

# ASIAPAC BANKING GUIDE FOR NONPROFITS


*HOW TO OPEN AND MANAGE AN ORGANIZATIONAL  
BANK ACCOUNT*



**MALAYSIA**



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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?

No. Generally, a non-resident organization who is not physically present in Malaysia can still open a bank account in Malaysia, subject to bank-specific requirements.<sup>1</sup>

Under the “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions” policy document issued by the Central Bank of Malaysia (Bank Negara Malaysia (“BNM”)),<sup>2</sup> the banks in Malaysia are legally permitted to establish non-face-to-face (“non-FTF”) business relationships with their customers. Thus, an organization can open a bank account in Malaysia even though it does not have operations/presence in Malaysia.

However, the procedure may be more cumbersome and different banks may have their own process and requirements.

According to the Central Bank of Malaysia’s policy document, banks are required to first obtain approval from their Board prior to implementing non-FTF business relations and must comply with any additional measures imposed on the implementation of

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1 BNM, Investing in Malaysia by Non-Resident (Notice 3), Question 3 ([https://www.bnm.gov.my/documents/20124/60360/FAQs\\_Non-Resident+Investing+in+Malaysia.pdf](https://www.bnm.gov.my/documents/20124/60360/FAQs_Non-Resident+Investing+in+Malaysia.pdf)); <https://wecorporate.com.my/guides/how-to-open-corporate-bank-account-malaysia/>

2 BNM, “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions” (<https://www.bnm.gov.my/documents/20124/938039/AMLCFT+PD.pdf>)

non-FTF as deemed necessary by the Central Bank of Malaysia, including implementing one of the following measures to identify and verify the customer's identity: (a) establishing independent contact with the customer; (b) verifying the customer's information against reliable and independent sources to confirm the customer's identity and identifying any known or suspected ML/TF risks associated with the customer; or (c) requesting, sighting and maintaining records of additional documents required to perform face-to-face customer verifications.<sup>3</sup>

In practice, banks generally require the director or authorized person to be physically present at the bank at the time of opening the bank account. Additionally, these persons must not be individuals who have been declared bankrupt or been blacklisted by the Central Bank of Malaysia. Some banks may require visits to the company's physical office before processing the bank account opening application.

**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. Malaysian banking law does not impose any specific requirements for civil society organizations ("CSO") to open accounts. Thus, the same requirements for account opening applicable for corporate organizations would also apply to CSOs (for example, legislation on anti-money laundering or countering financing of terrorism ("AML/CFT")).

**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?**

Authorized signatories can open a bank account. In practice, banks generally require the directors and authorized persons of the organization to be physically present at the bank at the time of opening the bank account. You can usually start an application online but may still be required to visit the branch to submit the documents and to verify identity to complete the account opening process.

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<sup>3</sup> BNM, "Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions", paragraph 14A.15

We have not come across any circumstances where banks have allowed for physical signing for the purposes of opening bank accounts to be done before a notary or through the embassies.

#### **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 in-person interview is likely required, but this can vary from bank to bank.

Normally, it would take approximately 6 to 12 weeks to complete the process of opening a corporate account.<sup>4</sup> However, the precise term depends on the bank chosen. It may take longer if you are not physically present in Malaysia, and the chances of approval would be lower.<sup>5</sup>

Generally, the process involved in setting up a bank account are as follows:

1. Complete the bank's application form (For some banks, this step can be done online).
2. Submit the requested documents (this may vary from bank to bank).
3. Attend an interview with the bank (as stated above, the interview will generally be conducted in-person).
4. The bank will carry out the necessary check and customer due diligence <sup>6</sup>(the higher the money laundering/terrorism financing risks, the more stringent/vigorous the due diligence/background checks are).
5. Provide proof of funds that the initial deposit can be made.

The documents required may vary depending on the bank you are opening an account with.<sup>7</sup>

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4 GlobalBanks, Company Bank Account in Malaysia [Banking in Malaysia] (<https://globalbanks.com/company-bank-account-malaysia/>)

5 WeCorporate, How to Open a Corporate Bank Account in Malaysia, (<https://wecorporate.com.my/guides/how-to-open-corporate-bank-account-malaysia/>)

6 BNM, "Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions", paragraph 14

7 GlobalBanks, Company Bank Account in Malaysia [Banking in Malaysia] (<https://globalbanks.com/company-bank-account-malaysia/>)

## 2. BANKING ACTIVITIES

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

In Malaysia, customer due diligence (“CDD”) requirements are primarily governed by the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (“AMLATFA”).<sup>8</sup>

For anti-money laundering purposes, reporting institutions are required to identify and verify their customers' identities to ensure they are who they claim to be. This includes knowing the:

1. identity of customers;
2. identity of beneficial owners, i.e., the people behind the transaction;
3. identity of the person conducting the transaction if the transaction is done on behalf of someone else or the person is a representative appointed by a legal person; and
4. the purpose i.e., why the transaction is undertaken.

A simplified list of information necessary to identify and verify customers' and beneficial owners' identities can be found in Central Bank of Malaysia's “Infographic on Customer Due Diligence”,<sup>10</sup> with full guidelines being available in the “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions” policy document.

CSOs will be required to provide relevant identification documents, including the Certificate of Registration, identification documents of office bearers, and other constituent documents. The bank will also be required to take reasonable measures to identify and verify the beneficial owners of the CSOs (whether they are individuals, legal persons, or legal arrangements), which will include the identity of other members

<sup>8</sup> AMLATFA, Section 16. [https://amlcft.bnm.gov.my/documents/6312201/6321213/Anti-Money+Laundering%2C+Anti-Terrorism+Financing+and+Proceeds+of+Unlawful+Activities+Act+2001+\(AMLATFA\).pdf](https://amlcft.bnm.gov.my/documents/6312201/6321213/Anti-Money+Laundering%2C+Anti-Terrorism+Financing+and+Proceeds+of+Unlawful+Activities+Act+2001+(AMLATFA).pdf)

<sup>9</sup> BNM, AML/CFT Malaysia, Customer Due Diligence, <https://amlcft.bnm.gov.my/customer-due-diligence>

<sup>10</sup> BNM, “Infographic on Customer Due Diligence”, <https://amlcft.bnm.gov.my/documents/6312201/6321409/iii%20INFOGRAPHIC%20CUSTOMER%20DUE%20DILIGENCE.pdf>



with effective control of the CSOs.<sup>11</sup>

In conducting CDD for individuals or beneficial owners, at a minimum, banks are required to request the following information:<sup>12</sup>

1. full name;
2. National Registration Identity Card (NRIC) number or passport number or reference number of any other official documents of the customer or beneficial owner;
3. residential and mailing address;
4. date of birth;
5. nationality;
6. occupation type;
7. name of employer or nature of self-employment or nature of business;
8. contact number (home, office or mobile); and
9. purpose of transaction.

In conducting CDD for legal persons (e.g., company/business) or legal arrangements (e.g., trust), banks are required to request the following information, including:<sup>13</sup>

1. name, legal form and proof of existence, such as Certificate of Incorporation/Constitution/Partnership Agreement (certified true copies/duly notarized copies, may be accepted) or any other reliable references to verify the identity of the customer;
2. the powers that regulate and bind the customer such as directors' resolution, as well as the names of relevant persons having a Senior Management position;
3. the address of the registered office and, if different, a principal place of business; and
4. the person authorized to represent the company or business either by means of a letter of authority or directors' resolution when dealing with such person.

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11 BNM, "Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions", paragraphs 14A.9.16 – 14A.9.17.

12 BNM, "Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions", paragraph 14A.9.1

13 BNM, "Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions", paragraphs 14A.9.3 – 14A.9.11

In addition, if a bank assesses that the money laundering and terrorism financing (“ML/TF”) risks are higher, it may perform enhanced CDD.<sup>14</sup>

Banks are also required to conduct on-going due diligence, which includes scrutinizing transactions undertaken throughout the course of relationship to ensure transactions conducted are consistent with the bank’s knowledge of the CSO, their business and risk profile, and where necessary, the source of funds and also, ensuring that documents, data or information collected under CDD process is kept up-to-date and relevant, by undertaking reviews of existing records.<sup>15</sup>

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

Section 14 of the AMLATFA requires banks to make Cash Threshold Reports to the Central Bank of Malaysia of any transaction:

1. exceeding MYR 25,000<sup>16</sup>; and
2. where the identity of the persons involved, the transaction itself or any other circumstances concerning the transaction gives any officer or employee of the banks reason to suspect that the transaction involves proceeds of an unlawful activity.

Banks are also required to submit Suspicious Transaction Reports to the Central Bank of Malaysia’s Financial Intelligence and Enforcement Department whenever it suspects or has reasonable grounds to suspect that the transaction (including attempted or proposed), regardless the amount:<sup>17</sup>

1. appears unusual;
2. has no clear economic purpose;
3. appears illegal;
4. involves proceeds from an unlawful or instrumentalities of an offence; or

<sup>14</sup> BNM, “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions”, paragraph 14A.12.1

<sup>15</sup> BNM, “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions”, paragraph 14A.13.1

<sup>16</sup> BNM website, <https://amlcft.bnm.gov.my/faq/tfs-fi/ctr>

<sup>17</sup> BNM, “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions”, paragraph 22.1.1



5. indicates that the customer is involved in money laundry or terrorist financing.

Further, banks are required to establish internal criteria (“red flags”) to detect suspicious transaction. Examples of red flags can be found in Appendix 4 of the Central Bank of Malaysia’s policy document.<sup>18</sup>

**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, BNM in its Guidelines adopts the Financial Action Task Force (“FATF”) list of higher risk countries,<sup>19</sup> and also periodically issues notices on High-Risk and Other Monitored Jurisdictions by the FATF.<sup>20</sup>

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

The bank will have to conduct enhanced CDD proportionate to the risk, on business relationships and transactions with any person from higher risk countries, and apply appropriate countermeasures, proportionate to the risks, when called upon to do so by the FATF or by the Government of Malaysia.<sup>21</sup>

These countermeasures may include:

1. limiting business relationships or financial transactions with the identified country or persons located in the country concerned;
2. reviewing and amending, or if necessary, terminating, correspondent banking relationships with financial institutions in the country concerned;

18 BNM, “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions”, paragraph 22.3.3, Appendix 4

19 BNM, “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions”, paragraph 17.1

20 See for example, BNM, Statements on High-Risk and Other Monitored Jurisdictions by the Financial Action Task Force (FATF) dated 31 March 2022 [https://amlcft.bnm.gov.my/documents/6312201/6321216/Notice\\_FATF\\_Public\\_Statement\\_March\\_2022.pdf](https://amlcft.bnm.gov.my/documents/6312201/6321216/Notice_FATF_Public_Statement_March_2022.pdf)

21 BNM, “Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Financial Institutions”, paragraph 17

3. conducting enhanced external audits, by increasing the intensity and frequency, for branches and subsidiaries of the reporting institution or financial group, located in the country concerned;
4. submitting an annual report with a summary of exposure to customers and beneficial owners from the country concerned as specified by the Central Bank of Malaysia; or
5. conducting any other countermeasures as may be specified by Central Bank of Malaysia.

In addition, where ML/TF risks are assessed as higher risk, banks are required to conduct enhanced CDD for business relationships and transactions with any person from other jurisdictions that have strategic AML/CFT deficiencies for which they have developed an action plan with the FATF.

### 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?**

Banks are only allowed to disclose clients' information to a third party, including to the Central Bank of Malaysia and its officers, under very specific circumstances, which are set out in the Central Bank of Malaysia's policy document on Management of Customer Information and Permitted Disclosures.<sup>22</sup>

The circumstances and the types of information vary depending on the purpose for which the information is requested and the person or authority requesting said information. For a complete list, kindly refer to the Central Bank of Malaysia's policy document on Management of Customer Information and Permitted Disclosures, Part C.<sup>23</sup>

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<sup>22</sup> BNM, "Management of Customer Information and Permitted Disclosures", paragraph 13.1, [https://www.bnm.gov.my/documents/20124/938039/PD\\_Management\\_of\\_Customer\\_Information\\_MCIPD\\_apr2023.pdf](https://www.bnm.gov.my/documents/20124/938039/PD_Management_of_Customer_Information_MCIPD_apr2023.pdf)

<sup>23</sup> BNM, "Management of Customer Information and Permitted Disclosures", paragraph 13.2.

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

Banks owe a duty of secrecy and confidentiality to their customers and are generally prohibited from disclosing to another person any document or information relating to the affairs or account of any customer of the financial institution.<sup>24</sup>

This duty of secrecy and confidentiality also extends to a third party, not just bankers.<sup>25</sup>

Any person who is found guilty of breaching such duty of secrecy to a customer shall be liable for imprisonment for a term not exceeding 5 years or to a fine not exceeding MYR 10 million or both.<sup>26</sup>

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

There are no specific reporting obligations for the banks in relation to CSOs.

In general, however, the two main types of reports the banks are required to submit to the Central Bank of Malaysia are the Suspicious Transaction Reports and Cash Threshold Reports.

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

The banking regulation and practice in Malaysia have not been changed in connection with Russian sanctions. Malaysia has not imposed any sanctions against Russia, and has no intention of imposing unilateral sanctions, unless it is a resolution adopted by the United Nations General Assembly.<sup>27</sup>

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24 FSA, Section 133(1).

25 FSA, Section 133(3).

26 FSA, Section 133(4).

27 The Straits Times, Malaysia rules out imposing unilateral sanctions on Russia (<https://www.straitstimes.com/asia/se-asia/malaysia-rules-out-imposing-unilateral-sanctions-on-russia>)



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