

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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RUSSIA

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European Center for
Not-for-Profit Law

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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?

The organization does not have to be physically present in Russia to open a bank account. However, the organization should be registered by the tax authorities in Russia to be able to open a bank account. Registration with the tax authorities can be done either on the application of the organization and/or on application of the bank opening the account.

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 for CSOs to open a bank account based on their non-profit status.

The absence of specific rules for CSOs may bring about some practical problems. For example, there is a general requirement that the bank should take reasonable steps to identify the beneficiaries of their clients. No exception is made for CSOs. The beneficiary is a natural person which owns the legal entity (keeps more than 25% in share capital) directly or indirectly (through a third person) or has control over the activities of the legal entity. However, due to their nature many CSOs do not have beneficiaries. The possible solution is to identify the director as a beneficiary.

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 the bank can be made by any person who is duly authorized to act on behalf of the organization. It can be either an executive of the organization or a representative

acting on the basis of a power of attorney. In the latter instance, the power of attorney should be issued in front of a notary and be duly legalized (or have an apostille on it) if it is issued in another country than Russia. Also, many banks require an appointment order confirming the position of the representative in the organization and the copy of the executive's passport certified by a notary if the application is done by a representative acting on the basis of a power of attorney.

A person opening the account on behalf of the organization will have to present personally at a branch of the bank for signing all the documents.

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?

To open a bank account, the organization should complete and submit to the bank an application together with some other forms requested by the bank and the supporting documents, which are usually the following:

- documents certifying a legal status of the organization (certificate of incorporation, Articles of Association, certificate of shareholders, extract from the registry of legal entities etc.);
- certificate confirming registration with tax authorities in Russia;
- banking sample signature and seal card;
- documents confirming the powers of the directors or other executives as well as other persons indicated in the banking sample signature card;
- copies of IDs of the directors or other executives of the organization;
- IDs of the persons who should be authorized to manage an account (all of them should be included in the banking sample signature card);
- recommendation letter from another bank where the organization has an account or from another client of the bank confirming long standing relations with the organization.

In general, all the copies should be certified by a notary and be accompanied by a translation to Russian which should be also certified by a notary.

After an application with all the supporting documents is submitted to the banks, it usually takes 1-2 weeks for the bank to make a decision and open an account. The time may vary from bank to bank and depends on the internal procedures of the bank as well as complexity of the case.

2. BANKING ACTIVITIES

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

The most important rules on customer due diligence are provided in Federal Law # 115-FZ on Anti Money Laundering and Counter-Terrorist Financing (“Law #115-FZ”).

General due diligence obligations of the banks and other financial institutions, provided in Article 7 of Law #115-FZ”, include the following:

- identifying the customer and (or) the beneficiary of the customer, if the customer is a legal entity (this is the case for CSOs), identifying the name, legal form, tax identification number and foreign entity number, web-address and for foreign entities also registration numbers, place of registration and registration address in a country where the entity is incorporated;
- taking all available measures to identify beneficiaries of the customer;
- updating regularly information on the customer but at least once a year;
- assessing a risk level of committing suspicious transactions by the customer. The customer should cooperate with the banks providing all requested information and keeping the bank updated on all changes in the information provided previously.

There are no specific due diligence requirements for CSOs.

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

Article 6 of Law #115-FZ provides a list of transactions which are subject to the compulsory monitoring by the banks. The most relevant for CSOs are the following:

- Transactions in the amount exceeding 600.000 Roubles (in the near future the threshold should be increased to 1.000.0000 Roubles) if one of the parties (sender or recipient) is from the country that does not follow the recommendations of FATF or if the transactions are processed through the banks in these countries. The list of the countries is approved by the Government and, right now, includes two countries from FATF’s black list: Iran and North Korea.
- **All transactions of non-commercial entities.**
- All the income transactions received from the countries included in the special list approved by a competent authority. Access to the list of the countries is restricted and it is communicated to the banks through the special channels.

However, temporarily, until December 31, 2022, the Central Bank does not impose liability on the banks for infringing the monitoring obligations in two latter instances.

The criteria for suspicious transactions (which are different from mentioned above) are provided in the Regulation of the Central Bank # 375-P dated March 2, 2012. The document is available on the Internet for free, for example, here <https://base.garant.ru/70162622/>.

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?

Generally, the banks have internal restrictions/limitations for transactions to certain jurisdictions as part for ensuring their compliance with monitoring obligations. These restrictions/

limitations can be expected to be based on FATF's black and gray lists.

In response to the sanctions imposed on Russia, the Central Bank put restrictions on transactions for foreign entities incorporated in one of the countries from the list of unfriendly countries.

The list of the countries which are considered to be unfriendly is approved by the Order of the Government of the Russian Federation # 430-p (the Order can be found here: http://www.consultant.ru/document/cons_doc_LAW_411064/e8730c96430f0f246299a0cb7e5b27193f98fdaa/#dst100008) and includes the following countries:

- Australia
- Albania
- Andorra
- Bahamas
- Great Britain (including the island of Jersey (crown possession of the British crown) and controlled overseas territories – the island of Anguilla, the British Virgin Islands, Gibraltar)
- Member States of the European Union
- Iceland
- Canada
- Liechtenstein
- Micronesia
- Monaco
- New Zealand
- Norway
- The Republic of Korea
- San Marino
- North Macedonia
- Singapore
- United States of America
- Taiwan (China)
- Ukraine
- Montenegro
- Switzerland
- Japan

The legal entities incorporated in one of the countries from the list are not allowed to transfer money abroad. The restriction is valid until September 30, 2022.

There are also some restrictions under foreign exchange control legislation. The general rule is that transactions between residents and non-residents can be done without limitations (Article 6 of the Federal Law # 173-FZ on Foreign Exchange Control Regulation) but still the banks can request the document confirming the transaction and its legality.

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

The banks will follow the general procedures for suspicious transactions, usually there are no special rules for CSOs.

In the case of suspicious transaction the bank most likely will:

- freeze (block) a transaction;
- request the documents explains/confirming the legality of the transaction;
- refuse to make a transaction;
- block and/or close an account.

In any case all suspicious transactions should be reported by the bank to Rosfinmonitoring. If the transaction is considered to be against currency control regulations, the client can be liable to administrative measures including fines.

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?

As a general rule, a bank has a duty of confidentiality towards its clients. It means that the bank can and should provide any information about its clients to any third party, including public officials, only when it is directly required by law.

Article 26 of the Federal Law # 395-1 on Banks and Banking

Activities (“Law #395-1”) provides a detailed list of entities and sets out the circumstances in which the information should be disclosed. The list contained in Article 26 of Law #395-1 is not numerous clauses and other instances, when the disclosure is compulsory, can be provided by other laws. The list is not exhaustive. Here are some examples:

- the tax authorities can receive information on transactions and accounts belonging to a legal entity to confirm the fact of withdrawal of amounts of taxes, fees, penalties and fines from the account of the taxpayer and transfer of these amounts to the budget of the Russian Federation (Article 31 of the Tax Code of the Russian Federation);
- the courts can receive information on transactions and accounts belonging to a legal entity if this information is required as evidence (Article 57 of the Civil Procedure Code of the Russian Federation);
- the court bailiffs can receive information on type and number of the accounts, the amounts of money and cash flow reports on the accounts (Article 69 of the Federal Law # 229-FZ on Enforcement Procedure).

Information about all transactions and accounts of non-profit organizations, including CSOs, should be provided to the public authority supervising non-profit organizations on its request. It is also stated in Article 37 of the Federal Law # 7-FZ on Non-commercial Entities that a competent authority can request and receive from any financial organizations any information on financial activities of non-profit organizations. Supervising body for non-profit organizations is the Ministry of Justice.

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

The banks have a duty to keep confidential information about clients' bank accounts, all the transactions, and clients' personal data (Article 26 of Law #395-1, Article 857 of Civil Code). It means that confidential information can be revealed only to the clients and their representatives. Other persons and entities can receive information, which is subject to the bank secrecy, only if and when such right is granted to them under the law or under the contract with the client.

The banks should also fulfill general requirements of the Federal Law # 152-FZ on Personal Data in accordance with which all personal data is considered to be confidential and can be disclosed to the third party only with consent of the person or when it is stipulated by law.

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

No, there is no such obligation.

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

As a response to the sanctions imposed on Russia, the Central Bank adopted several regulations with restrictions on transactions for foreign entities.

- Non-residents (Legal entities) are not allowed to receive cash in USD, JPY, GBP and EURO from their accounts in Russian banks (official information from the Central Bank as of March 10, 2022, <https://www.cbr.ru/press/event/?id=12749>).
- Foreign entities from unfriendly countries are not allowed to buy foreign currency (Resolution of the Board of Directors of the Central Bank as of April 1, 2022 https://www.cbr.ru/about_dir/dir/rsd_2022-04-01_01/, for a list of unfriendly countries, please, see question 2.c).
- Foreign entities from unfriendly countries are not allowed to make any transfers of funds from their accounts in Russia to foreign accounts until September 30, 2022 (official information from the Central Bank as of May 16, 2022 <https://www.cbr.ru/press/event/?id=12878>).

As a result of the sanctions some of the transactions are impossible or hindered in practice even if there are no official restrictions.

- Visa, MasterCard and American Express suspended all operations in Russia as a consequence Visa, MasterCard and American Express cards issued abroad do not work in Russia and the cards issued in Russia do not work in all other countries as well as for international online payments.

- Some of the Russian banks are removed from Swift which means that any transfer of funds from accounts in these banks to foreign accounts is significantly hindered.
- The correspondent accounts of some Russian banks have been closed which means that any transfer of funds from accounts in these banks to foreign accounts in corresponding currency is impossible.



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