

ASIAPAC BANKING GUIDE FOR NONPROFITS


*HOW TO OPEN AND MANAGE AN ORGANIZATIONAL
BANK ACCOUNT*



JAPAN



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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 Japan and can operate in another country but have a bank account in Japan. As described below, in the case where a civil society organization (“CSO”) does not have juridical personality, it does not have a statutory representative. In the case of a CSO with juridical personality, it may have statutory representative system. Japanese law does not require such representative to be in Japan and other persons can be authorized to act on behalf of the CSO to open its bank account. However, as a practical matter, some banks may refuse to open a bank account for such CSOs and the presence of the representative in Japan may enable or speed up the process of opening a bank account.

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)

Legal requirements

Each Japanese bank has its own policy in terms of requirements. Depending on the nature and activities of a CSO, banks may have different requirements.

Banks usually require a non-profit organization (“NPO”) to have juridical personality and be governed by Japanese law.

- When an NPO which is not a juridical person intends to operate smoothly by opening a bank account, it may need to consider becoming a juridical person.
- A non-profit organization, including a non-governmental organization (“NGO”), can rely on the *Act on Promotion of*

*Specified Non-profit Activities (Act No. 7 of 1998)*¹ and its relevant laws, which provide a relatively easy process to become a juridical person. An applicable CSO can be certified by the authority and registered to become a juridical person. The Government of Japan indicates [here](#)² the relevant authority which certifies and supervises a CSO (e.g., the Prefectural Governor of the prefecture where the main business premises is located, if there are more than two business premises).

Some banks do not require certain CSOs (e.g., alumni associations, sport teams at schools, or parent-teacher associations at schools) to have a juridical personality.

Some banks permit opening a bank account for CSOs without juridical personality only if they meet all the following requirements (the “**Association without Rights**” or *Kenri Noryoku Naki Shadan* under Japanese law):

- The CSO consists of a group of people.
- The majority rule is applied.
- The organization continues to exist regardless of a change in members.
- The organization has material functions as an organization (e.g., representative rules, general meetings, and financial management).

Requirements routinely asked for by banks, in practice

Specific requirements (e.g., years of operations, annual turnover, or nationality requirements for a director or member(s) of a governing body) are not publicly available and are different from one bank to another, especially when a CSO is incorporated under non-Japanese law. Banks will consider whether to allow it to open the bank account on a case-by-case basis. However, regardless of the CSO’s legal status (i.e., with or without juridical personality), banks would request from of all CSOs:

- a reasonable explanation of the purposes of opening a bank account;
- the original, personal identification of each of the representatives and the person(s) visiting the bank for the process (e.g., drivers’ license or a government-issued photo ID);

1 <https://www.japaneselawtranslation.go.jp/ja/laws/view/3028>

2 <https://www.npo-homepage.go.jp/shokatsucho#gov02-2>

- documents identifying the relationship between the person(s) visiting the bank and the CSO, if the representative is not visiting (e.g., a power of attorney); and
- a Residence Card (*Zairyu Card*) if the representative, ultimate beneficial owner, or the person visiting the bank for the process is a non-Japanese.

Also, depending on their legal status, banks may request the following:

CSOs without juridical personality:

- The CSO's seal, or the personal seal of the representative, to be registered with the bank.
- Materials illustrating the history of operations (e.g., from the CSO's website).
- A list of board members/officers.
- Rules of the organization (certified by the representative).
- Opening a bank account as the Association without Rights may also require:
 - Minutes of the organization.
 - Statement(s) of revenues and expenses.

CSOs with juridical personality:

- Original registry of the CSO (as a juridical person).
- Original seal certificate of the CSO (and the seal to be registered with the bank (the CSO's seal)).
- A document indicating the CSO's juridical person's tax ID number (e.g., a notice issued by the tax office).
- A list of board members/officers (certified by the representative).
- The CSO's articles of association.
- Financial documents (i.e., financial statements).
- Copies of documents submitted to the tax office OR original building registry of the CSO's main office and/or its building lease agreement.

Please note that the above documentation is what is generally required for a CSO incorporated or organized in Japan, and that each bank usually has – and sometimes publicizes – the specific materials required, or the bank may provide a form to be filled out prior to visiting the bank. It is recommended to confirm with the bank what required materials are necessary, if they are not publicized.

Banks do not use an online process for opening this kind of account, and visiting banks in person is a must due to know-your-client (“KYC”) regulations. In addition, banks usually require in-person interviews. Although questions in the interviews are not publicly available, banks may wish to understand the CSO’s activities and potential banking transactions.

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 representative of a CSO or a person authorized to act on behalf of the CSO to open a bank account.

Completing the process online is not possible. CSOs may authorize another person (other than the representative) to open a bank account on behalf of the CSO. However, banks require the presence of either the representative or such authorized person. To start the conversation with a bank, someone from a CSO must visit the bank, and in-person interviews are often necessary (mostly from a KYC perspective).

Signing the paperwork at an embassy or before a notary is not in line with Japanese banking practice. In Japan, a seal, rather than a signature, needs to be registered with a bank to open a bank account. A Japanese CSO with juridical personality has its own seal. A person can be authorized to affix the CSO’s seal on behalf of the CSO. If the seal registered with a bank is a personal seal, it can also be affixed by an authorized person with power of attorney.

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 to open a bank account cannot be completed online and visiting a bank is a must.

Although general documents required to open a bank account are described above, depending on the bank, it may require additional documents/information. As noted above, it is recommended to check the documents and information required by each bank before visiting a bank.

The person visiting the bank to open the CSO account must have the materials required by the bank to apply for opening the bank account. Please note that making a reservation is most likely to be a must (and some banks provide an online reservation

system). In-person interviews may take place. Overall, it takes at least one month or more to set up a bank account.

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 requirements in Japan

The Act on Prevention of Transfer of Criminal Proceeds (the “APTCP”) is an anti-money-laundering regulation to combat the financing of terrorism (“AML/CFT”). Its regulations are imposed on specified business operators such as financial institutions (e.g., banks) and consist of obligations and guidelines to verify customers' identities, and for reporting suspicious transactions to authorities.

The Financial Services Agency (the “FSA”) is a supervisory body, which monitors the AML/CFT measures of each financial institution, shares the outcome with them, and requests the banks to enhance their risk control framework. In February 2021, the FSA published the updated *Guidelines for Anti-Money Laundering and Combating the Financing of Terrorism* (the “Guidelines”). The Guidelines clarify the required actions and expected actions to be implemented by each financial institution and the FSA's monitoring going forward. The Guidelines also provide good examples for encouraging financial institutions to pursue best practices.

According to the Guidelines, “customer due diligence” (“CDD”) refers to, “among other mitigation measures, a series of processes in which a financial institution collects and verifies information about specific customers and their activities and transactions in light of the results of its own risk assessment, compares that information with the results of the risk assessment, and determines and implements effective measures necessary to mitigate those identified risks. Apart from the approach that focuses on each customer, there are other approaches that focus on each transaction to analyze and detect unusual transactions. It is effective to combine both approaches for risk mitigation.”

Impact on a CSO's banking activities

To prevent terrorists from exploiting NPOs, if NPOs are involved in cross-border transactions, banks may need to conduct stricter CDD.

The Guidelines take into account that NPOs may be exploited by terrorists depending on the NPOs' type of business and areas of operation, the Guidelines address these concerns, specifically: "as the threat of terrorism has spread across borders, financial institutions shall establish effective risk control framework for terrorist financing with the awareness that their products and services can be abused as tools for terrorist financing. For example, in the case where a financial institution conducts a transaction with a non-profit organization, it is important for financial institutions to be aware that they are at risk of being exploited for terrorist financing depending on the nature and areas of their activities, while presuming that not all non-profit organizations are inherently higher-risk customers, and to take necessary risk mitigation measures taking into account the National Risk Assessment (Japanese NRA as provided for in APTCP) and the analyses by the FATF."

To prevent terrorists from exploiting NPOs, the Government of Japan published in June 2022, Guidance for NPOs – Combating the Financing of Terrorism.³ This Guidance aims to enhance awareness of CFT among NPOs so that they can protect themselves.

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

Under the APTCP, financial institutions must file suspicious transaction reports (each, an "STR"). The Guidelines provide details as to what actions financial institutions must perform to be compliant with the APTCP, including the suspicious transactions monitoring criteria.

In particular, under the Guidelines, when considering the necessity of submitting STRs, financial institutions must review the following:

³ <https://www.npo-homepage.go.jp/news/npo-tf-risk>

- A foreign Politically Exposed Person (“PEP”) status.
- Customer attributes.
- Business activity of the customer.
- The countries and geographic areas involved in transactions.
- The nature of the transactions (e.g., the amount and number of transactions while considering the customer’s attributes and business).
- Other elements, including the countries and regions involved in the transactions.

Accordingly, CSOs will also be monitored pursuant to the Guidelines, and depending on the countries relevant to their transaction, they may draw attention from banks.

When considering the above factors, financial institutions must take into account results of the National Risk Assessment⁴ published by the Japan Financial Intelligence Center (“JAFIC”), the Reference Cases on Suspicious Transactions⁵ published by the FSA, and the bank’s own previous STRs.

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. Banks’ respective economic sanction policies are publicly available, and they adhere to sanction regulations including the Foreign Exchange and Foreign Trade Act (the “FEFTA”) and the Office of Foreign Assets Control (the “OFAC”).

Under the FEFTA, the Minister of Economy, Trade, and Industry or the Minister of Finance may impose economic sanctions restricting acts such as (i) payments from Japan to a foreign country and payments between residents and non-residents, (ii) capital transactions, (iii) service transactions, and (iv) export and import of goods. During times of economic sanction, licenses or approvals from authorities for transactions are required. Pursuant to multiple different legislations including the FEFTA, as of October 2, 2023, the Japanese government imposes economic sanctions against the following countries

⁴ https://www.npa.go.jp/sosikihanzai/jafic/en/nenzihokoku_e/nenzi-hokoku_e.htm

⁵ https://www.fsa.go.jp/str/jirei/en_reference_cases.pdf

and jurisdictions: Belarus, Central African Republic, Crimea, Democratic Republic of the Congo, Donetsk People's Republic, Haiti, Iran, Iraq, Libya, Luhansk People's Republic, Mali, North Korea, Somalia, South Sudan, Sudan, Syria, Russia, and Yemen. Further, the Japanese government imposes Taliban-related sanctions and anti-terrorism sanctions.⁶ In addition, there are sanctions against individuals.⁷

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

There are no CSO-specific procedures which are publicly available. According to publicly available information, in relation to banking transactions with any entities or individuals, banks must comply with AML/CFT regulations and sanctions regulations, including those of the FEFTA and the OFAC. In this respect, when it comes to remittance to a foreign country, banks must take certain measures to comply with those regulations. For example, banks may ask or request information about the background of the transaction, funds of remittance, details, or transaction materials, including contracts.

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?

Yes, if required.

Banks may have to provide CSO clients' non-public information, such as financial information or personal information, to the authorities when required by laws or regulations. What follows are examples of cases in which the authorities require provision of CSO clients' information:

⁶ https://www.meti.go.jp/policy/external_economy/trade_control/01_sei-do/04_seisai/seisai_top.html

⁷ https://www.mof.go.jp/policy/international_policy/gaitame_kawase/gaitame/economic_sanctions/list.html

- If the client is named in a criminal investigation.
- If there are investigations of the clients' violation of the *Financial Instruments and Exchange Act* (“FIEA”).
- If there has been suspicious transaction reporting under the APTCP.
- If the client is involved in a tax investigation.
- If there is a request from the court.

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

The *Act on the Protection of Personal Information* (“APPI”) regulates the handling of users' personal information. Banks must comply with the *Guidelines for Protection of Personal Information in the Finance Sector*.⁸ These Guidelines provide stricter measures to protect customers' personal information. In particular, these Guidelines define “**Sensitive Information**” and business operators handling the Sensitive Information shall not acquire, use or provide to a third party the following information, unless permitted under limited circumstances (e.g., requested by laws, required to protect the life, wellbeing, or property of an individual):

Personal information requiring special care (e.g., race, criminal history, religion), information on an individual's membership in a labor union, family origin, registered domicile, healthcare, and sex life (among these, excluding the matters falling under the category of the personal information requiring special care) (“**Sensitive Information**”).

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

There is no CSO-specific reporting obligation.

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

As noted above, banks do not accept banking transactions that violate or potentially violate sanctions regulations including the

⁸ <https://www.fsa.go.jp/common/law/kj-hogo-2/index.html>

FEFTA and the OFAC. This requires customers themselves to be aware of recent updates with respect to sanctions.

Japan designates individuals and entities of the Russian Federation, Crimea, Donetsk People's Republic and Luhansk People's Republic, and Belarus.⁹ These lists are updated frequently. They include the following five designated banks in the Russian Federation:¹⁰ Sberbank, VTB Bank, Bank for Development and Foreign Economic Affairs (Vnesheconombank), Gazprombank and Russian Agricultural Bank, as of the date of this report (i.e., October 2, 2023). An export/import ban¹¹ is also in place.

9 https://www.mof.go.jp/policy/international_policy/gaitame_kawase/gaitame/economic_sanctions/list.html

10 https://www.mof.go.jp/policy/international_policy/gaitame_kawase/gaitame/economic_sanctions/ukraine_list_russiabank_20220226.pdf

11 https://www.meti.go.jp/policy/external_economy/trade_control/01_seido/04_seisai/crimea.html



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