

# EUROPEAN BANKING GUIDE FOR NONPROFITS

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



European Center for  
Not-for-Profit Law



**PILnet**



**SWITZERLAND**

*Law firms participating in this research are not liable towards third parties for the accuracy of the information contained in this guide. The research cannot be considered as legal advice. It was carried out in 2022 and responds to the regulatory framework on organizational banking in this time period. If you have further queries please reach out to our clearinghouse for legal help.*



European Center for  
Not-for-Profit Law

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

ECNL's mission is to create legal and policy environments that enable individuals, movements and organizations to exercise and protect their civic freedoms and to put into action transformational ideas that address national and global challenges. We envision a space in which everyone can exercise their rights freely, work in solidarity and shape their societies.



### **PILnet**

PILnet is a global non-governmental organization that creates opportunities for social change by unlocking law's full potential. With programs in Europe & Eurasia, Asia, and at the global level, PILnet aims to reclaim and reimagine the role of law so that it works for the benefit of all. PILnet builds networks and collaborations of public interest and private lawyers who understand how law works when it serves the interests of the privileged and then it uses that knowledge to strengthen civil society and the communities they serve. PILnet not only obtains high-quality, free legal assistance for civil society organizations when they urgently need it but also helps organizations to capitalize on the full range of specialized legal expertise that can be provided by corporate lawyers, including against ongoing, or even yet-to-be-determined, challenges.

# 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?

Organizations do not have to be physically present (be registered or have significant operations) in Switzerland to open a bank account. The account can be opened by an authorized representative.

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 for CSOs in respect of opening a bank account. Generally, banks in Switzerland require an applicant to submit the following documents (although the list may vary depending on the particular bank):

- articles of association or foreign equivalent;
- extract from the commercial register or foreign equivalent; and
- identification documents of the representatives of the CSO establishing the business relationship and of the UBOs.

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?

Bank accounts must be opened by a duly authorized representative of the CSO. This can be done by physical appearance at the counters of the bank, via mail, or online/ via video. Online/via video tends to be quite burdensome.<sup>1</sup> As a rule, if the client is a legal person, a Swiss bank does not ask for legalized or apostilled documents.

<sup>1</sup> For details, please see FINMA Circular 2016/07 "Video and online identification"

**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 procedure consists in submitting the above documents, the relevant checks conducted by the bank, and completing and signing the bank opening agreements. The process may take a week or more, depending on the CSO, the bank, and whether the submitted documents are to the satisfaction of the bank. As a rule, no interview is conducted.

## **2. BANKING ACTIVITIES**

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

The Banks have to comply with the Swiss Anti-Money Laundering Act (“AMLA”) ([https://www.fedlex.admin.ch/eli/cc/1998/892\\_892\\_892/en](https://www.fedlex.admin.ch/eli/cc/1998/892_892_892/en)), the Swiss Anti-Money Laundering Ordinance-FINMA (“AMLO-FINMA”) (<https://www.fedlex.admin.ch/eli/cc/2015/390/de>) (no English translation available) and the Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence (“CDB 20”), please see attached. In particular, the banks have to conduct proper identification and verification of the clients and their representatives and ultimate beneficial owners. Under certain circumstances, an enhanced due diligence has to be undertaken. All of this is along the lines of the FATF recommendations.

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

The monitoring criteria for “suspicious transactions” are defined in the AMLA and the AMLO-FINMA, please see in particular article 9 AMLA ([https://www.fedlex.admin.ch/eli/cc/1998/892\\_892\\_892/en](https://www.fedlex.admin.ch/eli/cc/1998/892_892_892/en)) and articles 13 to 21 AMLO-FINMA (<https://www.fedlex.admin.ch/eli/cc/2015/390/de>) The relevant internal rules of the banks are not available to the public.

**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. The banks have to pay specific attention if there is a link to a FATF high-risk jurisdiction (<https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-march-2022.html>) and to a person subject to the sanctions published on the website of the Swiss Secretariat for Economic Affairs SECO ([https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos.html](https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos.html)).

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

The banks check the CSOs, their representatives and their UBOs against the above lists. Moreover, as a rule, the banks will:

- collect additional information on the CSOs and their representatives and UBOs as well as intended nature and purpose of contemplated operations;
- obtain internal approvals from the senior management to enter into relationship with the CSO; and
- conduct ongoing analysis of the transactions undertaken.

### **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?**

As a rule, the information is protected by the Swiss "bank secrecy" and the Swiss Data Protection Act. There are, however, numerous exceptions, e.g. if there is a suspicion for money

laundering or terrorist financing, if the bank is compelled to release the information by a competent authority, or under the applicable exchange of information/double taxation treaties.

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

Under Swiss bank secrecy, the banks have to ensure that no unauthorized person gets access to the information. However, as stated above, there are numerous exceptions to the bank secrecy.

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

Yes, please see point 3(a) above.

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

Banks are screening clients with a link to Russia or Belarus against the sanctions lists. Even where a client, its representative and its UBOs are not sanctioned, some of such clients were terminated for reputation reasons. Moreover, banks are very reluctant in accepting new clients with links to Russia or Belarus, whether or not they are sanctioned.



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)