

16 December 2024

Russia Sanctions Act Statutory Review Team
Ministry of Foreign Affairs & Trade

Emailed to: RSAreview@mfat.govt.nz

ICNZ'S SUBMISSION ON THE RUSSIA SANCTIONS ACT STATUTORY REVIEW

1. Thank you for the opportunity to provide a submission on the Russia Sanctions Act Statutory Review.
2. Te Kāhui Inihua o Aotearoa / The Insurance Council of New Zealand (**ICNZ**) represents general insurers. ICNZ's members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, cyber insurance, commercial property insurance, and directors and officers insurance).

General comments

3. MFAT's Consultation Document seeks views on the scope of the Russia Sanctions Act 2022 (**RSA**). ICNZ would not support expanding the RSA's obligations that apply to "duty holders" to capture general insurers. This would not be proportionate to the low risk that general insurers present.
4. General insurers are low risk, providing a risk management product. General insurers do not provide any form of direct support that may empower sanctioned persons, e.g. through the provision of financing, military equipment or technology.
5. General insurers do not have Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**AML/CFT Act**) obligations and therefore for consistency, from a policy design perspective, they should not have sanctions reporting obligations, given the low risk the sector presents for money laundering and the fact that both regimes are designed to target industries of high risk.
6. Further, MFAT's [Russia Sanctions Regulatory Charter 2023](#) states (at p19):
Given the low likelihood of significant breaches occurring, our approach to compliance and enforcement is risk-based. The purpose of this risk-based approach is to make sure sanctions control measures are timely, proportionate to the circumstances, and reasonable with resources targeted towards higher risk and priority areas.
7. The obligations on general insurers should reflect this. Maintaining the status quo, where general insurers are not subject to duty holders' obligations, is consistent with this approach.
8. We urge MFAT not to take a blanket approach to requirements for all non-duty holders given they are a diverse group and pose different levels of risk. A blanket approach would also be inconsistent with the risk-based approach set out in the Russia Sanctions Regulatory Charter.

Responses to specific questions

9. ICNZ's responses to a number of specific questions set out in the Consultation Document are set out below.

Q21. Should the RSA be amended to include a positive obligation for non-duty holders to report if they form reasonable grounds to suspect a sanctions breach has occurred?

10. We do not consider there should be a positive obligation for non-duty holders to report. A requirement to report within a short, specified timeframe would add a significant compliance burden and expense with little benefit in respect of low-risk non-duty holders such as general insurers. Non-duty holders do not have the same level of customer data and associated infrastructure as duty holders who have obligations under the AML/CFT Act.
11. We note that the [MFAT Russia Sanctions: Guidance Note for Duty Holders 'Reporting under the Russia Sanctions Act' \(February 2023\)](#) provides (at p2):

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.

12. We do not consider that it would be consistent with a risk-based approach to impose AML/CFT-type obligations on low-risk non-duty holders.

Q22. Should the concept of Associates be retained as part of the RSA and Russian Sanctions Regulations?

13. We agree with the comments reflected in the Consultation Document that it is difficult to undertake due diligence in relation to Associates who are not named on the sanctions register. There is a high compliance cost in identifying Associates as this requires considerable resources. We do not consider that this cost outweighs the benefits for low-risk non-duty holders such as general insurers. It would be more straightforward and practical for Associates to be listed by name as is the practice in overseas sanctions regimes.

Q39. Should there be a more explicit obligation to freeze assets or services, in addition to the prohibitions not to deal with assets and services? If yes, why?

14. We do not consider there should be a more explicit obligation to freeze assets or services for general insurers as general insurers do not provide a service that directly empowers sanctioned persons.

Q40. Should there be an explicit obligation to freeze assets or services in circumstances where there are reasonable grounds to suspect? If yes, do you foresee any issues with such an approach?

15. There should not be an explicit obligation to freeze assets or services in circumstances where there are "reasonable grounds to suspect". This standard is too uncertain and could lead to liability for ceasing to provide assets or services in circumstances that are ultimately found not to be warranted. This is particularly the case for low-risk non-duty holders such as general insurers.

16. Thank you again for the opportunity to make this submission.

Yours sincerely

A handwritten signature in black ink that reads "Susan Ivory". The signature is written in a cursive style with a long horizontal flourish at the end.

Susan Ivory
Regulatory Affairs Manager