

EUROPEAN BANKING GUIDE FOR NONPROFITS

HOW TO OPEN AND MANAGE AN ORGANIZATIONAL BANK ACCOUNT



European Center for
Not-for-Profit Law



PILnet



ARMENIA

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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 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?

It is advised to be physically present in Armenia in order to open bank accounts in the country. Although technically, it is possible to open bank accounts by authorized representative based on Power of Attorney (PoA), the process gets unnecessarily complicated and very few banks agree to even consider opening the account for an organization not physically present. In a nutshell, in case of absence of the representative, the Know Your Customer (KYC) process unnecessarily becomes enhanced and more thorough. Further, it is not excluded that the banks will not consider opening the account at all based on a PoA. Therefore, in case the presence of the statutory representative is not possible to ensure, it is necessary to discuss with relevant banks their policy (which can change from time to time) on opening the account in the absence of the statutory representative. Further, requirements to the “operational presence” in Armenia must further be considered.

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)

Overall the requirements for opening a bank account in Armenia both for commercial entities and non-commercial entities, including CSOs, are the same. Indeed, there is a possibility that the banks may have certain differing approaches from case to case, considering particulars of the specific organization.

Armenian law does not impose specific requirements such as years of operation, local director, or operational presence in Armenia. However, two significant issues must be mentioned:

- Although it is not prohibited for foreign entities to have bank accounts in Armenia, the banks (at least as of the time of drafting this) are very reluctant to open accounts for foreign entities which have no connection to Armenia. Therefore, it is advised to consider opening a local branch or representative office in order to be able to open an account for the local branch and not a non-resident organization.
- Subsequently, even if the organization succeeds with opening the account (whether directly for the foreign entity or its local branch), it is not unlikely that the banks would simply refuse to make transfers to the account in Armenia if they see anti-money laundering (AML) risks or lack of grounds to believe that whatever proceeds are transferred to the account have certain connection to Armenia. In other words, using the bank account in Armenia simply for the reason of transferring money through the country, may create obstacles. Therefore, “operational presence” in Armenia is key. To take a step back, this is not a mandatory requirement of Armenian law therefore two aspects must be highlighted: firstly, it is not possible to indicate in which specific circumstances the transfers will be successful (i.e it is not possible to have a definite list of requirements, in case of satisfaction whereof the transfers will be successful, as the bank evaluates each transaction on the detailed specifics thereof). Secondly, the approach of the bank can change very rapidly, as these are mainly covered by their internal confidential policies.

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 bank account opening can and must (see the response to question 1 above) be carried out by the official, who under the statutory documents of the organization (that intends to open the account) is authorized to represent the interests of this organization without a power of attorney.

Although the banks have online/mobile banking services, these cannot be used at the first stage of commencement of the relationship. No alternatives for providing such applications before an embassy or notary are available in the country. The relevant person **must** be present at the 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?

The process of opening the account at a bank for the first time usually consists of two major stages: initial KYC and (in case the first stage is successful) process for opening the account.

KYC procedure mainly includes:

- Identification of the client's details and, most importantly, the details on Ultimate Beneficial owner of the organization,
- Understanding the nature of the activities of the organization and the origin of finance,
- Assessment of risks associated with possible money laundering and terrorism financing.

An established practice for carrying out interviews with potential account holders does not exist in Armenia. Yet, the bank may contact the client or request a visit to the bank in case it has certain follow-up questions within its KYC process after review of the documents submitted to the bank.

Regarding the timing, the process at least takes 3-4 working days. However, how much longer than this it may take, is very difficult to foresee. Depending on the complexity of the case, volume of the documents and business of the bank, the process can take up to several weeks.

2. BANKING ACTIVITIES

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

Generally, there are no specific requirements that differ with respect to CSOs. It must be noted, the AML&TF legislation of Armenia strongly relies on the policies of The Financial Action Task Force (FATF) and, thus, the KYC requirements for the banks are similar to those indicated under FATF regulations.

The basic check for due diligence includes the collection of the following information:

- the identity of the applicant;
- the types of activities the applicant is engaged in and the markets in which they operate;

- the third parties with which it does business;
- risk profile – how likely it is to engage in activities that expose the bank to risk.

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

According to the law Republic of Armenia (RA) “Combating money laundering and the financing of terrorism”, the criteria for suspicious transactions are also in place for CSOs, but the law does not specify any specific criteria for CSOs.

According to the Law, if the bank has sufficient grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it is required, by law, to report promptly its suspicions to the financial intelligence unit.

The Central bank, as the relevant financial intelligence unit, provides respective guidance on criteria of high risk and indicators of suspicious activity in relation to money laundering and terrorism financing. The underlying laws and regulations of the Central bank are publicly available. Further, the indicators of suspicious transactions may be determined by the internal acts of the bank, which, however, are not usually public.

The Central Bank of Armenia has adopted a Guideline on the Criteria for High Risk and Suspicious Transactions. Particularly, the indicators (the full list may be found in the Guidelines [here](#)) differ based on various aspects of the transaction.

Most importantly, the Guide indicates specific requirements for Non Profit Organizations (NPOs). Certain indicators are indicated (these are similarly applicable to CSOs), including:

- The NPO is not appropriately monitored and controlled;
- The NPO has no employees or has a very small staff;
- The NPO has no seat/offices and contact details;
- The NPO’s factual activities are inconsistent with its declared goals and objectives;
- The NPO’s financial flows are inconsistent with its factual activities;
- The NPO’s founders and/or executive management are from another country, and the organization’s international operations are mainly associated with that country;

- The NPO's founders and/or executive management regularly receive funds from the NPO in the form of payments that are not salaries;
- Financial contributions provided to the NPO exceed declared incomes of the contributors or are inconsistent with their known economic activities, financial and social status;
- The NPO makes expenditures, including for purchase of assets, that are inconsistent with its declared objectives;
- The NPO's activities target beneficiaries or their groups that are in non-compliant or high risk countries.

Further indicators that relate to all types of organizations, include (the list is not exhaustive):

- Suspicions with regard to customer characteristics, including:
 - o Indicators relating to customer identity and status;
 - o Indicators relating to customer conduct and behavior;
 - o Unusual and suspicious actions.
- Suspicions with regard to transactions and business characteristics:
 - o Indicators relating to nature of transaction and business relationship;
 - o Indicators relating to type of transaction or business relationship;
 - o Indicators relating to use of product or pattern transaction.

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).

As mentioned above, the Central bank has adopted a guidance on criteria of high risk and indicators of suspicious activity in relation to money laundering and terrorism financing, which also establishes transaction's high-risk criteria. The country or geographical area risk is one of those.

i. If yes, is the list of jurisdictions publicly available?

Generally, the above cited guidance refers to a number of various lists, that may be taken into account. Particularly, among other sub-indicators for the case of high risk related to the country, the following must be considered:

- Countries designated under AML/TF-related lists published by relevant international organizations (as an example the Guide indicates the European Union), or competent national bodies (as an example the Guide indicates the Office of Foreign Assets Control (OFAC) of the U.S. Treasury).
- Countries considered to be an offshore financial center (Lists of “offshore financial centers” are published by the International Monetary Fund, the Financial Stability Forum, the International Bank for Settlements, the Tax Justice Network and the European Union (the latter on the so-called “non-cooperative tax jurisdictions”), a “tax heaven” (Lists of “tax heavens” or “tax shelters” are published by the Organization for Economic Cooperation and Development) or an offshore zone (published by CBA and can be found [here](#)).

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

In case that a high risk of transaction is established, the banks shall carry out Enhanced Customer Due Diligence. The process is the same for any clients, including the CSOs.

According to the law, Enhanced customer due diligence shall be a process involving advanced application of customer due diligence by the reporting entity (i.e. bank), whereby, in addition to the established due diligence measures, it is also necessary to, at minimum:

- a. Obtain senior management approval to establish a business relationship with the customer, to continue the business relationship, as well as when the customer or the beneficial owner is subsequently found to be characterized by high-risk criteria, or when the transaction or the business relationship is found to comprise such criteria.
- b. Take necessary measures to establish the source of funds and wealth of the customer, as well as the beneficial owner who is a politically exposed person.
- c. Examine, as far as possible, the background and purpose of the transaction or business relationship.
- d. Conduct enhanced ongoing monitoring of relationships with politically exposed persons.

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?

CSO clients' financial information as an Information constituting banking secrecy can be provided to regulatory authorities and public officials according to the Law "On Bank Secrecy" (hereinafter the Law). The procedure for publishing, storing, and providing such information, as well as liability for violation of these requirements are established by the Law.

Banks may be required to provide banking confidential information to the following authorities:

- Criminal prosecution authorities with confidential information concerning criminally charged persons only in case of the court decision.
- Banks shall disclose and provide bank secrecy containing information on their customers as a party of civil and criminal action exclusively on a court decision, as well as on a lawful final judgment of court effected for impounding customer bank accounts.
- Financial System Mediator if the latter is considering a claim against the bank.
- Tax Authorities of the RA only in case of the court decision, as well as on a lawful final judgment of court effected for impounding customer bank accounts.
- Under the Law RA "On Combating Money Laundering and Terrorist Financing", in case of reasonable doubt, Banks shall provide information on bank secrecy at their own initiative or upon request of criminal prosecution bodies, if the request contains sufficient justification for money laundering or terrorist financing on suspicion or incident. Information on banking secrecy (including documents) may be provided to foreign financial intelligence agencies by an authorized body by the Law RA "On Combating Money Laundering and Terrorist Financing".
- The Central Bank has the right, during the control of the

banks, to receive or get acquainted with the information on the customers of the banks, even if they constitute banking secrecy.

- To assure the safety of their activities as well as ensure recoverability of loans and other investments thereof, banks may exchange or provide information on their customers, even if it represents bank secrecy, within each other or with credit organizations identified by the Armenian law “On Credit Organizations”.

Must be noted that in cases defined by the Law on the Commission for the Prevention of Corruption, the provision of banking secrecy to the Commission for the Prevention of Corruption is not considered as a disclosure of banking secrecy.

In the meaning of the Law subject to bank secrecy shall be information that becomes known to the bank in the course of its official activity with its customers, such as information on customer’s accounts, transactions made by instruction or in favor of the customer, as well as the customer’s trade secret, facts relating to any projects or plans of its activity, invention, sample products and any other information which the customer has intended to keep in secret and that the bank becomes aware or may have become aware of such intention.

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

According to the Law “On Bank Secrecy”, banks shall guarantee the maintenance of bank secrecy, undertake safety measures, and set administrative rulings, which will ensure decent maintenance of bank secrecy.

Persons and organizations who are found guilty of violations of this regulation shall be liable to completely recoup the bank customer for losses caused because of violations.

Such violations shall carry a penalty of fine amounting from 2.000.000 AMD up to 10.000.000 AMD and may carry criminal liability.

The penalty shall be legally enforced.

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

There are no specific obligations applicable for banks to inform governments on CSO banking, the general regulations according to the Law “On Bank Secrecy” are in force, which are applicable also for CSO banking.

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

The practice is drastically changing due to the very large flow of Russian citizens and organizations to Armenia. Particularly, the banks continuously adopt various policies (which usually are not public) on the entities who move to Armenia in order to bypass the difficulties or transferring money to and from Russia. The banks carry very enhanced due diligence, both when establishing the relationships with clients that have affiliation to Russia and when carrying out the further transactions. The banks consider material to establish that the money received from and to Armenia does have a factual connection to the country, and the banking system is not merely used to avoid sanctions.



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