associates
- The use of legal entities or arrangements that may have a connection to sanctioned persons and associates, to hide the ultimate beneficiary or the origins or source of the funds.
- A Russian individual or entity requests a wire transfer from a non-New Zealand (particularly non-Russian) bank to pay for an all-cash deposit or settlement, especially if the wired funds come from an account held by an individual or entity other than the original requestor.
- The dilution of equitable interest held in the real property by the addition of, or the transfer of real estate to, an individual not affiliated with the buyer or seller.
- Maintenance, purchase, or termination of real estate insurance by persons with a known connection to sanctioned persons and their associates.

### ***High Value Assets: Art***

- Use of shell companies and trusts, and/or third-party intermediaries, including art dealers, brokers, advisers, or interior designers, with a connection to sanctioned persons and associates, to purchase, hold, or sell art on a client's behalf.
- Transactions involving sanctioned persons and associates, and large amounts of cash, especially in currencies not typically used in the art market.
- Artwork-related transactions involving persons with suspected ties to sanctioned persons and associates who:

- are not concerned with recouping their initial investment or paying a substantially higher price than the notational value of the work, and/or
- conduct transactions that exceed the expected sales value of the work.
- Purchase, maintenance, or termination of insurance policies to protect the market value or provide cash payments for the loss, theft, or destruction of privately held or donated high-value artwork linked to sanctioned persons and associates.

***High Value Assets: Precious metals, stones, and jewellery***

- Transactions involving precious metals, stones, and jewellery trading companies in Asia, and firms with a connection to sanctioned persons and associates.
- High-value or frequent transactions involving mining operations with opaque and complex corporate structures, that are or have been owned or controlled by sanctioned persons or their associates.

***Other High-Value Assets (e.g. luxury yachts and vehicles)***

- The sudden transfer, including through sales, by sanctioned persons and associates, of ownership in high-value assets and goods.
- The involvement of legal entities, such as shell companies, with a connection to sanctioned persons and their associates, that are falsely posing as well-known entities and operating in jurisdictions other than the well-known entity's jurisdiction geographic sphere of business.
- The involvement of a common set of financial institutions, individuals, or addresses to facilitate luxury goods-related transactions, that may have a connection to sanctioned persons and associates.
- The involvement of law firms based in global and offshore financial centres that have historically specialised in Russian clientele or in transactions associated with sanctioned persons and associates.
- The involvement of transportation service companies that have been owned by, or have a connection to, sanctioned persons or their associates, and that may be used to transport luxury goods and obfuscate their movement.