

EUROPEAN BANKING GUIDE FOR NONPROFITS

HOW TO OPEN AND MANAGE AN ORGANIZATIONAL BANK ACCOUNT



European Center for
Not-for-Profit Law



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POLAND

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European Center for
Not-for-Profit Law

European Center for Not-for-Profit Law Stichting (ECNL)

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1. OPENING AN ORGANIZATIONAL BANK ACCOUNT

a. What are the requirements to open an organizational bank account?

i. Do organizations have to be physically present in the country to open a bank account? I.e., can they operate in country X but have a bank account in country Y? Is the presence of a statutory representative required or can the presence be fulfilled through an authorization?

As a rule, organizations do not need to be physically present (operate their activity) in Poland, to open a bank account here.

ii. Are there specific requirements for CSOs to open accounts by law or asked in practice by the banks (e.g, years of operations, annual turnover, to have director or member of governing body to be national of the country)

No, there are no specific requirements for CSOs. Generally, common documents required by a bank to open an account are:

- CSO's articles of association;
- extract from the National Court Register (or other relevant register);
- identification documents of persons concluding the agreement on behalf of CSO.

However, please note that the scope of information/documentation which would be required by a particular bank may vary from case to case.

iii. Who is authorized/required to open a bank account? Can this be done online, or that person needs to be present in the country?

The bank account shall be opened by a representative of the CSO. As a market practice, they need to be present in the country. Some banks make the remote (online) process of bank account opening possible.

iv. What is the process of setting up a bank account? E.g., how long it takes, is there a practice to have an interview in the bank?

It strongly depends on the bank. Generally, it depends on the current workload of the specific bank and its internal practice and organization. It takes from a few days up to 1 month. There is a practice to have an interview with the bank. As regards opening a bank account through a remote (online) process, banks usually apply video-verification. The details of this process may vary from bank to bank.

2. BANKING ACTIVITIES

a. What customer due diligence requirements are in place and what is their impact on civil society organizations' banking activities?

Each bank is obliged to apply financial security measures towards all its clients. One of these measures is the assessment of clients' relationships and, if appropriate, the provision of information on their purpose and intended nature. In addition, banks shall undertake an ongoing monitoring of their client's relationship, including a verification of whether the transactions of the client correspond to its activity (Art. 34 par. 1 point 3 and 4 of the Anti-Money Laundering and Contravening of Terrorism Financing Act (please find a [link](#) to the latest consolidated version of this act). So banks need to have general knowledge of their clients' activity in order to be able to assess whether the transactions correspond to declared activities.

b. Which internal principles or official (central bank) "suspicious transaction" monitoring criteria are in place affecting the civil society organizations? Is it publicly available?

Criteria for "suspicious transactions" monitoring are generally unified for all obliged institutions, referred to in the Anti-Money Laundering and Contravening of Terrorism Financing Act.

According to the above-mentioned act, all banks operating in Poland are compelled to adopt these criteria. It should be also noted that some CSOs (associations, foundations) may also qualify as obliged institutions if they accept or make cash payments in the amount equal to or exceeding EUR 10,000.

c. Do the banks in the country of operations have any restrictions/limitations to bank transactions and transfers to certain jurisdictions (such as high-risk ones).

i. If yes, is the list of jurisdictions publicly available?

Yes, the European Commission is entitled to identify high-risk third countries. It publishes the list of high risk countries by its Commission Delegated Regulation (EU) 2016/1675 (please find a [link](#) to the latest consolidated version of this act).

The General Inspector of Financial Information is also entitled to publish a list of sanctioned persons or entities (please find a [link](#) to the official communication in this regard).

In addition, we know from our experience that banks also have their internal sanction lists (sometimes applicable on a bank's group level) which they follow.

ii. What would be the procedures the bank would follow in this case for their CSO clients?

The banks in Poland must execute their obligations resulting from the Anti-Money Laundering and Contravening of Terrorism Financing Act. This legal act determines the actions that a bank must take in case its client or client's activities relates to AML risks (for example, it has a relationship with a country included in the binding sanction list).

The above mentioned actions include, in particular:

- collecting additional information on the customer, beneficial owner and intended nature of economic relationship;
- collecting information on the customer's and beneficial owner's source of wealth and on the source funds at disposal in the course of business relationship or transaction;
- collecting information on reasons and circumstances of intended or conducted transactions;
- obtaining approval from the senior management to enter into or continue a business relationship;
- intensifying application of the ongoing monitoring of the client's business relationship by increasing the number and frequency of monitoring and increasing the number of transactions selected for further analysis;
- carrying out ongoing analysis of transactions undertaken;

- in case of identified AML risks relating to a transaction, adopting at least one action mitigating the risks; taking additional action as part of the enhanced financial security measures in place; introducing enhanced reporting or transaction reporting obligations; and/or limiting the scope of the business relationships or transaction.

3. OBLIGATIONS AND REPORTING REQUIREMENTS

a. Are banks required to provide CSO clients' financial information to CSO regulatory authorities or public officials? If yes, under what circumstances must banks do so, and what types of information must they provide?

The Banking Law Act dated 29 August 1997 (“Banking Law”) (please find a [link](#) to the latest consolidated version of this act) stipulates that banks, persons employed, as well as persons through whom the bank performs banking operations are required to preserve banking secrecy. Banking secrecy covers all information concerning the banking operation obtained in the course of negotiations, during the conclusion and execution of the contract on the basis of which the bank performs the said operation.

The Banking Law provides a detailed list of (public) entities and sets out the circumstances in which they may effectively request information covered by banking secrecy to be disclosed. In cases where such requests are submitted to the bank by a public authority on the basis of the Banking Law, the bank generally has no other option than to disclose such data to the requesting authority. enlists persons/units and provides for situations where a bank is required to disclose information constituting banking secrecy. See further information on this in section 3.b.

b. What obligations do banks have to protect the privacy of clients' information?

As mentioned in item 3 a. above, Polish banks have a broad obligation to retain confidentiality of data covered by banking secrecy. This obligation is treated very seriously by banks in Poland as non-compliance with this obligation may potentially result in administrative and criminal sanctions.

The Banking Law provides a close-ended list of situations when the bank must disclose data covered by banking secrecy (for example upon a request of specific public authority, on the basis of a written or electronic consent of the bank's client; see also above).

Also, in the event there is justified suspicion that the bank's activity is being taken advantage of for the purpose of concealing criminal actions or for purposes connected with a fiscal offence - the bank should notify the public prosecutor, the police or another competent authority authorized to conduct preparatory proceedings and in that case may reveal information covered by banking secrecy. In addition, banks should notify the General Inspector of Financial Information (AML public authority) of any circumstances which may indicate that the criminal offence of money laundering or terrorist financing has been committed.

On the other hand, the General Data Protection Regulation (GDPR) protects fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data.

c. Are there specific reporting obligations for banks to inform governments on civil society banking in certain circumstances?

Please refer to point b. above.



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