



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



16 March 2022

Minister of Foreign Affairs

For approval by

16/03/2022

## Russia Sanctions Act 2022 regulations

**BRIEFING** Decision Submission

**PURPOSE** To seek your agreement to the promulgation of the Russia Sanctions Regulations 2022, which give effect to the purpose of the Russia Sanctions Act; and to recommend targets for the First Tranche of sanctions.

## Tukunga tūtohua – Recommended referrals

Prime Minister	For information by	16 March 2022
Deputy Prime Minister	For information by	16 March 2022
Attorney-General	For information by	16 March 2022
Minister Responsible for the GCSB	For information by	16 March 2022
Minister for Trade and Export Growth	For information by	16 March 2022
Minister of Immigration	For information by	16 March 2022
Minister of Defence	For information by	16 March 2022

## Taipitopito whakapā – Contact details

NAME	ROLE	DIVISION	WORK PHONE
Andrea Smith s9(2)(g)(ii)	Deputy Secretary Unit Manager	Russia Sanctions Taskforce Russia Sanctions Taskforce	s9(2)(a)

## Mā te Tari Minita e whakakī – Minister's Office to complete

- |  |   |                                    |
|--|---|------------------------------------|
| <input type="checkbox"/> Approved            | <input type="checkbox"/> Noted                | <input type="checkbox"/> Referred  |
| <input type="checkbox"/> Needs amendment     | <input type="checkbox"/> Declined             | <input type="checkbox"/> Withdrawn |
| <input type="checkbox"/> Overtaken by events | <input type="checkbox"/> See Minister's notes |                                    |

**Comments**

## Russia Sanctions Regulations

### Pito matua – Key points

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- Your approval is required to promulgate regulations in order to implement sanctions under the Russia Sanctions Act 2022.
- In agreeing to these regulations you must be satisfied they 'are appropriate to respond to threats to the sovereignty or territorial integrity of Ukraine', and demonstrates an appropriate condemnation of this threat. You must also be satisfied that the 'United Nations Security Council is unlikely to act or has acted insufficiently'.
- With the United Nations Security Council remaining unable to act, officials have designed a first tranche of targeted lists of individuals and entities that meet the threshold. The first tranche:
  - prioritises a total of **464 political and military targets** as the key people making the decisions on the invasion. This includes sanctions on **President Putin and 12 members of his Security Council** being extended to asset freezes, **364 new individuals** subject to travel bans, and **100** brought over from our current travel ban list;
  - takes action against a preliminary list of **18 end user entities** and **one bank**, that are involved in financing, providing technology to, or promoting the Russian invasion;
  - This represents a **total of 483 designations** for sanctions.
- There is more work to do. Additional tranches of designations will be prepared for your consideration, with an early priority to scope a work programme that (i) establishes robust processes to support this new sanctions framework, (ii) begins a rolling process of designations of classes of people (e.g. oligarchs) and entities (e.g. banks); and (iii) assesses what other sanctions tools might be deployed (e.g. further export controls).
- Officials will also work to build upon and refine the regulations to ensure they are fit for purpose to respond to a fast evolving situation in Ukraine and that they are legally robust.



Andrea Smith  
for Secretary of Foreign Affairs and Trade

### Tūtohu – Recommendations

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It is recommended that you:

- |   |   | Yes / No |
|---|---|----------|
| 1 | <b>Note</b> that the that Russia Sanctions Act 2022 (the Act) provides a framework for implementing sanctions by New Zealand in response to the aggressive acts and other breaches of international law by Russia in particular its invasion of Ukraine, or to any other country complicit in the threat to the sovereignty and territorial integrity of Ukraine; |          |

## Russia Sanctions Regulations

- 2 **Note** that on 7 March Cabinet authorised Ministers with power to act to take decisions on the making of regulations under the Act and to authorise officials to draft them; such decisions were taken in Cabinet on 14 March. Yes/No
- 3 **Agree** that, in accordance with section 8 of the Act, the regulations: Yes/No
- are appropriate to respond to threats to the sovereignty or territorial integrity of Ukraine, and
  - that the United Nations Security Council is unlikely to act or has acted insufficiently.
- 4 **Agree** that the regulations are designed to exert pressure on Russia and Belarus by interrupting economic relations and complementing and reinforcing sanctions by other countries. Yes/No
- 5 **Approve** the proposed regulations, subject to minor or technical amendments as required. Yes/No
- 6 **Note** the regulations detail the persons or class of persons, assets or class of assets, or services impacted, and the following related prohibitions: Yes/No
- prohibitions relating to travel
  - prohibitions relating to assets and services
  - prohibition relating to certain ships and aircraft.
- 7 **Authorise** submission of the proposed regulations under the Act to the Executive Council. Yes/No
- 8 **Sign** the attached Executive Council Advice Sheets (Goatskin) for the regulations. Yes/No
- 9 **Refer** a copy of this submission to Ministers with Power to Act (those designated by Cabinet on 7 March). Yes/No

  
Hon Nanaia Mahuta  
Minister of Foreign Affairs / Minita Take Aorere

Date: 17 / 03 / 2022

## Russia Sanctions Regulations

Pūrongo – Report

### Background

1. The Russia Sanctions Act 2022 (the Act) allows for sanctions to be imposed and enforced on individuals or entities that are responsible for, or are associated with, actions that undermine the sovereignty or territorial integrity of Ukraine or that are of economic or strategic relevance to Russia. Sanctions denote a prohibition or restriction imposed by regulation made under the Act on:
  - persons travelling to, entering, or remaining in New Zealand;
  - dealing with assets; or
  - dealing with services.

#### The threshold for recommending sanctions

2. Under section 8 of the Act you may make regulations only if you are satisfied that the regulations **'are appropriate to respond to threats to the sovereignty or territorial integrity of Ukraine'**, (section 8(1)). A response is considered "appropriate" if you consider it "demonstrates New Zealand's condemnation of the threat" by either "being designed to exert pressure on Russia (or a country assisting Russia) including by interrupting economic relations" and/or "because it complements or reinforces sanctions by other countries" (section 8(2)).
3. It is additionally required that you are satisfied that **'that the United Nations Security Council is unlikely to act or has acted insufficiently'** (section 8(3)). In this instance Russia has used its veto power as a UNSC permanent member to block any action by the UN.
4. Officials propose sanctions on designated individuals and/or entities on the basis that they meet these tests. Travel bans will exert pressure on Russia by denying key decision-makers the ability to come to Aotearoa New Zealand, and will complement and reinforce sanctions by other countries. Prohibitions on dealing with certain assets and services provided by or to sanctioned persons, will both exert pressure on Russia by removing the ability to access finance, target those performing a function of economic or strategic significance to Russia, and complement and reinforce sanctions by other countries, including by denying a safe haven for assets.
5. Each of the sanctions also complements and reinforces sanctions imposed by other countries, including by using complementary lists of sanctioned persons.

#### Overview of the Regulations

6. The Regulations specify the following elements:
  - a statement of the purpose of the regulations:
    - to give effect to the Act by imposing sanctions in response to Russia's military actions in relation to Ukraine, or to countries or person who may be assisting Russia in this regard.

## Russia Sanctions Regulations

- a description of the assets designated under the regulations:
  - includes assets owned or controlled by a sanctioned person or their associate
  - shares or securities in a sanctioned person
- a set of prohibitions applicable to those persons, assets or services designated under the regulations:
  - prohibited persons must not enter, transit through, or remain in New Zealand (travel ban)
  - a prohibition on dealing with the assets of sanctioned persons and securities issued by sanctioned persons (asset freeze)
  - a prohibition on dealing with services provided by, to, or for the benefit of sanctioned persons
  - a prohibition on permitting or authorising certain ships and aircraft to enter New Zealand ports or airspace
- the duties in relation to compliance for the sanction
  - duty holders in possession or immediate control of assets or services suspected to be designated or owned or controlled by a designated person, are required to report it to the Commissioner of Police

### Targets for the first tranche of sanctions

7. In selecting targets we have <sup>s9(2)(g)(i)</sup> prioritising political and military leaders as the key people making the decisions on the invasion. They are plainly responsible for taking or supporting the decision to invade Ukraine or have supported its implementation. These first tranche targets draw from open source information <sup>s6(a)</sup>

s9(2)(g)(i)

9. The Regulations will specifically sanction a **total of 483 targets** comprised of:
- our existing travel ban list of 100 individuals announced on 24 February (to be brought under the Russia Sanctions Act) complemented by the addition of 364 individuals;
  - further sanctions on the 12 Permanent Members of the Russian Security Council and President Putin. These will include the prohibition on persons dealing with assets of these individuals (asset freeze), and prohibit ships and aircraft owned by them from entering New Zealand ports or airspace;
  - One bank which will be subject to the prohibition on persons dealing with its assets and services; and

## Russia Sanctions Regulations

- 18 end user entities which will be subject to the prohibition on persons dealing with services.
10. The designations are listed in the schedules to the regulations. We provide additional detail including the rationale for each listing in Annex I.
  11. Officials consider that the targeted list of designations are appropriate and meet the threshold under the Act.

### Future designations

12. This is the first tranche of designations under the Russia Sanctions Act 2022. In addition to putting in place the systems and processes to underpin a legally robust sanctions regime, we are proceeding with urgency to consider further groups (e.g. oligarchs), entities (e.g. banks), and types of sanction (e.g. wider export controls). We also need to consider widening the number of individuals subject to asset freezes <sup>s6(a), s9(2)(g)(i)</sup> (see para 19 below).  
s9(2)(g)(i)
13. We are conscious of the keen public interest with respect to so-called oligarchs <sup>s9(2)(a), s9(2)(g)(i)</sup>. While we do expect to be recommending in the not-too-distant future that you designate a range of individual oligarchs. <sup>s9(2)(g)(i), s9(2)(f)(iv)</sup>  
s9(2)(f)(iv), s9(2)(g)(i), s9(2)(a)

Any designations of such individuals will be pursued through amendments to the regulations.

14. Additional designations will continue to be prepared by officials for your approval in additional regulations. As with this tranche, bringing further designations into effect will require Ministers with Power to Act to take decisions on the making of regulations and for your approval of these regulations. While this might require some substantive changes to the regulations (to ensure they are fit for purpose) we would anticipate that most changes would be to the schedules.

### Public register and press release

15. The Act also requires the Secretary of Foreign Affairs to maintain a register listing all current sanctions. This is under development and an initial register will be publically available via the MFAT website from Friday 18 March.
16. We will also provide to your Office separately a draft press release for issuing on 18 March, as well as media points, including defensive media points around oligarchs.

### Stakeholder consultation

17. The Russia Sanctions Act and Regulations have had to be prepared at speed.
18. Notwithstanding the limited time period for consultation, these Regulations have been developed in consultation with the following agencies and stakeholders: Crown Law, Police, Ministry of Justice, the Financial Markets Authority, MBIE, LINZ, the Reserve Bank, Treasury, Customs, DPMC, Inland Revenue, MPI, Ministry of Defence, NZDF, Ministry of Transport, NMCC, Maritime NZ, NZSAR, and the New Zealand Banking Association.

## Russia Sanctions Regulations

19. Reflecting that stakeholder consultation, we have made a number of modifications to the approach, including:
- 19.1. *Holding of assets.* With respect to the prohibition in dealing in assets or services of those sanctioned, we have made amendments to the regulations to take on board concerns from the financial sector to ensure financial entities are not in breach for holding assets when the regulations come into force.
- 19.2. *Scope of designations.* Given the enforcement and implementation risks, we have narrowed the range of individuals and entities to which the asset freeze applies to a small group including President Putin's Security Council and a handful of entities closely involved in the military invasion <sup>s9(2)(g)(i)</sup> supporting a transition period before we extend the asset freezes to other individuals and entities.
- 19.3. *Industry compliance.* To support banks and other duty holders to get their systems in place to comply with the new Regulations, we will be using existing channels through the RBNZ, FMA and DIA to communicate that authorities will be taking an educative and supportive approach to help industry ensure compliance rather than a punitive one.
20. We, have on the other hand, not introduced a grace period as called for by the Banking Association because we consider it important that the regulations apply immediately. As will be clear from the foregoing, however, we have put in place a series of mitigations to manage this, including around the holding of assets, the range of actors impacted and taking a commonsense approach in support of compliance.
21. Furthermore, the Act limits offences under the Act to breaches of the sanctions committed without lawful justification or reasonable excuse and these breaches must be committed knowingly or recklessly. The Act also includes a provision whereby persons may apply to Minister of Foreign Affairs 'on the basis of humanitarian need or for any other reason' for an exemption from a sanction for a particular situation. Decisions on exemption applications must be made 'consistent with the purpose of the regulations providing for the sanction' (section 13 of the Act).

### Continuing to mitigate risk

22. Aotearoa New Zealand's capability in sanctions regimes (apart from those under UN Security Council auspices) has had to grow quickly from a limited base. We have developed these Regulations and designations at pace, with a trade-off between that and perfection. <sup>s9(2)(h)</sup>  
<sub>s6(a), s6(b)(i)</sub>
23. We will need to build upon and refine the regulations to ensure they are as fit for purpose as possible to respond to the fast evolving situation while remaining legally robust. This work will be undertaken on an inter-agency basis by the Russia Sanctions Taskforce.