

# EUROPEAN BANKING GUIDE FOR NONPROFITS

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



European Center for  
Not-for-Profit Law



**PILnet**



**GERMANY**

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European Center for  
Not-for-Profit Law

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**PILnet**

### **PILnet**

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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?

In principle, no. The presence of a statutory representative in Germany is generally not required in order to open an organizational bank account in Germany. For the opening of accounts for persons not resident in Germany as well as for foreign organizations, i.a. the provisions of the [Foreign Trade and Payments Act](#), the [Money Laundering Act \(GwG\)](#) must be observed. The relevant due diligence is described in 2.a below.

### 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)

In principle, there are no special legal requirements for opening a bank account on the basis of non-profit status. Some banks, for example, offer a free account for associations if a non-profit purpose is pursued and the requirements of sec. 52 of the German Fiscal Code (Abgabenordnung - [AO](#)) [tax privileges for public benefit purposes] are met. Details should be clarified with the bank opening the account.

### 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?

Generally, the opening of a bank account for a legal entity can be done by one or more persons authorized to represent the entity. Who this can be depends on the organization of the CSO. Whether the physical presence of the persons authorized to represent is required for opening an account depends on the respective bank at which an account is to be opened. Legitimation may be performed personally or remotely (e.g. Remote Identification via Video Conference, e.g. VideoIdent).

Opening bank accounts online is becoming more and more common in Germany. Large banks usually offer opening accounts online to all or most types of legal entities. However, we would still advise to inquire with the individual bank.

#### **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, an application has always to be completed and submitted to the bank together with the necessary supporting documents requested by the bank. Depending on the completeness of the application or the documents, an account may even be opened with a bank running branches on the same day as the application is submitted. Opening an account via the internet may take a little longer. Since timing depends on the individual bank's processes, it is difficult to estimate this. The process may be easier if the bank is one that operates both within the client's country of residence and within Germany, and the client already has a bank account with this bank in its country of residence. We would expect the process to take between several days and weeks. Please note that we know of individual cases where opening a new account, even for an existing client, took much longer due to complicated "know your customer" checks within the bank. Processing times for foreign companies may also differ, e.g. depending on the client's country of origin. It may be sensible to inquire about the timeline with the intended bank.

## **2. BANKING ACTIVITIES**

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

Customer due diligence in place follows the general EU Anti Money Laundering (AML) Legislation and the German Tax Legislation. There is no specific due diligence to be performed on civil society organizations.

Depending on the legal form of the organization, required information and documentation should usually include any of the following:

- firm name, type of legal entity, registration number (if any), place of incorporation, actual registered office of the head office, main business address, names of representatives

- public register extracts for the organization and its managing entity (if any),
- current articles of association,
- relevant resolutions of company bodies, e.g. regarding appointment of representatives,
- ID documentation for representatives,
- potentially group structure charts and other shareholding information.

The purpose of the documentation is to establish with sufficient certainty the identity of the bank's new client, who may act for that new client and who is its ultimate beneficial owner. Depending on the client, this can take various forms.

Additionally, the bank may require tax related information such as tax ID numbers or information and documentation relating to taxability of its new client and that client's funds, especially to the extent they are kept with that bank.

The bank will usually ask for such documents and information if and to the extent they are required. Please note that while we would expect most banks to be able to process English language documents, depending on the bank, it may be more difficult for them to process documents in other foreign languages.

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

Internal and official principles of the identification follow the legal AML framework. Banking activities of civil society organizations are not specifically monitored. The legal framework in Germany is set by the German Anti Money Laundering Act (Gesetz über das Aufspüren von Gewinnen aus schweren Straftaten – [GwG \(German text\)](#), [\(English text\)](#)). The framework of due diligence is set by sec. 10 – 15 GwG and further described by German Federal Financial Supervisory Authority's (BaFin) explanatory and application note (Auslegungs- und Anwendungshinweise zum Geldwäschegesetz – [AuA \(German text\)](#), [\(English text\)](#)).

Each bank will have its own monitoring regime in place, which is not publicized. For example, banks may have varying thresholds for money transfers to determine which transfers will be subject to individual review prior to processing them.

Generally, monitoring should in any event include:

- determining whether the client is a politically exposed person or affiliated with one;
- determining whether transactions are being carried out in connection with a high risk country;
- risk-appropriate continued monitoring of the business relationship with the client and any transactions, especially in relation to whether a transaction might be connected to money laundering or terrorism financing;
- being alert to significant changes regarding the client.

**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, transfers to high-risk countries, e.g. North Korea, are prohibited due to sanctions and embargoes. A list provided by BaFin can be found [here](#).

Additionally, you may find the Sanctions Map helpful:

<https://sanctionsmap.eu/#/main>

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

The bank would apply sanction and embargo schemes for its CSO client as it would for all clients. No difference would be made.

Possible sanctions include (without limitation):

- The bank may be obliged to inform authorities of suspicious transfers.
- The bank may refuse to make a specific transfer or ‘freeze’ all or certain funds, i.e. refuse to transfer them (generally in cooperation with competent authorities).
- The bank may also terminate the banking relationship with the client.

Specific procedures and measures depend on the individual bank and the situation at hand.

You can find a general overview (in English) as well as links to more comprehensive information in [this information brochure](#) by the German Federal Bank.

Additionally, please note that undertaking transactions which are prohibited due to sanctions and embargoes may render those transactions void under German law and may also incur penalties and punishment under regulatory and criminal law.

### 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?**

No – especially because there is no specific CSO regulatory authority in Germany.

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

On the hand, banks have the duty to maintain professional secrecy on any customer related facts and evaluations of which they may have knowledge. Banks may only disclose customer related information if they are legally required to do so or if the customer has consented thereto or if the banks are authorized to disclose banking affairs (= banking secrecy).

Important disclosure obligations include:

- Money transfers exceeding EUR 12,500 in value for purposes other than transfer of goods or payment/disbursement of short term loans must be notified to the German Federal Bank, cf. section 67 of the Foreign Trade and Payments Ordinance (Außenwirtschaftsverordnung – AWV, [English text](#)).
- Banks have to inform the Federal Central Tax Office (Bundeszentralamt für Steuern) of any applicable amounts exempt from capital gains tax and generally have to cooperate and communicate with the tax authorities regarding capital gains tax (which is deducted/levied by the banks on behalf of the tax authorities).

- Banks have to answer information requests from tax authorities in order to establish taxable monies, especially in relation to criminal investigations. cf. Sections 93, 208 AO.
- Banks have to comply with the authorities in criminal investigations, generally.
- Banks must notify the relevant authorities of suspicious transactions in relation to sanctions (as described above),

On the other hand, the General Data Protection Regulation (GDPR) protects fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data.

**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.





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](http://www.ecnl.org)

[twitter.com/enablingNGOlaw](https://twitter.com/enablingNGOlaw)



PILnet

199 Water Street, 11th Floor

New York, NY 10038 U.S.A.

<https://www.pilnet.org>

[twitter.com/PILnet](https://twitter.com/PILnet)