



**NEW ZEALAND**  
**FOREIGN AFFAIRS & TRADE**  
Manatū Aorere

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## RUSSIA SANCTIONS: GUIDANCE NOTE FOR DUTY HOLDERS

# Reporting under the Russia Sanctions Act

This note provides guidance to duty holders about reporting under the Russia Sanctions Act 2022 and Russia Sanctions Regulations 2022, and should be read in conjunction with them.

### NOTES

- This guidance does not constitute legal advice.
- It is also not intended to provide guidance in relation to compliance with other international sanctions regimes relating to Russia.
- Examples are provided to assist duty holders to meet their obligations under the Act and Regulations, but are not intended to be definitive or exhaustive.
- This guidance will be updated over time. Please continue to check the [MFAT website](#) to ensure you are using the most recent version of this guidance.

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### Document version information

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## 1. Who is a duty holder?

The Russia Sanctions Act 2022 (the Act) places an obligation on duty holders to report information about certain assets and services relating to designated persons.

A **duty holder** is defined as a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the [AML/CFT Act](#)), and those listed in the [Russian Sanctions Regulations 2022](#) (the Regulations) as those in trade who buy or sell any of the following with a total value of \$10,000 or more:

- jewellery or watches
- gold, silver, or other precious metals
- diamonds, sapphires, or other precious stones
- paintings, photographs or prints
- protected foreign or New Zealand objects
- sculptures or carvings
- other artistic or cultural artefacts
- motor vehicles or ships.

A **designated person** means a person to whom a sanction applies under the Regulations.

A **New Zealand person** means all New Zealanders no matter where they are in the world, individuals in New Zealand (including those ordinarily resident in New Zealand) and entities operating in New Zealand.

**Not a duty holder?** If you are not a duty holder, you are not required to report information relating to Russia sanctions. However, if you notice a suspicious sanction related activity, you can report it using the Police 105 website. See 'How to report' below for details.

## 2. Sanctions and the role of duty holders

Sanctions ensure that New Zealanders do not support, inadvertently or not, Russia's illegal invasion of Ukraine. Sanctions prohibit New Zealand individuals and entities from having dealings with sanctioned persons, assets, services and/or securities.

The intent of the Russia sanctions system is to influence Russia, while minimising harm to New Zealanders or those in, or doing business in, New Zealand.

For the system to be effective, duty holders have an important role to play as the first line of defence in recognising and reporting any dealings with sanctioned people or entities, and any suspicious sanctions-related activity including potential breaches of the sanctions.

This guidance is provided to duty holders to support them in being able to comply with the Act and Regulations.

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## 3. Duty holder obligations

There are two obligations imposed on duty holders under the Act.

### Reporting obligation

Duty holders are **required to report if they suspect on reasonable grounds** that they are in possession or immediate control of assets that are designated, or owned or controlled – directly or indirectly – by a designated person; and/or to deal with, or are dealing with, designated services or services in relation to a designated person.

The list of sanctioned assets, persons and entities can be found in the [Regulations](#) and in the [sanctions register](#).

### Freezing obligation

If a duty holder has a sanctioned asset under their control, they must cease all activity by **freezing the asset**.

If a duty holder is currently providing services to a sanctioned person or entity (other than permitted activities described in the exceptions below), they **must cease all activity by stopping any transactions or services** involving the sanctioned person or entity.

They **must then report** the details of the sanctioned assets and/or services provided to a sanctioned person or entity.

### Meeting these obligations

To help meet these obligations and comply with the sanctions, duty holders will need to identify, on an ongoing basis, all the persons and entities who have been sanctioned, including associates and relatives, and consider broadly in the ordinary course of their business whether their dealings relate to, or benefit, a sanctioned person, organisation, asset, or service.

Duty holders may find it useful to leverage the customer due diligence, monitoring and reporting policies, procedures and controls they may have in place to comply with the AML/CFT Act to assist in complying with the Russia Sanctions Act.

Duty holders are best placed to understand the risks associated with their business including working in different jurisdictions, the ways they deliver their services, and who their customers are.

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## 4. Reporting

### Purpose of reporting

The purpose of reporting is to provide information about dealings with designated persons, assets, and services, and other suspicious activity related to sanctions. This helps MFAT better understand how the regime is working, the type and volume of business with designated persons, assets, or services duty holders undertake, and to assist in detecting and deterring sanction evasions and breaches.

### Mandatory reporting by duty holders

The duty holder's obligation to report occurs **if and when they suspect on reasonable grounds that any of the following situations apply:**

- They are in possession or immediate control of assets that are:
  - designated
  - owned or controlled, directly or indirectly, by a designated person
- They are to deal with or are dealing with:
  - designated services
  - services in relation to a designated person.

The threshold for reporting is likely to be met if there is a designated person involved, either through their ownership or control of assets, or in relation to a service.

Appropriate due diligence will help a duty holder determine a designated person's involvement in ownership of assets, or a transaction, and whether an obligation to report exists.

Depending on the nature and risk presented by the duty holder's business and customers, they may want to consider undertaking more in-depth and comprehensive due diligence to help inform their decision to submit a report. Further guidance about due diligence is available [here](#).

### Permitted activities

There are some **exceptions** to the sanctions that allow activities with sanctioned persons, assets or services to go ahead. For example, these apply for humanitarian purposes, personal or household needs, legal services in connection with the sanction regime, preserving assets, facilitating diplomatic functions or obligations that existed prior to the regime (see box below for more details).

Activities falling within one of the statutory exceptions are permitted and may proceed as normal. However, duty holders **must report** these dealings with a restricted asset, restricted service, or sanctioned person.

If duty holders are unsure whether to report or not, they should seek suitably qualified independent legal advice or contact the MFAT Russia Sanctions team to seek further guidance.

**Exceptions mean these are permitted activities:**

- A New Zealand person may hold and use a bank account (or similar) with a sanctioned person if they held the account immediately before the relevant date.
- A New Zealand person may receive money that is a restricted asset if, immediately before the relevant date, the person from whom it is received had a legal obligation to pay (whether at that time or in the future) the money to the New Zealand person.
- A New Zealand person may hold (but not otherwise deal with) a restricted asset if they held the asset immediately before the relevant date.
- A New Zealand person may use premises that are a restricted asset as the person's principal place of residence (including making payments in relation to that use) if the premises were the person's principal place of residence immediately before the relevant date.
- A New Zealand person may deal with an estate or interest in land that is a restricted asset (including paying or receiving money in relation to it) if, immediately before the relevant date, the New Zealand person had a legal obligation to do so.
- A New Zealand person may deal with a restricted asset or a restricted service:
  - if the sanctioned person is an individual, for the purpose of providing the sanctioned person or their dependants with an asset or service that is reasonably necessary for personal or household purposes (such as food and clothing); or
  - if the New Zealand person is a lawyer, for the purpose of providing legal services in connection with the Act or these regulations; or
  - for the purpose of preserving, or maintaining the value of, a restricted asset; or
  - for the purpose of, or in connection with, the enforcement or intended enforcement of the Act; or
  - for the purpose of facilitating the normal performance of the functions of a diplomatic mission or a consular post; or
  - for the purpose of providing the New Zealand person or their dependants, while in a specified country, with an asset or a service that is reasonably necessary for personal or household purposes (such as utility services).

## 5. What to report

After an initial report of a relationship with sanctioned persons, assets or services, ongoing reporting for each transaction is not required. However, a further report could be required where there is a:

- change in the nature and purpose of the business relationship, assets held or services provided; and/or
- suspicious sanction-related activity in general.

In cases where a person may be designated but not have the assets (reg 10), shares and securities (reg 10A), or services (reg 11) sanctions applied to them, there is nothing preventing duty holders from dealing with the assets of, and services to or from, that designated person. However, reporting of the relationship is still required in these instances.

### What to include in a report

The level of detail required in a report will vary depending on the nature of the relationship, activity, transaction or dealing relating to a sanctioned person, asset or entity.

Duty holders are encouraged to provide the following information, where relevant and applicable:

- Their name, organisation and contact information.
- Names and contact information for the parties involved (for both individuals and entities).
- What assets they hold and/or services they provide that are subject to sanctions. This could include the type of financial service or product, details of accounts, trust or company formation services, legal and accountancy services, real estate etc.
- A description of their relationship with the designated person, and the relationship between the designated person and the asset or service. This could include context about the nature and purpose of the relationship, beneficial ownership or effective control information, the type of customer involved, how products/services are provided, and any relevant jurisdictional information.

**Please note:** These are just examples of the types of information duty holders can provide. The amount of information they could provide is not limited to these and will be dependent on the particular situation. Duty holder reporting obligations under the AML/CFT Act may provide a useful guide for the appropriate level of detail to be provided under the Russia Sanctions Act.

If in doubt, MFAT encourages duty holders to provide any information they deem to be relevant in the circumstances. If required, MFAT will provide additional guidance as the sanctions regime matures to further clarify the types of information for reporting.

#### EXAMPLE 1

A real estate agent has an existing relationship with a designated person who is subject to the assets and services prohibitions. The real estate agent **cannot** continue to provide those services as usual, and they **must** report this relationship and all captured dealings. This could include, for example, that the real estate agent provided services for selling property.

#### EXAMPLE 2

An accountant that has a relationship with a business that is ultimately owned or controlled by a designated person who is **not** subject to the assets or services prohibitions, may continue to provide services as usual. Following the initial report of the relationship, the reporting of individual dealings is **not** required. However, where unusual activity is evident or different services are requested, a new report should be submitted.

#### EXAMPLE 3

A lawyer providing a designated person with legal services in connection with the Act is permitted, however they **must still report** this relationship and that they are carrying out this work (note: that details of privileged communications are not required). However, if a lawyer receives a request for legal advice or

services by a designated person but the lawyer declines to act for them, reporting is **not** necessary. They may however wish to voluntarily report this activity.

#### EXAMPLE 4

A bank that holds accounts in relation to a designated person who is **not** subject to the assets or services prohibitions, may continue to provide banking services as usual. Following the initial report of the relationship, the reporting of individual transactions to and from such accounts is **not** required. However, where unusual transaction activity is evident, a new account is opened or different financial services are requested, a new report should be submitted.

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## 6. How to report

### goAML portal

Duty holders who use the Police Financial Intelligence Unit (FIU) [goAML](#) portal for AML/CFT purposes, should submit a Suspicious Activity Report (SAR) or a Suspicious Transaction Report (STR).

Further information and guidance about submitting reports may be found [here](#). If duty holders have reviewed the guidelines, reference documentation and e-learning available in the resource library and have further queries, they can contact the FIU by sending a message via the goAML Message Board.

### Police 105 website

Duty holders who do not have a goAML log in or entities that are not a duty holder for AML/CFT purposes, should submit a report using the [Police 105 website](#). Scroll to the bottom of the webpage and select the 'Russia Sanctions breach' option.

To **report** dealing with a designated person, asset or service, please provide the following information:

- Name(s) of the designated person(s)
- What assets or services you suspect are involved
- A description of your relationship with the designated person, and the relationship between the designated person and the asset or service.

If you **suspect a potential breach** of the sanctions, or want to report a **suspicious sanctions related activity**, please provide the following information:

- Name(s) of the designated person(s)
  - What assets or services you suspect are subject to sanctions
  - A detailed description of why you suspect there is a sanctions breach, including your relationship to the sanctioned person and the relationship between the sanctioned person and the asset or service.
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## 8. Timing for submitting a report

The Act states that reporting by duty holders must occur **no later than 3 working days** after they have formed the suspicion relating to a sanctioned person, asset of service.

If the **matter is urgent**, duty holders can report the matter verbally to the Police but then must, as soon as practicable, provide the FIU with a corresponding SAR or STR.

MFAT understands that as the sanctions list is being regularly added to, it can take some time for duty holders to update their systems in turn and uncover a relationship, activity or interaction now captured under the Regulations. MFAT also understands that there may be different escalation or sanctions handling processes that need to be followed internally.