

EUROPEAN BANKING GUIDE FOR NONPROFITS

HOW TO OPEN AND MANAGE AN ORGANIZATIONAL BANK ACCOUNT



European Center for
Not-for-Profit Law



PILnet



UNITED KINGDOM

Law firms participating in this research are not liable towards third parties for the accuracy of the information contained in this guide. The research cannot be considered as legal advice. It was carried out in 2022 and responds to the regulatory framework on organizational banking in this time period. If you have further queries please reach out to our clearinghouse for legal help.



European Center for
Not-for-Profit Law

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

ECNL's mission is to create legal and policy environments that enable individuals, movements and organizations to exercise and protect their civic freedoms and to put into action transformational ideas that address national and global challenges. We envision a space in which everyone can exercise their rights freely, work in solidarity and shape their societies.



PILnet

PILnet

PILnet is a global non-governmental organization that creates opportunities for social change by unlocking law's full potential. With programs in Europe & Eurasia, Asia, and at the global level, PILnet aims to reclaim and reimagine the role of law so that it works for the benefit of all. PILnet builds networks and collaborations of public interest and private lawyers who understand how law works when it serves the interests of the privileged and then it uses that knowledge to strengthen civil society and the communities they serve. PILnet not only obtains high-quality, free legal assistance for civil society organizations when they urgently need it but also helps organizations to capitalize on the full range of specialized legal expertise that can be provided by corporate lawyers, including against ongoing, or even yet-to-be-determined, challenges.

© 2022 by the European Center for Not-for-Profit Law Stichting (ECNL), PILnet and Partnering Law Firms.

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?

Organizations do not have to be physically present in the UK to open a UK bank account however it is likely they will require to have some UK operations; UK ownership; or the UK control to open a bank account in the UK.

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)

The application can be made by one or more person who is authorized to act on behalf of the CSO to the bank along with the requested documentation. The criteria may vary from bank to bank but generally is as set out above and will include the following:

- Proof of authority allowing the individuals to act on behalf of the CSO;
- Proof that your CSO is a voluntary, non-profit-making organization and not a private business;
- Your CSO must have met the requirements relating to turnover or income set by the bank you are applying to. The annual turnover may vary depending on the bank;
- You will be asked for constitutive documents of the CSO which may include one of the following depending on the type of organization you represent:
 - Copy of your group's Constitution; or
 - Charity Registration confirmation / Trust deed (if group is a charity); or

- Memorandum and Articles of Association (if the group is a limited company);
- Personal details for all people who will act as signatories on the account;
- Some banks may require other information (such as minutes of meetings authorizing the opening of the accounts, for example).

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 application to open a bank account can be made by one or more person who is authorised to act on behalf of the CSO. It may be possible for some banks where, for example, one of the signatories is an existing customer of that bank however in most case you will be required to be physically present and to visit the bank in person to open an account. Once opened, most accounts can be managed online.

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?

An application should be made by a person authorized to act on behalf of the organization. It is estimated to be a minimum of four weeks. The process and how long it takes will vary between banks but can take several weeks or even a few months. Delays or failure to complete or provide documentation requested by the relevant bank will slow down the process.

2. BANKING ACTIVITIES

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

UK banks need to comply with UK anti-money laundering regime and Know Your Customer (KYC) requirements in respect of all customers and civil society organizations will be treated in the same way as any other customer. Banks in the UK need to comply with various requirements including regimes under the Sanctions and Anti-Money Laundering Act 2018 (the Sanctions Act) and under other UK legislation such as the Export Control Order 2008 and the Anti-Terrorism, Crime and Security Act 2001.

The UK anti-money laundering regime and requirements are set out in a number of different Regulations. The most recent and up to date piece of legislation on anti-money laundering (AML) in the UK is **The Money Laundering and Terrorist Financing Regulations 2019**: <https://www.ifa.org.uk/technical-resources/aml/whistleblowing/money-laundering-regulations-2019>

Banks are required to carry out due diligence to verify the identity of new clients, to verify that funds deposited are from a legitimate source, to understand the nature of their client's business and to carry out on-going monitoring to identify suspicious transactions.

CSO's will be required to provide all documentation and evidence to allow the bank to satisfy its KYC anti-money laundering and other due diligence requirements and will be unable to open a bank account or process certain transactions until these requirements have been satisfied.

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

This is proprietary information however monitoring will be applied to civil society organizations and will be in line with the requirements of the UK anti-money laundering regime. At a minimum, banks will be required to conduct ongoing monitoring to identify and report suspicious transactions and screen customers against sanctions.

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?

Each bank will keep a list of restricted countries however sanctions are in line with UK Sanctions Regime. A generic link to the UK Government Sanctions site is included: <https://www.gov.uk/government/collections/uk-sanctions-regimes-under-the-sanctions-act>

The relevant bank may disclose this to customers as part of the account opening process or upon request in their discretion however the restrictions / limitations will be in line with the UK Sanctions regime.

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

Standard policies and procedures would be followed, and the relevant bank would apply sanctions and necessary restrictions to comply with UK anti-money laundering regime requirements and any other relevant regulations. The procedures would not be specific to CSO's. There may be some restrictions on certain high-risk countries. The relevant bank may be able to provide further details of countries that have been designated "high-risk".

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 bank would be required to comply with its own regulatory reporting requirements including financial regulators and tax authorities. The CSO itself may have some reporting requirements however there is no specific regulatory authority in the UK that banks would have to report CSO clients' information.

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

All UK Banks have a duty of confidentiality towards clients and to maintain confidentiality. UK Banks are required under the UK Data Protection Act 2018 to protect personal data and comply with the data protection principles and requirements contained in this regulation. Banks may be required to disclose certain information if they are legally required to do so and may share certain information with your consent. <https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

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

No specific reporting obligations apply to civil society banking. Standard requirements apply.

d. Are you aware of any change in regulation/practice due to the Russian sanctions?

The sanctions imposed are complex but in high level terms there are similarities between the UK and EU in relation to sanctions and the financial sanctions imposed restrict dealings by UK entities with certain Russian individuals and businesses. Russian nationals will be prohibited from having significant savings in UK bank accounts and a limit of £50,000 on Russian citizens' deposits has been introduced. As with the EU position, the package of sanctions put in place by the UK will limit UK banks' appetite to accept new business from Russian clients.



European Center for
Not-for-Profit Law

European Center for Not-for-Profit Law Stichting
5 Riviervismarkt, 2513 AM
The Hague, Netherlands
www.ecnl.org
twitter.com/enablingNGOlaw



PILnet
199 Water Street, 11th Floor
New York, NY 10038 U.S.A.
<https://www.pilnet.org>
twitter.com/PILnet