NEW ENTREPRENEURS

READY TO OPEN A PROFESSIONAL BANK ACCOUNT IN LUXEMBOURG?

CHAMBER OF COMMERCE LUXEMBOURG
POWERING BUSINESS

HOUSE OF ENTREPRENEURSHIP
powered by the Luxembourg Chamber of Commerce

FONdation BBL
pour l'éducation financière

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INTRODUCTION

The launch of a company is a vibrant journey, the ultimate aim for the entrepreneur being to achieve a vision that has been nurtured for months. It is the moment when abstract ideas turn into a concrete and tangible venture. Choosing the entrepreneurial path is thus a way of constantly developing new ideas.

In these endeavors, preparation should not be left to chance, and the entrepreneur most not solely rely on initial intuition and passion. Preparing a business launch is very similar to the process of gardening, where a plant can only thrive through consistent care and the incorporation of essential ingredients at the right moment, that foster fertile ground. Indeed, no business idea can be transformed into a tangible venture without the application of key managerial practices and without following several regulatory steps, which are crucial for a successful launch.

Just like in the process of growing a plant, from the initial germination of an idea to the eventual establishment of a company, each administrative milestone must be carefully considered. The flourishing of a business account opening is one of those key milestones, to be undertaken in collaboration with a reliable banking partner.

To this end, bank advisors are essential partners, as your future success is tied to theirs. That being said, it is important to keep in mind that banking professionals can only operate within a certain legal framework made of constraints and obligations. Being aware of those policies and regulations will help you move into this next important step, while fostering a strong and enduring relationship with your banker.

For the purpose of facilitating your progression towards a bank account opening, the House of Entrepreneurship of the Chamber of Commerce and the ABBL (Luxembourg's Banking Association) Foundation for Financial Literacy have jointly designed a practical step-by-step guide dedicated to new business leaders.

THE BANKER'S POINT OF VIEW

INTERVIEW WITH JERRY GRBIC, CEO OF THE ABBL

WE SOMETIMES HEAR THAT BANKS ARE INCREASINGLY RELUCTANT TO OPEN BANK ACCOUNTS FOR NEW BUSINESSES.

IS THERE ANY TRUTH TO THIS STATEMENT?

Every bank wants to open accounts, just like every bank wants to grant loans. But no bank wants to expose customers to a situation where they could not repay their debts or where they would make an over risky investment. This is part of its responsibility towards new clients, but also towards existing clients, whose assets must primarily be protected by ensuring that the bank does not take reckless commercial risks.

It should also be noted that just like you as future entrepreneurs, a bank is also a commercial entity with its own development strategy, a certain appetite for risks, etc ...

Your bank is thus free to accept or refuse any entry into a business relationship under the principle of contractual freedom, but also considering the strict legal rules to which it is subject.

WHAT ARE THE LEGAL RULES TO WHICH BANKS ARE SUBJECT?

I am referring in the first place to those relating to the identification and verification of customers, in order to tackle financial crime. These rules are also known as anti-money laundering and anti-terrorist financing rules. («AML/CFT»).

WHAT PROCEDURES SHOULD BANKS PUT IN PLACE TO TACKLE FINANCIAL CRIME?

These procedures impose due diligence obligations on the banks' end, when establishing a business relationship with a prospective client and continue to apply then, as long as the relationship exists.

Based on the level of risk involved, your banker has the flexibility to adjust the documentary requirements. This can involve applying simplified due diligence measures or, conversely, implementing enhanced due diligence measures. The latter necessitate a more comprehensive gathering of information about the client and their beneficial owner, as well as details about the intended purpose and nature of the business relationship, the source of funds, a credible business plan, and other relevant factors.

A FEW POINTS OF CONSIDERATION FOR A SUCCESSFUL ACCOUNT OPENING

PROVISION OF IDENTIFICATION DOCUMENTS

According to the AML/CFT Law enacted on November 12, 2004, your banker has to establish an identification procedure for legal entity customers, commonly referred to as *«Know Your Customer»* or ***«KYC»***.

As part of this process, you will be requested to complete **a customer questionnaire** tailored to the intended business relationship. This questionnaire will undergo review by an internal acceptance committee within the bank, which will assess the risks associated with the company before making a decision on whether or not to open the account.

The questionnaire will encompass various details, including the identification of the company itself (name, legal structure, address), as well as its manager(s), director(s), or any other representative involved in the business relationship (if applicable).

Moreover, the identity of the beneficial owner, which refers to the natural person who ultimately owns or controls the company throughout the ownership chain, must be verified.

To ensure a thorough verification of the provided data, it is crucial to provide the exact requested information and accompanying documents, drawing from reliable and independent sources such as public authorities.

Each bank has its own risk assessment framework and margin of discretion in determining the supporting documents required from its customers.

The absence of any requested document may lead to the rejection of your application, as credit institutions bear potential liability for deficiencies in their procedures. Consequently, the institution may face administrative fines and/or criminal prosecution.

By submitting comprehensive documentation pertaining to the company, the bank can trace the logical progression of appointments and delegations of power. This includes reviewing articles of association, the appointment of management members, and the delegation of authority to individuals responsible for representing the company in its dealings with the bank.

THE BUSINESS RELATIONSHIP ENTRY QUESTIONNAIRE

The business relationship entry questionnaire serves the purpose of identifying and verifying the identities of the legal representatives, beneficial owners, and signatories (if applicable) associated with the company. Additionally, it allows your bank to gather more comprehensive information regarding **your company's future activities, the intended purpose and nature of the business relationship, as well as the origin of your company's funds and assets, or even that of the beneficial owner in the case of the creation of a company**.

These information requests stem from the AML/CFT law, which mandates that your bank ensures the legitimacy of the funds used to establish the company. It also enables the bank to conduct a risk assessment of the prospective business relationship, based on its risk appetite.

Furthermore, the details provided in the business relationship entry questionnaire contributes to the evaluation of the potential business relationship carried out by your bank in accordance with its commercial policies.

GOOD PRACTICE

*Make sure that the **explanations** provided to your bank, especially regarding your company's activities, corporate purpose, commercial strategy, and future income projections, are presented in a **clear, concise, and precise manner**.*

The account application forms for companies typically include free fields where you can provide the necessary explanations to the bank. It is essential not to overlook this step, which is as important as the provision of supporting documents that establish the identity of the company and its managers.

Any extra document supporting your request for a bank account opening, if relevant e.g. business plan, can also be attached to the application form.

THE KEYS TO A SUCCESSFUL BUSINESS RELATIONSHIP

THE IMPORTANCE OF SEPARATING YOUR ASSETS WHEN YOU CREATE A COMPANY

If you opt for the creation of a company (examples: Sàrl, Sàrl-s, SA ...), it will have its own legal personality that allows it to exercise its rights in the same way than a natural person. The company is therefore regarded as a real person, who owns his own assets and can enter into contracts. It is thus the company that will hold the bank account and not its manager.

Your company's assets cannot be associated with your private/personal assets. In doing so, any expenditure incurred by the company must serve its social purpose and not personal interests, even temporarily.

Note that for a sole proprietorship, that is to say operating your activities without using a company, as a natural person («self-employed worker", «freelancer»), the legal personality of your operations is not distinct from you. The professional bank account is not mandatory in this case, but it may be necessary to carry out certain transactions. It is, in any case, recommended to properly manage your accounting and declarations, since it makes it easy to track all the operations related to the professional activity without having them mixed with personal transactions.

GOOD PRACTICE

Opting to open a dedicated account for your professional activities, when you work as a self employed person offers several advantages, including the ability to:

- distinguish your business transactions from personal ones, ensuring clarity in tax and accounting reports,
- potentially appoint separate agents and co-holders for your professional account, distinct from those associated with your personal account,
- access specific services intended for professionals in your industry.

FOLLOW-UP BY THE ENTREPRENEUR IS CRUCIAL

Merely submitting an account opening application does not guarantee its acceptance. The instructor at your bank may request additional information regarding the application.

To ensure a smooth process, it is important to be proactive and promptly provide any information that your banker deems necessary to proceed with the instruction.

Maintaining open communication and dialogue with your banker is essential. Failure to do so may result in the refusal of the account opening request.

EFFICIENT TRANSMISSION OF THE REQUEST IS VITAL

Only a clear, complete, and well-documented application will be processed quickly. Remember to include all requested data, along with any additional information you might consider necessary, to help the bank's acceptance committee understand your business project, whether it involves a company or being a sole proprietor.

THE DUTY OF CONSTANT VIGILANCE OF THE BUSINESS RELATIONSHIP

Compliance with AML/CFT law is crucial for bank's ongoing business relationships with their clients. The bank is obligated to maintain constant vigilance and to scrutinize transactions conducted throughout the relationship. This examination ensures that the transactions align with the bank's understanding of the client, his/her business activities, and his/her risk profile.

Additionally, the bank must ensure that the initial documents collected and subject to its duty of vigilance remain up to date and accurate over time. It is important to inform your banker in advance if you intend to engage in any unusual financial transactions. Make sure you keep all the accounting records of your transactions so that you can transmit them to your banker if he asks you to justify any transaction.

Furthermore, your bank will monitor the submission of annual accounts to the Trade and Companies Register to verify compliance with the company's stated purpose. Failure to submit annual accounts could have adverse consequences on the business relationship.

The House of Entrepreneurship of the Chamber of Commerce: the single point of contact for entrepreneurs in Luxembourg

The House of Entrepreneurship is the national point of contact for entrepreneurs since 2016. Initiated by the Chamber of Commerce and the Ministry of the Economy, in collaboration with many public actors, its mission is to inform, guide, support and connect local entrepreneurs at any stage of advancement, in line with the business life cycle.
It offers support programmes for both future and new entrepreneurs and established leaders, as well as regulatory information services and awareness-raising webinars on many topics. It also aims at federating and rallying institutional players of the value chain of business creation, development, and takeover to positively influence the Luxembourg ecosystem and to promote the entrepreneurial culture on the territory of the Grand Duchy of Luxembourg.

The ABBL Foundation for Financial Literacy

In the interests of imparting knowledge in matters relating to the economy and finance and developing skills in the Luxembourg financial centre, the purpose of the Foundation is to support and promote:

- financial education, both within the Grand Duchy and beyond its borders, including the organisation of related events;
- continuing vocational training in the financial professions;
- university education through the University of Luxembourg, in particular by funding study grants;
- research, in particular by funding.

Disclaimer: although the information contained in this leaflet, prepared jointly by the House of Entrepreneurship of the Chamber of Commerce and the ABBL Foundation for Financial Literacy, has been drafted with the utmost care, it is purely indicative and therefore the authors shall bear no liability in the case of potential imprecisions or inaccuracies within the guidelines provided. Those guidelines cannot provide an exhaustive answer and cannot replace an in-depth consultation. Updated versions will be posted regularly on the following website: www.cc.lu.

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