



**RUSSIA SANCTIONS GUIDANCE**  
**APRIL 2024**

# **Compliance, due diligence and understanding evasion risk in the Russia sanctions context**



## What this guidance covers

This note aims to support New Zealanders in complying with the Russia Sanctions Act 2022 and Russia Sanctions Regulations 2022, and should be read in conjunction with them. It raises awareness about the risks of sanction evasion, and describes measures you can take to avoid activities that may undermine sanctions efforts.

This guidance provides information about what due diligence may be required to avoid breaching Russia sanctions. It describes what a risk-based approach is, and when and how New Zealanders and their businesses should carry out due diligence. It explains how associates, relatives and exporters are sometimes used to circumvent sanctions, and provides examples of common red flags to help spot attempts to evade sanctions.

## Notes

- This guidance does not constitute legal advice.
- It is not intended to provide guidance in relation to United Nations sanctions, or autonomous sanctions regimes of other countries relating to Russia or otherwise.
- Examples are provided to assist people and entities in meeting 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.
- If you have any questions about this guidance, please contact the team at the New Zealand Sanctions Unit at [sanctions@mfat.govt.nz](mailto:sanctions@mfat.govt.nz).

## Document version information

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## 1. Introduction

### 1.1 Why do we have sanctions?

New Zealand has imposed sanctions on Russia in response to its 2022 illegal invasion of Ukraine. Sanctions are a way for New Zealand to make clear its serious concern about a violation of international law.

Sanctions are a tool that seeks to influence foreign governments, entities and individuals to change their behaviour without using armed force. In this case, they are designed to exert pressure on Russia to change its course of behaviour, including by interrupting economic relations and trade.

Sanctions operate in an international context and are most effective when they complement or reinforce sanctions taken by other countries.

New Zealand's Russia Sanctions Act 2022 (the Act) and Russia Sanctions Regulations 2022 (the Regulations) place a range of obligations on New Zealand persons by prohibiting or restricting specific activities, as part of this global effort.

You can find further explanation of the purpose of sanctions and the rules, policies, and procedures that make up the Russia sanctions regulatory system in the [Russia Sanctions Regulatory Charter](#).

### 1.2 Who must comply with the sanctions?

Sanctions prevent **New Zealand persons** from having dealings with sanctioned persons, assets and services, or with those who act on their behalf.

**New Zealand persons** includes:

- All **individuals in New Zealand** regardless of their nationality or resident status.
- All **New Zealanders** (citizens and those [ordinarily resident](#) in New Zealand) no matter where they are in the world.
- All **New Zealand businesses** and organisations no matter where they are operating in the world.
- All **overseas businesses** registered in New Zealand in respect of their activities connected to New Zealand. This includes the overseas activities of a New Zealand branch.

This ensures that New Zealanders and New Zealand businesses do not provide support, whether intentionally or inadvertently, to Russia's illegal invasion of Ukraine.

Other than in specific circumstances, this means not being permitted to have an active business relationship with sanctioned people or entities, and avoiding transactions or deals with others that benefit sanctioned individuals or entities.

### 1.3 What is sanctions evasion?

Sanctions evasion is the act of avoiding or circumventing sanctions. It can involve concealing or shielding sanctioned entities and individuals. Sanctions evasion activity can disguise ownership, the origin of assets and funds, or the ultimate destination of export goods.



Common evasion methods are to move funds to agents, relatives or shell companies, or to route business transactions through third countries and new accounts.

As New Zealand and the international community continue to impose an unprecedented range and scale of sanctions in response to Russia's invasion of Ukraine, sanctions evasion becomes more prevalent using a wider range of methods. For example, as the sanctions of our like-minded partners close off previously available routes for transactions and trade in goods and services, those seeking to evade sanctions look for alternative providers.

The New Zealand Government wants to ensure that New Zealanders and New Zealand businesses understand the regulatory framework of the Act and the Regulations so that they do not breach New Zealand sanctions. This allows New Zealand to form an effective part of global sanctions efforts in response to Russia's invasion of Ukraine.

This guidance is intended to raise awareness about the risk of sanctions evasion and to encourage New Zealanders to take preventive steps, including appropriate due diligence, to support compliance with New Zealand sanctions, and to ensure that New Zealand does not become a target for evasion activities.

#### 1.4 What is due diligence?

Due diligence is the process that you should undertake to support your compliance with the Act and the Regulations before entering into a business relationship or transaction, and to avoid supporting attempts at sanctions evasion. Appropriate due diligence, while on-boarding and throughout the business relationship, will help you know when to cease dealings or freeze assets, and report any suspicious contacts to Police.

In the Russia sanctions context, you or your business are responsible for carrying out reasonable due diligence to ensure you are not dealing with assets or services **for the benefit of** individuals, businesses or organisations subject to sanctions. Due diligence will help you spot evasion activities related to prohibited exports that risk being diverted to Russia or Belarus.

It may involve obtaining and verifying identity information, conducting more in depth due diligence into associates, relatives, ownership structures or export destinations, and reviewing information in order to assess/mitigate risk. For New Zealand citizens and New Zealand companies, your due diligence should extend to your overseas activities too. This is because your obligations under the Act and the Regulations apply no matter where you are in the world.

Customer due diligence is part of the broader 'know your customer' process and involves collecting and verifying information about a customer such as their name, address and other personal or business information. It includes looking at the nature and purpose of the business relationship, determining who the beneficial owner is, assessing the risk profile that the customer presents and, where relevant, identifying the source of their funds or wealth.

## 2. Appropriate due diligence depends on the circumstances

There is no one-size-fits-all model for due diligence. In accordance with a risk-based approach, the reasonable due diligence effort undertaken by your business will be appropriate to the level of sanctions risk you face.



## 2.1 Lower risk situations

For lower risk organisations which are not usually exposed to international customers or transactions, you could manage your sanctions risk in the context of your ordinary course of business by:

- Obtaining and verifying a new customer's identity, and determining the nature and purpose of the business relationship during on-boarding.
- Re-confirming their identity and the nature and purpose of business as you provide ongoing goods or services.
- Monitoring activity and transactions and reporting to NZ Police anything suspicious, or any contact with a sanctioned person, their associate or relative.
  - **Duty holders** (reporting entities under the Anti Money Laundering/Countering Financing of Terrorism Act (AML/CFT) should report via a suspicious activity report (SAR) in [goAML](#).
  - **Non-duty holders** should report via the '*Russia sanctions breach*' option on the [105 website](#).
- You may find it helpful to use a commercial sanctions screening service to alert you to sanctioned persons connected with your business activities.

## 2.2 Higher risk situations

In higher risk situations, increased levels of due diligence may be required.

You may need to use more sophisticated measures to obtain and verify your customer's details, their beneficial ownership structure, and the details of representatives and other key persons.

You may also need to obtain and verify more in-depth information about the source of funds or wealth of your customer, or the nature and purpose of the business relationship. Again, the amount of due diligence you undertake will be determined by the level of risk of sanctions-related activity. Using a commercial sanctions screening service can help to ensure you are not dealing with an individual or business that has been sanctioned or that is supporting attempts to evade sanctions.

For example, if you are a large or complex organisation that also has responsibilities as a reporting entity under the AML/CFT Act, you are likely already to have in place screening tools or processes to meet those obligations.

The procedures, policies and controls used in conducting AML/CFT due diligence on customers should be sufficient in meeting sanctions obligations. This would include monitoring activity and transactions and reporting anything suspicious, or any contact with a sanctioned person, their associate or relative to NZ Police via [goAML](#) or the [105 website](#). However, additional screening tools might be required where your AML/CFT procedures, policies and controls do not fully capture the sanctions risk of your business.



## 2.3 Using a risk-based approach

The regulatory expectation is for New Zealand persons to use a risk-based approach when assessing if any of their activities may relate to listed sanctioned individuals or entities, or their associates or relatives.

To help you better meet your obligations under the RSA you should:

- assess the exposure to sanctions risks your type of business may encounter during the ordinary course of business
- put in place controls, processes and procedures to manage your or your business risks.

Risks vary from business to business, as will the best ways to mitigate them. You understand your business better than anyone else, so you are best placed to identify the vulnerabilities and risks related to sanctions, and how to develop appropriate strategies to manage and control those risks.

A risk-based approach allows you some flexibility in the steps you take when conducting due diligence using these principles:

- The risk of the situation will determine the amount of time and effort you spend on due diligence, i.e., the higher the risk the more involved and detailed your due diligence process should be.
- You should use your judgement on the level of verification you undertake depending on the situation, customer, activity, or transaction.
- The steps that you take should be reasonable, objective, appropriate for your business and proportionate to your good faith assessment of the level of sanctions risk.
- It's a good idea to keep a written record of your due diligence process and decision-making steps, especially if you decide to go ahead with the business relationship and activity.
- Sanctions risk is dynamic and the sanctions regime is updated regularly, so we recommend including ongoing due diligence in your plan.

## 3. How to undertake due diligence

### 3.1 Check the sanctions register

As a starting point, you should obtain and verify the identity of your customer and business partners, and then check whether they are named on the New Zealand [sanctions register](#). The register contains the details and basic identifying information of all listed sanctioned individuals and entities.

To avoid the risk of false negatives, you should look for an exact or close name match and use other identifying information to support your review, including date of birth or job title. Variations in the spelling of Russian names can arise for many reasons, including when they are transliterated from the Cyrillic alphabet into the Roman alphabet.

For financial institutions, conducting **transaction due diligence** is important in order to help you understand your overseas customer, including to identify who is the ultimate end user or provider of the goods or services, and where they are based.



### 3.2 Associates and relatives

One common method of evasion is when sanctioned persons move assets or funds to business associates, relatives, trusts or subsidiary companies. Some customers may deliberately try to hide who really owns or controls their business and its assets.

Certain associates and relatives, who are known to be involved in circumvention of sanctions or who have relevant economic or strategic influence in Russia, have been designated by name and added to the New Zealand sanctions register.

Other associates and relatives, however, have not been listed on the sanctions register. Instead they have been sanctioned as members of a class without their names being added to the register.

If your customer is not named on the register, your next step is to consider whether there is a risk that your customer may be helping an individual or company named on the register to circumvent sanctions. If so, you might need to consider taking additional due diligence steps.

Recognising the difficulty in undertaking due diligence in relation to associates and relatives who are not named, appropriate due diligence should focus particularly on the risks that those listed on the register may be attempting to evade sanctions.

You may need to look deeper into the relationships and beneficial ownership arrangements of your customer to discover where real ownership, control or influence lies in terms of their assets or activities. For instance, is your customer a subsidiary of another company named on the register, or ultimately controlled by someone named on the register?

This type of investigation is important in order to help you assess the risk that a person or organisation named on the New Zealand sanctions register may be the ultimate beneficiary of your business activities.

### 3.3 Other due diligence steps you could take

You could also consider some of the following actions:

- Carry out a basic internet search including media articles.
- Check company accountability reports, like annual reports and prospectuses, for names of senior managers and board members.
- Consider using a commercial sanctions screening service.
- Check the [New Zealand Companies Register](#) for ownership details. If companies operate overseas it may be useful to check company registers held by other countries.
- Ask your customer for self-declarations of ownership details and organisational structures.

Stay alert for any red flags relating to your usual business that may help you spot attempts at sanction evasion. These will vary depending on the type of activities your business undertakes, who your customers are, and how much international exposure you have.

### 3.4 For exporters and importers

As the scope of international trade sanctions in response to Russia's military action against Ukraine broadens and international enforcement tightens, those seeking to evade sanctions are looking for new suppliers and new trading routes to circumvent restrictions.





Techniques for circumvention include concealing the true origin or destination of goods, such as by sending via third countries, using freight forwarder relationships, and mis-coding goods and export forms.

Exporters can help to prevent or mitigate circumvention, and thereby support collective, global sanctions efforts, by conducting appropriate due diligence prior to confirming a new trading deal or relationship. Under the Russia Sanctions Regulations, New Zealand exporters are responsible for ensuring that prohibited goods are not bound for Russia or Belarus, either via direct or indirect trading routes. You should begin by checking both the list of prohibited HS Codes and the list of sanctioned individuals and entities on the Russia sanctions register, and then by obtaining further information about the ultimate destination of your goods and the identities of those who are benefiting from the trade deal.

For example, consider why a new customer or supplier may have initiated contact with you now? Do they have a proven history for this kind of transaction? Is the shipment justified in terms of business context? Are the systems for completing financial transactions atypical? Is the destination country known to re-export controlled or prohibited goods to Russia? Are you certain you do not need an exemption or permit to proceed with the exportation?

You can learn more about New Zealand's trade measures under Russia sanctions in [Guidance note: Trade measures](#). Read more on New Zealand's [export control system](#) on MFAT's website.

### 3.5 Red Flags

Global assessments of Russian sanctions evasion have identified a number of common techniques, methods and associated red flags.

Although not exhaustive, the following listed techniques, methods and red flags have been broken down into the following sections for illustrative purposes:

- Duty holders – this includes the financial sector, trust and company services, virtual assets and real estate.
- Import and export of goods – this includes freight forwarding, import/export controls, and procurement networks.
- Know your customers – this includes shell companies, nominee directors, disguised beneficial ownership, overly complex organisational structures, and the use of relatives and close associates.
- Jurisdictions – this includes countries bordering Russia and Belarus, transshipment hubs, countries under UN sanctions and third party countries used to circumvent sanctions.
- Channels of delivery – this includes vessels going dark, ship-to-ship transfers and opaque ownership structures.

It is important to remember that changes in sanctions evasion tactics and therefore red flags can result from 'trigger events', such as developments in the war, changes in domestic or international policy, and new technologies emerging.



## 4. More about associates and relatives

### 4.1 Types of associates

In the Russia sanctions context, there are three types of associate relationships that you should focus on (in addition to relatives), each with its own test:<sup>1</sup>

- **Agents** – who **act on behalf** of a listed sanctioned person, either directly or indirectly
- **Entities** – that are **owned or controlled** by a listed sanctioned person
- **Senior Managers** – able to **exercise significant influence** over the management or administration of a listed sanctioned entity, or of an entity owned or controlled by a listed sanctioned person.

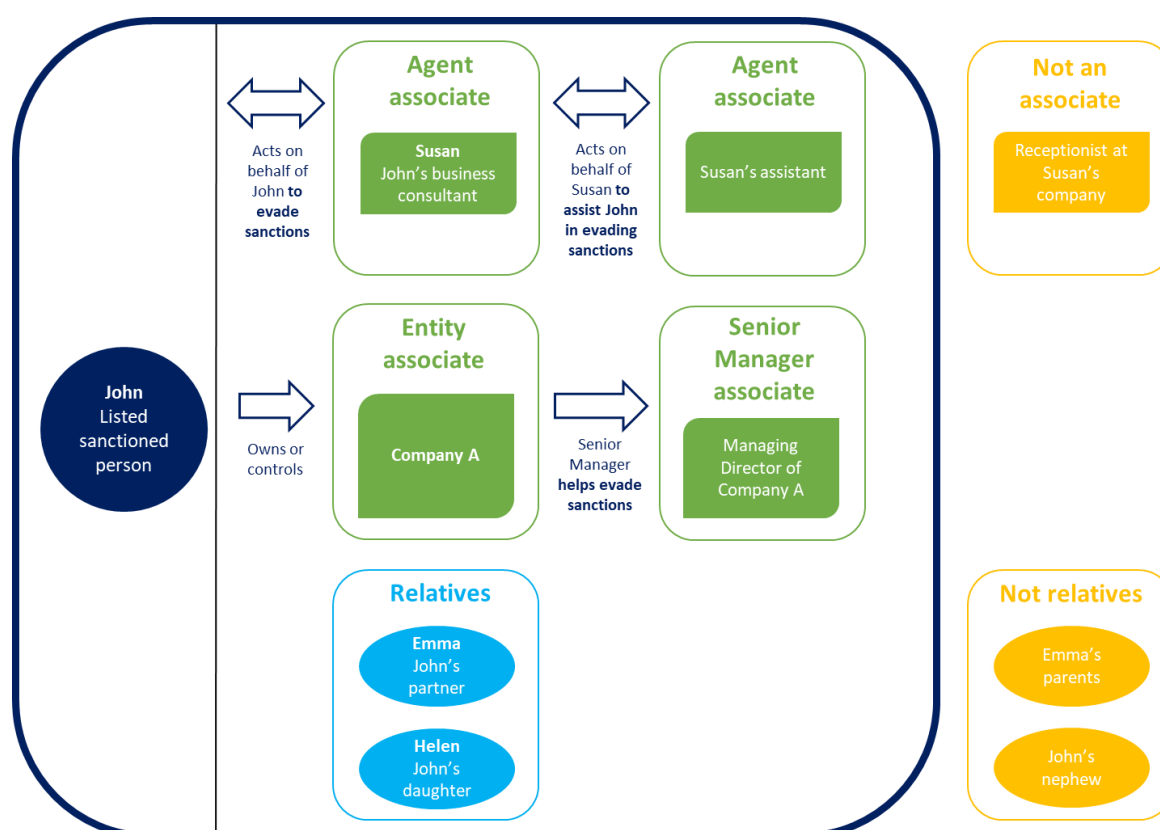


Figure 1. Associates and relatives may be helping a listed sanctioned person to evade sanctions

### EXAMPLE: ACTING ON BEHALF OF – BUYING A PROPERTY

John is a listed sanctioned person. John asked Susan to carry out the purchase of a holiday home on his behalf but in Susan's name. Susan contacts you from overseas because the high value vacation property they wish to purchase is marketed by your real estate company. You ask Susan for her name and address and the details of any other person or entity she may be acting on behalf of. Susan is not willing to provide information about the person she is acting for, so you decide to report the situation.

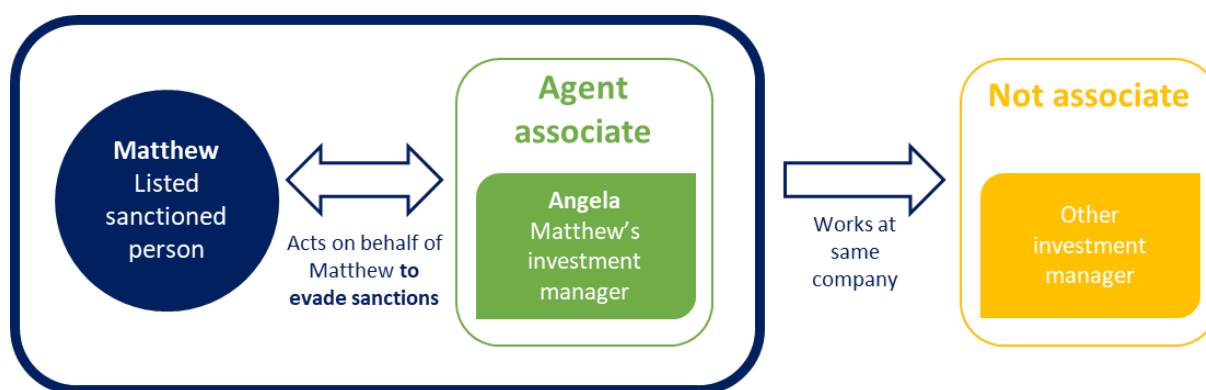
<sup>1</sup> The legal definition of associate is set out in [regulation 5\(2\)](#) of the Regulations.

## EXAMPLE: ACTING ON BEHALF OF – INVESTING IN A NEW ZEALAND COMPANY

Matthew is named on the sanctions register and has assets, securities and services sanctions applied to him. He is the co-owner of several companies and has a long working relationship with Angela, who provides investment management portfolio services for him in relation to his businesses.

Matthew wishes to invest in a company on the New Zealand stock exchange, so he asks Angela to carry out these transactions on his behalf but in her own name, because New Zealanders are prohibited from dealing with him.

In this case, Angela is considered Matthew's agent associate. You should assess the risk in your business context that you may be dealing with individuals or companies who are acting on behalf of someone named on the New Zealand sanctions register.

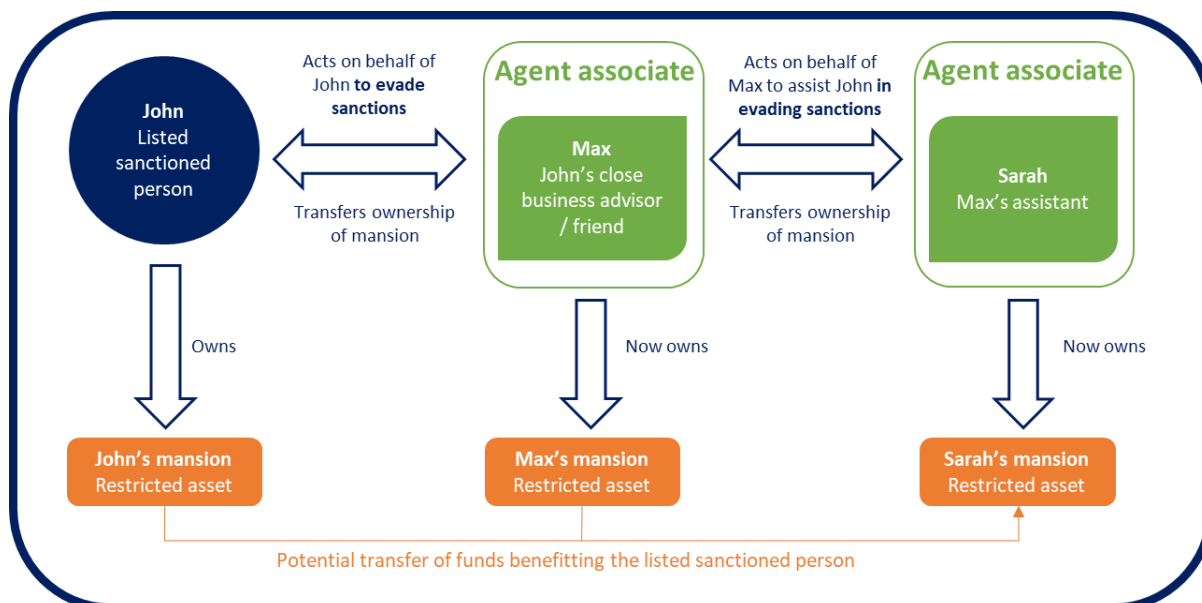


**Figure 2: Acting on behalf of – investing in a New Zealand company**

## EXAMPLE: USING ASSOCIATES TO EVADE SANCTIONS

Max is an old friend of John, who is a listed sanctioned person. Max sometimes carries out business transactions for John. Although Max is not a business associate as such and he is not employed by John or one of John's companies, through his personal relationship he is able to influence John's affairs. Max is not listed on the MFAT sanctions register, but he is helping John to evade sanctions by acting on John's instructions.

John trusts Max to protect his interests and so gifts him a mansion from his investment portfolio in order to continue receiving financial benefit from the now restricted property. Max decides to make it more difficult for anyone to establish a link between the mansion and John, so gifts the property to his assistant and instructs her to own it on John's behalf. Sarah is therefore also an agent associate and is helping John to evade sanctions, even though she is not listed on the MFAT sanctions register.



**Figure 3: Using agent associates to evade sanctions**

## 4.2 Entities that are 'owned or controlled'

In order to comply with sanctions, you or your business will need to assess whether the entity you are dealing with may be **owned or controlled** by a listed sanctioned person.

Entities include body corporates, corporation sole, trustees, partnerships, political organisations or associations, and Russian public bodies.

There are three circumstances in which a listed sanctioned individual or entity (person A) is considered to own or control an entity:

1. If person A has a beneficial entitlement to, or a beneficial interest in, 50% or more of the interests, or rights to participate, in any capital, earnings, royalties, or other asset of the entity (ownership).
2. If person A has the power to control the composition of 50% or more of the governing body of the entity (control).
3. If person A has the right to exercise, or control the exercise, of 50% or more of the voting power at a meeting of the entity (control).

In order to assess if a sanctioned person has ownership or control of an entity you will need to consider the ownership structure, the beneficial ownership of the entity (such as through a trust) and whether a listed sanctioned person or entity is in control such that affairs are conducted in accordance with their wishes.

If dealing with a **trust**, or a company owned or controlled by a trust, you should undertake due diligence on beneficiaries of the trust. This is because it is assumed a beneficiary will derive a benefit from any trust dealings by the mere fact of the trust-beneficiary relationship.

In some cases, it will help to consider sources of **de-facto power and control**, such as shareholder agreements, other memoranda of association, previously appointing a majority of members of the governing body, or using a front company or person to direct an entity. It may be necessary to

establish the identity of key people, including directors (including shadow or deemed directors), shareholder or senior managers or others with a dominant influence. Corporate structure and relational diagrams may help identify ownership/control and assist in understanding ownership/control structures.

We encourage an assessment of ownership and control of entities to be completed as part of your appropriate due diligence in line with the risk presented by the situation.

Ownership and control is not aggregated over multiple sanctioned persons. For example, you would not combine the shareholding from **two different** sanctioned individuals in one entity.

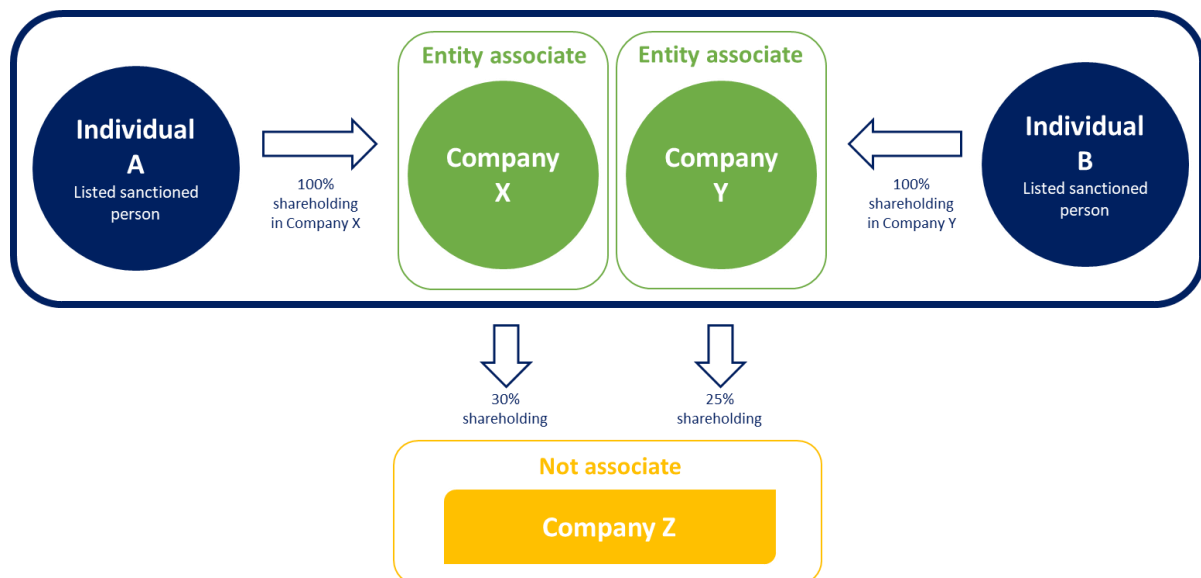
### EXAMPLE: COMPANY OWNERSHIP

- Sanctioned Individual A has a 100% shareholding in Company X.
- Sanctioned Individual B has a 100% shareholding in Company Y.
- Company X has a 30% shareholding in Company Z.
- Company Y has a 25% shareholding in Company Z.

In this example, you should focus on Company X as an associate of Individual A, and on Company Y as an associate of Individual B. Each sanctioned individual has 100% shareholding in each respective company.

But neither individual A nor B has 50% or more beneficial entitlement or interest in Company Z.

You should freeze any assets or dealings with Individuals A or B and Companies X and Y.

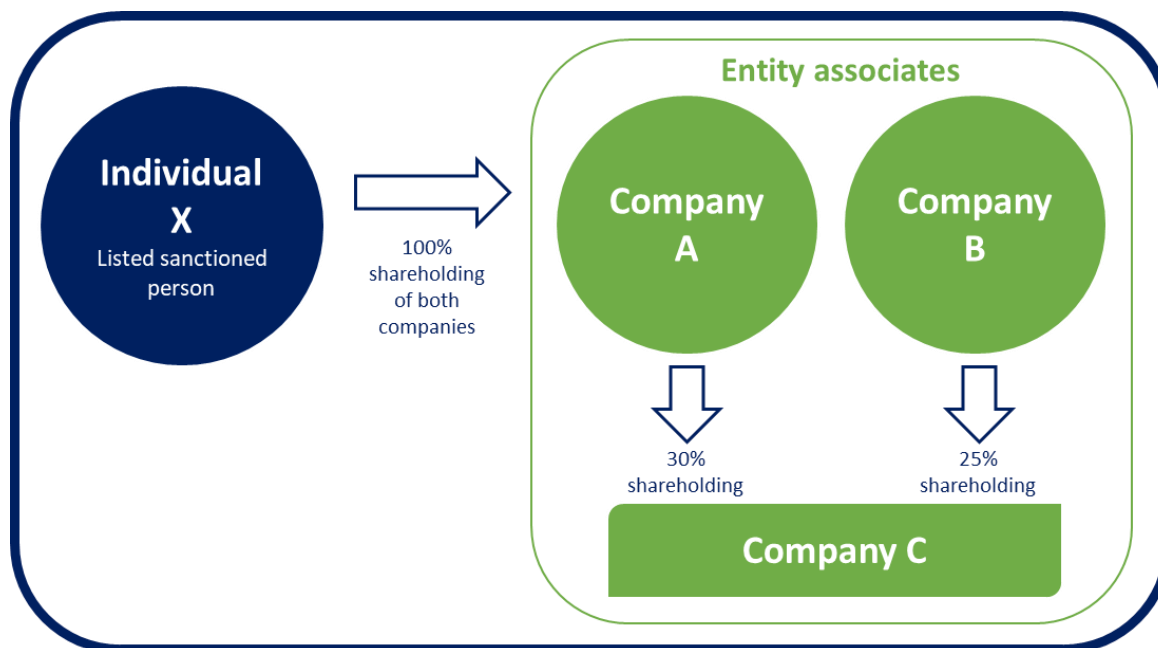


**Figure 4: Company ownership**

**EXAMPLE: AGGREGATED OWNERSHIP FOR ONE INDIVIDUAL**

- Sanctioned Individual X has a 100% shareholding of Company A and B.
- Company A has a 30% shareholding in Company C.
- Company B has a 25% shareholding in Company C.

Therefore Companies A, B and C are captured as associates of Individual X. Companies A and B are captured as associates because Individual X has a 100% shareholding in each of them. Company C is captured as an associate because Individual X has in aggregate a 55% controlling interest in it.



**Figure 5: Aggregated Company ownership**

#### 4.3 Senior managers are ‘able to exercise significant influence’

You should also consider whether your customer may be supporting evasion attempts via their senior management role in:

- A listed sanctioned business or organisation.
- A business or organisation that is owned or controlled by a listed sanctioned person.

A person is considered a senior manager of a company if they are a director of the company, or can exercise significant influence over the management or administration of the company either directly, or indirectly through another person.

There are three types of senior managers:

- **Directors** – this group includes those who have this function in a company, even if it is not their position title. This could include a member of the board of directors.
- **People in senior leadership positions** – this groups includes chief executives, partners, and those who occupy the top tiers in a management structure.

- **A person of significant influence** – this can include people who might not have a formal role in an organisation's structure but are able to significantly influence the management or administration of the company either directly or through another person. They might have this influence because they are a key investor or other person with equivalent powers to a top-tier manager despite holding no formal position in the entity.

#### 4.4 Which relatives are captured by sanctions?

You should consider whether your customer is a relative of someone named on the list and may be assisting their attempts at evasion. In the Russia sanctions context, relative means a spouse, child, sibling or parent and also de facto partners and stepchildren, step-siblings and step-parents.

#### EXAMPLE: RELATIVES

George contacts you from overseas to purchase insurance for a sea freight vessel. You check the New Zealand sanctions register on MFAT's website and find a listed sanctioned person, Denis, with the same surname as George.

You reply to George to ask if and how he is related to Denis. If he is an immediate family member, you should pause all your dealings with him and report to Police via the 105 line.

### 5. Other countries' sanctions

Your activities may be impacted or restricted beyond merely the sanctions imposed by New Zealand. If you do business with Russia, we suggest you also review other countries' sanctions and consider the impact these could have on your activities. Here are links to the Russia sanctions registers of New Zealand's like-minded partners:

- Australia:
  - [Sanctions on Russia](#)
  - [Consolidated List](#)
- [Canada](#)
- European Union:
  - [Sanctions adopted following Russia's military aggression against Ukraine](#)
  - [EU restrictive measures against Russia over Ukraine \(since 2014\)](#)
- [Japan](#)
- [Switzerland](#)
- [United Kingdom](#)
- United States of America:
  - [Sanctions and Export Controls on Russia](#)
  - [Office of Foreign Assets Control – Sanctions Programs and Information](#)





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