

## Bank accounts for implementers of international technical assistance projects in Ukraine

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### 1. General overview

Ukrainian banks and branches of foreign banks in Ukraine are entitled to open current, deposit (savings), and escrow accounts for non-residents of Ukraine.

In this sense, Ukrainian legislation refers, inter alia, to the following as non-residents:

- legal entities located outside of Ukraine that are established and operate in accordance with the laws of a foreign country, representative offices and other separate subdivisions of such legal entities in Ukraine that do not conduct business activities in Ukraine on behalf of a non-resident legal entity;
- representative offices of other organisations located outside of Ukraine, which are established and operate in accordance with the laws of a foreign country and do not conduct business activities in accordance with the laws of Ukraine;
- foreign individuals.

To perform payment transactions with funds (except for electronic money), banks in Ukraine have the right to open, inter alia, the following bank accounts for their customers:

- current account – an account opened by the bank for a customer to store funds and perform payment transactions under the terms of the agreement and in compliance with the requirements of the law;
- escrow account – an account opened by the bank for a customer on a contractual basis for crediting funds to the account and transferring them to the person(s) specified by the customer (beneficiary or beneficiaries), or, upon the beneficiary's written instruction to the bank, to the person(s) specified by the beneficiary, if stipulated by the agreement, or to return such funds to the customer in case the grounds stipulated by the agreement occur;
- correspondent account and settlement account opened by the bank for other banks and non-bank payment service providers.

The Bank shall open an account for a customer only after taking the due diligence measures required by the Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction" and the National Bank of Ukraine's regulations on financial monitoring.

To open an account, the customer shall submit a relevant application to the bank.

Also, when opening a current or payment account, the client shall submit to the bank a list of persons authorised to manage the account and sign payment instructions.

The bank and the customer shall conclude a bank account agreement in writing.

Documents issued by authorised bodies of other countries in the prescribed form and submitted for opening accounts shall be legalised in accordance with the established procedure, unless otherwise provided by the laws of Ukraine or an international agreement to which Ukraine is a party. Copies of these documents must be notarised.

Due to Russia's full-scale invasion of Ukraine and the introduction of martial law, Ukraine has banned foreign currency transfers across the border. However, the law provides for an exception to this rule for settlements under international technical assistance/border cooperation projects/programs funded by the European Union.

Related article: Staff reductions in international technical assistance projects in Ukraine

Ukrainian legislation provides for a clear list of transactions for non-resident legal entities that implement international technical assistance projects (programs) and representative offices that are allowed under the account mode (both in terms of currency transfer and currency use).

## 2. Opening bank accounts for the implementation of international technical assistance projects

Under the Ukrainian legislation, the bank shall open a current account for an organisation or institution for the implementation of international technical assistance projects (programs) on the basis of the following documents:

- 1) a legalised or apostilled copy of a power of attorney for a person to perform representative functions in Ukraine, certified in accordance with the procedure prescribed by the Ukrainian legislation;
- 2) copies of the program or project registration card and copies of the accreditation certificate of the organisation or institution implementing the program or project, which confirms the status of the program or project implementer, certified by the authorised state authority of Ukraine.

Related article: Registration of international technical assistance in Ukraine

In accordance with the practice of opening accounts by Ukrainian banks for the implementation of international technical assistance projects (programs), to open an account and perform due diligence of the implementer of an international technical assistance project (program) for its implementation, the following documents are usually required:

- a document on the registration of the implementer of the international technical assistance project (program) with the tax authorities of Ukraine; a notarised copy of a power of attorney for the implementation of representative functions in Ukraine by an authorised representative of the implementer of the international technical assistance project (program). The power of attorney must be legalised or apostilled;
- a certified copy of the registration card of the international technical assistance project (program); documents confirming the positions of senior managers (SMOs) and directors. The documents are to be provided for all the officials listed in the Questionnaire.
- list of account managers;
- a questionnaire-form;
- a questionnaire on the main sanctioned countries and territories;
- FATCA form;
- documents on authorised representatives:

Related article: Closing an International Technical Assistance project in Ukraine: procedure and requirements

Banks may also require supporting documents. The list of such supporting documents depends on the specifics of the bank's client and may normally include:

- minutes of the general meeting of the company's shareholders;
- resolutions of the shareholders/minutes of the general meeting on the appointment of an authorised person or extracts thereof;
- an order/excerpt from the order for appointment or an order for the right to sign (it can also be used to confirm the powers of a person who has granted powers to another person);
- a power of attorney to represent the interests of a legal entity;
- an employment contract or an extract from the contract;
- annual report on activities/auditor's report;
- an extract from the unified state register of Ukraine;
- extracts from foreign registers;
- information from the client's website.

### **3. Peculiarities of banking transactions related to the implementation of international technical assistance projects**

#### **3.1. Transactions in the national currency of Ukraine**

Under the Ukrainian legislation, current accounts in the national currency for settlements related to the maintenance of an official representative office, representative offices of non-resident legal entities that do not engage in entrepreneurial activity, institutions (management groups of international assistance programs or projects and international technical assistance), as well as for charity events in Ukraine, may be used, inter alia, for the following transactions:

- foreign currency trading;
- insurance of property and vehicles of a representative office in Ukraine, as well as life and health of its employees, including indemnity payments;
- crediting funds received from the sale or lease of property owned by the representative office in Ukraine;
- crediting refunds of value added tax from the purchase of property by a representative office in Ukraine for its own needs in the national currency;
- crediting funds received on the basis of court decisions or decisions of other bodies (officials) that are subject to enforcement;
- transfer of charitable contributions by an official representative office, representative office of a non-resident legal entity in favour of resident legal entities in accordance with the laws of Ukraine;
- transfer of funds for the needs stipulated by the charter of a representative office of a non-resident legal entity;
- transfer of funds for the implementation of international assistance and international technical assistance programs and projects by an organisation or an institution (program or project management group);
- making settlements in Ukraine related to the maintenance of a representative office, organisation or institution (including remuneration, rent, purchase and maintenance of equipment and vehicles, renovation of a building or premises of a representative office, institution,

organisation), as well as performing representative functions, etc.

### 3.2. Transactions in foreign currency

Under the Ukrainian legislation, current accounts in foreign currency of official representative offices, representative offices of non-resident legal entities not engaged in entrepreneurial activity, institutions (management groups of international assistance or international technical assistance programs or projects) may be used, inter alia, for the following transactions (unless restricted by the legislation of Ukraine in force at the time of their execution):

- payment/refund of costs of business trips abroad;
- crediting funds transferred from abroad to the account holder's name through banks (including funds transferred for the implementation of international programs or technical assistance projects);
- crediting funds transferred within Ukraine in line with the Ukrainian legislation;
- receipts in favour of the account holder that do not violate the laws of Ukraine;
- remuneration (including surcharges, allowances, bonuses, other incentives and compensation payments) to employees of official representative offices, if such employees are not citizens of Ukraine/do not permanently reside in Ukraine, are accredited by the Ministry of Foreign Affairs of Ukraine and work in Ukraine under concluded employment agreements (contracts) by transferring funds to accounts of such persons opened in Ukrainian banks;
- transferring funds for the final settlement with resident individuals who have entered into a contract (agreement) with a non-resident legal entity on their employment outside Ukraine;
- transferring funds outside Ukraine to the accounts of non-resident legal entities under a contract (agreement, deal) providing for the purchase of equipment for the implementation of projects within the framework of existing international agreements on humanitarian and technical and economic cooperation;
- transferring funds to the account of a resident legal entity as a charitable contribution;
- crediting funds transferred within Ukraine from own current or deposit (savings) account/transferring funds to own current or deposit (savings) account;
- transferring funds outside Ukraine to fulfil obligations to pay for goods necessary for the performance of the functions assigned to the representative office.