

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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European Center for
Not-for-Profit Law

European Center for Not-for-Profit Law Stichting (ECNL)

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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?

Organizations do not have to be physically present in Belgium to open a bank account. The presence of a statutory representative is not required.

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 to open accounts. Most banks do not impose any requirements except to ensure the activity is legitimate. Some banks (especially specialized banks) may impose minimum requirements on size or activity.

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?

Any person authorized to act for the entity can open a bank account. Legally this can be done online but not all banks allow this practice. Need to provide constitutive documents (e.g. articles of association); KYC information (e.g. identity of board members) and proof that the representative is authorized to act for the entity, including passport or identity card, power of attorney, and/or official publication of the authorization (e.g. in the Official Gazette).

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?

Estimated to be a minimum of four weeks. This will vary between banks but can take several weeks or even a few months. Delays or failure to complete or provide documentation requested by the relevant bank will slow down the process.

An interview is typically not required but many banks will expect the representative to be present to sign the agreements and provide the required original documents.

2. BANKING ACTIVITIES

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

Banks need to comply with the requirements of the anti-money laundering law of 18 September 2017, http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2017091806&table_name=loi. The precise implementation of these criteria differs per bank. No specific rules apply to CSOs.

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

This is proprietary information. In accordance with the AML law, criteria must at least include client type, client residence, high use of cash, complex ownership structure, etc.

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?

Sanctions lists are in accordance with EU sanctions - https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions_en High-risk KYC countries are proprietary information.

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

Same as for other clients: sanctioned payments would be blocked; for sensitive payments more documentation may be required.

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?

There is no specific CSO regulatory authority in Belgium. CSOs are subject to general investigation by judicial authorities, financial regulators and tax authorities.

Banks need to provide information on the identity and financial contracts of all clients to the National Bank of Belgium, which maintains a database viewable by the tax authorities (law of 8 July 2018 on the central point of contact, http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2018070803&table_name=loi). Further, banks need to provide any requested information on clients based on a valid warrant (approved by a judge).

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

Banks have a duty of discretion and usually also a contractual obligation to keep client information confidential. The duty of discretion is not established by law but is recognized as a legal custom by courts and regulators. Exceptions would be disclosure to government entities as described above, or contractually agreed on exceptions (e.g. sharing client data within the bank's group).

Banks are also subject to the GDPR requirements imposing restrictions on how they handle personal information (which would include the names and contact details of CSO representatives).

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

There are no reporting obligations applying specifically to civil society banking.

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

The short answer is that the new sanctions on Russia (Council Regulation 2022/328, notably art. 5b) include a prohibition on banks in the EU to accept deposits of over EUR 100,000 equivalent from Russian nationals or legal entities established in Russia. This would also apply to CSOs. While some exemptions are available, these sanctions have certainly had the effect of limiting EU banks' appetite to accept new business from Russian clients.



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