

# EUROPEAN BANKING GUIDE FOR NONPROFITS

## *HOW TO OPEN AND MANAGE AN ORGANIZATIONAL BANK ACCOUNT*



European Center for  
Not-for-Profit Law



**PILnet**



**IRELAND**

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European Center for  
Not-for-Profit Law

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### **PILnet**

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# 1. OPENING AN ORGANISATIONAL BANK ACCOUNT

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

i. Do organisations 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?

In brief, presence cannot be fulfilled through an authorization. Currently, organizations have to be physically present in Ireland to open a bank account. Where a CSO is looking to open an Irish bank account, representatives from the CSO will be required to attend the Bank in person. The Bank will typically seek copies of address and identity verification documents. The person's identity must be verified to the Bank's satisfaction before the account(s) can be opened in accordance with the Irish Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 to 2021 (the Acts).<sup>1</sup>

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)

There are no specific requirements imposed by law on CSOs when opening a bank account. A Bank will ask the CSO to provide the following main categories of information (in addition to basic information in relation to the CSO):

- CSO's main activity;
- CSO's time in business;
- CSO's expected annual return;
- Type of transactions expected (cash, cheque, electronic, international payments, DD/SO);

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1 <https://www.irishstatutebook.ie/eli/2021/act/3/enacted/en/print.html>

- Certified list of Elected Officers/Committee Members/ Authorized Signatories and Certified list with details of all the Committee Members / Elected Officers (as the case may be) of the organisation and details of any beneficial owners.\*

\* Beneficial Owners are those individuals who ultimately own or control 25% or more share of the capital or profit or voting rights in the organisation, or who otherwise exercise control over the management of the organisation. Generally, this information will not be required for non-profit making clubs/societies with a constitution or rules / non-legal entities. For example, registered associations and foundations that are non-profit making in Ireland are not required to maintain a beneficial ownership register.

**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?**

In brief, the requirement to be present to open a bank account will not be satisfied by signing paperwork at an embassy or notary. Typically Bank policy dictates that individuals opening the account on behalf of the CSO will have to present at a branch of the bank in question i.e. two people who are Committee Members / Elected Officers of the organisation / two people who are Authorised signatories. Accordingly, it is unlikely that presence can be fulfilled by signing the paperwork at an embassy or notary.

**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?**

This usually takes approximately two weeks and the Bank will typically expect representatives of the CSO to attend a branch of the Bank for a meeting. The Bank is likely to query the purpose of the account opening, further details in relation to the CSO, verification of the identities of those opening the bank account i.e. passport, utility bill.

## 2. BANKING ACTIVITIES

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

CSOs are not subject to specific due diligence requirements. However, in accordance with the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 to 2021<sup>2</sup>, a Bank is legally required to identify its customers. Before opening an account the Bank will need proof of the identities and the current permanent residential address of each of the following:

- Two people who are Committee Members / Elected Officers of the CSO;
- Two people who are authorised signatories;
- Beneficial Owners\* (if requested by the Bank).

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

There are no specific rules for CSOs with respect to suspicious transaction reporting. The Acts sets out the obligations on Banks in relation to suspicious transaction reporting. A Bank that knows, suspects or has reasonable grounds to suspect, on the basis of information obtained in the course of carrying on business as a "designated person", that another person has been or is engaged in an offence of money laundering or terrorist financing shall report to An Garda Síochána and the Irish Revenue Commissioners that knowledge or suspicion or those reasonable grounds. Section 42 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 provides that a bank may have reasonable grounds to suspect that another person has been or is engaged in an offence of money laundering or terrorist financing if the customer fails to provide the designated person with documents or information. Banks will take a risk based approach to suspicious transaction monitoring. Irish Banks are obliged to make suspicious transactions reports (STRs) to both the Financial Intelligence Unit (FIU) of An Garda

<sup>2</sup> <https://www.irishstatutebook.ie/eli/2021/act/3/enacted/en/html>

Síochána (Irish police force) and Irish Revenue if they know, suspect, or have grounds to suspect that a client has been or is engaged in money laundering or terrorist financing.<sup>3</sup>

Banks are required to submit all Irish STRs to Irish Revenue, using Revenue's Online Service (ROS). The Central Bank of Ireland published Anti-Money Laundering and Countering the Financing of Terrorism Guidelines for the Financial Sector ("the Guidelines") on 6 September 2019, which were revised on 23 June 2021.<sup>4</sup>

The Guidelines set out the expectations of the Central Bank in respect of credit and financial institutions compliance with their AML/CFT obligations as set out in Acts.

**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?**

The European Union has identified high-risk third countries with strategic AML/CFT deficiencies that are set out publicly.<sup>5</sup>

These rules are legally binding on member states and must be complied with by designated persons i.e. Banks.

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

All financial institutions, such as banks, have to combat money laundering and terrorist financing, irrespective of whether the customer is a CSO. This is done by identifying our customers and reporting suspicions of money laundering and terrorist financing to the Gardaí and Revenue in line with the Acts. Under the Acts, Banks have to make sure of certain things about the customer and their money before they open and use an account specifically:

- Know the customer;

<sup>3</sup> The Acts set out a reasonableness test as further outlined in s. 42 of the Criminal Just (Money Laundering and Terrorist Financing) Act 2010 - link here: <https://www.irish-statutebook.ie/eli/2010/act/6/section/42/enacted/en/html>

<sup>4</sup> <https://www.centralbank.ie/docs/default-source/regulation/amld-guidance/anti-money-laundering-and-countering-the-financing-of-terrorism-guidelines-for-the-financial-sector.pdf?sfvrsn=9>

<sup>5</sup> [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/anti-money-laundering-and-countering-financing-terrorism/eu-policy-high-risk-third-countries\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/anti-money-laundering-and-countering-financing-terrorism/eu-policy-high-risk-third-countries_en)

- Establish and verify their identity;
- Understand the purpose and nature of the relationship with the customer and the expected use of their account;
- Understand the source of funds to the account and where required the customers' source of wealth;
- Monitor the relationship with the customer and their accounts.

### 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?**

A Bank will be required under the Acts to seek answers to certain questions for the purpose of identifying accounts holders, the details of which are reportable to Irish Revenue who may exchange these details with other tax authorities in relevant jurisdiction(s) and may include the following in respect of representatives of the CSO: name, address, tax identification number (TIN/TRN), date of birth, place of birth, account numbers of each of the accounts held by the Incorporated Society, account balance or value at year end of each of the accounts and payments made with respect to each of the accounts during the calendar year.

Depending on the structure of the CSO i.e. if unincorporated, FACTA/CRS requirements may not apply.

If the CSO is Irish incorporated, certain filings will need to be made with the Irish Companies Registration Office. Similarly, if the society has charitable status with the Irish Charities Regulator, further filings will need to be made with that body.

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

Banks have a duty to maintain client confidentiality with respect to clients including representatives of the CSO. Banks may only disclose customer related information if they are legally required to do so under particular legislation or by court order.

Although the GDPR is directly applicable as a law in all Member States, it allows for certain issues to be given further effect in national law. In Ireland, the national law, which, amongst other things, gives further effect to the GDPR, is the Data Protection Act 2018.<sup>6</sup> This means that every individual is entitled to have their personal information protected, used in a fair and legal way, and made available to them when they ask for a copy. If an individual feels that their personal information is wrong, they are entitled to ask for that information to be corrected.

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

No, there are no specific reporting obligations in this context. The general rules apply.

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

The latest measures include restrictions on individuals and entities associated with the situation in Ukraine. EU Council Regulations<sup>7</sup> have direct effect in Ireland and, therefore, must be complied with by all Irish natural and legal persons i.e. Banks, in the same way as domestic Irish legislation. Banks must ensure that they are compliant with these new financial sanctions. Compliance will necessitate conducting ongoing monitoring of transactions and customers.

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<sup>6</sup> <https://www.irishstatutebook.ie/eli/2018/act/7/section/69/enacted/en/html#part5>

<sup>7</sup> Council Regulation (EU) 2022/259 of 23 February 2022 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

Council Implementing Regulation (EU) 2022/260 of 23 February 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.





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