

# LAW OF GEORGIA

## ON FACILITATING THE PREVENTION OF ILLICIT INCOME LEGALISATION

### Article 1 - Purpose and scope of the Law

1. The purpose of this Law is to establish a legal mechanism for preventing illicit income legalisation and terrorist financing in Georgia, and to protect the legal rights and interests of society and the State.
2. This Law regulates relations associated with the identification and facilitation of the prevention of illicit income legalisation in Georgia between the relevant authorised bodies and persons determined by this Law, as well as relations between Georgia, on the one hand, and foreign authorised bodies and international organisations, on the other hand.
3. This Law applies to residents and non-residents of Georgia, their representatives, representational offices and branches, and to agencies, institutions and organisations.

*Law of Georgia No 3422 of 25 February 2004 - LHG I, No 7, 16.3.2004, Art. 36*

### Article 2 - Definition of Terms

The terms used herein have the following meanings:

- a) illicit income – illegal and/or undocumented property owned or possessed by a person;
- b) property – the property determined by the Civil Code of Georgia;
- c) illicit income legalisation – the legalisation of illicit income (acquisition, use, transfer or other action), and the hiding or concealment of its true origin, or its owner or possessor, and/or property rights, or the attempt thereof;
- d) monitoring – the identification of persons participating in a transaction, and the recording and systematisation of information about a transaction by monitoring entities determined by this Law, and the submission of the information to the Financial Monitoring Service of Georgia in accordance with the procedure established by this Law and the subordinate normative acts adopted (issued) under this Law;
- e) non-cooperative or attention area – a country or part of the territory of a country determined by the National Bank of Georgia upon the recommendation of the Financial Monitoring Service of Georgia. This country or part of the territory of a country shall be considered as a non-cooperative or attention area based on the information of a competent international organisation, or if there is a reasonable belief that there are weak mechanisms for controlling illicit income legalisation in that area;
- f) competent international organisations – the Council of Europe, the Financial Action Task Force (FATF) and other organisations, recognised as such by the international community;
- g) supervision – supervision carried out over the activities of appropriate monitoring entities by the supervisory authorities determined by Article 4 of this Law;
- h) suspicious transaction – a transaction (irrespective of the amount and type of the transaction) with respect to which there are reasonable grounds for suspecting that the transaction has been entered into or conducted for the purpose of illicit income legalisation and/or that property (including funds), based on which the transaction has been entered into or conducted, has been obtained or originated from criminal activities, and/or that the transaction has been entered into or conducted for financing terrorism (a party to the transaction or the origin of the transaction amount is suspicious, or there are other grounds for which the transaction may be considered suspicious), or that any party to the transaction is included in the list of terrorists or persons supporting terrorism and/or may be related to them, and/or the amount involved in the transaction may be related to or used for terrorism, terrorist acts, or by terrorists or terrorist organisations or by entities financing terrorism, or that the legal or actual address or place of residence of a party to the transaction is within a non-cooperative area, or that the transaction amount is transferred to or from a non-cooperative area;
- h<sup>1</sup>) unusual transaction – an unusually large, complex transaction (operation) and/or the unusual constituent parts of a transaction (operation) with no clear economic (commercial) content or clear legitimate purpose and/or those that are inconsistent with the ordinary course of activities of a party to the transaction;
- i) (deleted);
- j) non-resident person – a person who is not a resident of Georgia under the Tax Code of Georgia;
- k) identification of a person – obtaining such information on a person that, where necessary, allows for investigating a person or for distinguishing a person from others, if necessary;
- l) Financial Monitoring Service of Georgia – a legal entity under public law, established under this Law, which independently exercises its powers granted by the legislation of Georgia;
- m) monitoring entity – an entity as defined by Article 3 of this Law that carries out measures determined by legislation for facilitating the prevention of illicit income legalisation;
- n) founder of a non-state pension scheme – a legal person determined by the Law of Georgia on Non-state Pension Insurance and Security;



o) suspicious area – a country or part of the territory of a country that is considered as having weak mechanisms for controlling illicit income legalisation based on the information available to the monitoring entity;

p) financial institutions – institutions determined by the Law of Georgia on Commercial Bank Activities;

q) beneficial owner – a natural person who is the ultimate owner or controller of a person and/or on whose behalf a transaction (operation) is conducted; a beneficial owner of an entrepreneurial legal person (also of an organisational entity determined by the legislation of Georgia that is not a legal person) is the direct or indirect ultimate owner, possessor and/or controlling natural person of 25 per cent or more of its participatory interest or voting shares, or a natural person otherwise exercising control over the management of the entrepreneurial legal person;

q<sup>1</sup>) person – a resident or non-resident natural or legal person, including an organisational entity determined by the legislation of Georgia that is not a legal person;

r) suspicious financial institution – a financial institution determined by the Financial Supervision Agency of Georgia that fails to meet the standards of prevention of illicit income legalisation;

s) Society for Worldwide Interbank Financial Telecommunication (SWIFT) – an international interbank network (system) that is one of the means for interbank settlements and information exchange;

t) shell bank – a bank that is not physically present in the country of its registration/licensing, and that is not subject to control and supervision;

u) money transfer operator – a person (except for commercial banks and micro-finance organisations) providing money transfer services;

v) politically exposed person – a foreign citizen who occupies a state (public) political position and/or carries out important public and political activities under the legislation of the country. Politically exposed persons are: the Head of the State, the Head of the Government and Government members, and their deputies, heads of governmental institutions, Members of Parliament, members of the Supreme Court, members of the Constitutional Court, senior officials of the military forces, members of the Central (National) Bank / Financial Supervision Agency Council, ambassadors, heads of enterprises operating with state participation, heads of political parties (associations), members of the executive body of a political party (association), other significant political figures, and their family members and close associates; a person shall be considered as a politically exposed person for one year after his/her resignation from the above positions;

w) family member – a spouse, a child (including a stepchild) and the child's spouse, a parent, a sister, and a brother of a person;

x) close associate of a politically exposed person – a natural person who owns and/or controls the participatory interest or voting shares of a legal person whose participatory interest or voting shares are owned and/or controlled by a politically exposed person, and any person who is in a close business relationship with a politically exposed person;

y) client – any person applying to a monitoring entity, on account of the main activities of the latter, for services determined by the legislation of Georgia, or any person using such services;

z) leasing company – a legal person that carries out leasing activities as provided for by the Tax Code of Georgia;

aa) lawyer – a person defined in Article 1 of the Law of Georgia on Lawyers;

bb) payment service provider (including an electronic money provider) – a legal person determined by the Law of Georgia on Payment Systems and Payment Services;

cc) execution of a transaction (an operation) – conduct of a transaction (an operation) (including property registration) by a monitoring entity, except for the monitoring entities determined by Article 3(f) (j) (m) of this Law;

*Law of Georgia No 3422 of 25 February 2004 - LHG I, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 4518 of 27 March 2007 - LHG I, No 9, 31.3.2007, Art. 83*

*Law of Georgia No 5163 of 29 June 2007 - LHG I, No 27, 17.7.2007, Art. 269*

*Law of Georgia No 5200 of 4 July 2007 - LHG I, No 28, 18.7.2007, Art. 287*

*Law of Georgia No 5952 of 19 March 2008 - LHG I, No 8, 28.3.2008, Art. 55*

*Law of Georgia No 2829 of 23 March 2010 - LHG I, No 19, 13.4.2010, Art. 103*

*Law of Georgia No 5010 of 1 July 2011 – web-site, 15.7.2011*

*Law of Georgia No 5580 of 20 December 2011 – website, 28.12.2011*

*Law of Georgia No 1638 of 27 November 2013 - website, 10.12.2013*

*Law of Georgia No 2464 of 29 May 2014 - website, 2.6.2014*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

*Law of Georgia No 3901 of 3 July 2015 – web-site, 10.7.2015*

*Law of Georgia No 4200 of 3 September 2015 - website, 10.9.2015*



## Article 3- Monitoring entities

Monitoring entities are:

- a) commercial banks, currency exchange offices, non-bank depository institutions and micro-finance organisations;
- a<sup>1</sup>) money transfer operators;
- a<sup>2</sup>) qualified credit institutions;
- b) brokerage companies and securities registrars;
- c) insurance companies and founders of non-state pension schemes;
- d) persons organising lotteries, gambling and other betting games, including casinos (including persons organising gambling games in systemic and electronic form (on-line casinos);
- e) persons carrying out activities related to precious metals, precious stones and their products, and antiques;
- f) the Revenue Service - a legal entity under public law (LEPL) under the Ministry of Finance of Georgia ('the Revenue Service');
- g) persons awarding grants and charitable assistance;
- h) notaries;
- h<sup>1</sup>) the LEPL National Agency of Public Registry;
- i) (deleted);
- j) persons carrying out accounting and/or audit activities as provided for by the legislation of Georgia;
- k) leasing companies;
- l) (deleted - 27.11.2013, No 1638);
- m) lawyers;
- n) payment service providers (including electronic money providers) registered by the Financial Supervision Agency of Georgia, except for payment service providers that issue only small value payment instruments under the Law of Georgia on Payment Systems and Payment Services.

*Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55*

*Law of Georgia No 3806 of 12 November 2010 – LHGI, No 66, 3.12.2010, Art. 414*

*Law of Georgia No 5580 of 20 December 2011 – website, 28.12.2011*

*Law of Georgia No 6322 of 25 May 2012 – website, 12.6.2012*

*Law of Georgia No 6548 of 22 July 2012 – website, 4.7.2012*

*Law of Georgia No 1638 of 27 November 2013 - website, 10.12.2013*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

*Law of Georgia No 4200 of 3 September 2015 - website, 10.9.2015*

## Article 4- Supervision

Supervisory authorities are:

- a) the Financial Supervision Agency of Georgia – for commercial banks, currency exchange offices, qualified credit institutions, non-bank depository institutions and micro-finance organisations, money transfer operators, brokerage companies and securities registrars, and for payment service providers;
- a<sup>1</sup>) the LEPL Insurance State Supervision Service of Georgia – for insurance companies and founders of non-state pension schemes;
- b) the Ministry of Finance of Georgia – for entities organising lotteries, gambling and other betting games; for persons carrying out activities related to precious metals, precious stones and their products, and antiques; the Revenue Service; leasing companies; and persons awarding grants and charitable assistance;
- c) the Ministry of Justice of Georgia – for notaries and the LEPL National Agency of Public Registry;
- d) the Service for Accounting, Reporting and Auditing Supervision, a state sub-agency under the Ministry of Finance – for persons that carry out



accounting and/or audit activities under the legislation of Georgia;

e) the LEPL Georgian Bar Association – for lawyers.

*Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 4518 of 27 March 2007 – LHG I, No 9, 31.3.2007, Art. 83*

*Law of Georgia No 5163 of 29 June 2007 – LHG I, No 27, 17.7.2007, Art. 269*

*Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55*

*Law of Georgia No 1681 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 164*

*Law of Georgia No 3806 of 12 November 2010 – LHG I, No 66, 3.12.2010, Art. 414*

*Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011*

*Law of Georgia No 6322 of 25 May 2012 – website, 12.6.2012*

*Law of Georgia No 6548 of 22 July 2012– website, 4.7.2012*

*Law of Georgia No 357 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 1638 of 27 November 2013 - website, 10.12.2013*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

*Law of Georgia No 4200 of 3 September 2015 - website, 10.9.2015*

*Law of Georgia No 5389 of 8 June 2016 - website, 24.6.2016*

## **Article 5- Transactions subject to monitoring**

1. For the purposes of this Law, a transaction entered into or conducted by a person and/or a set of transactions entered into or conducted for the purpose of dividing a transaction (transaction amount) (except for transactions conducted through commercial banks, brokerage and insurance companies, lawyers and persons carrying out accounting and/or audit activities, as well as activities subject to monitoring by the Revenue Service) shall be subject to monitoring if either or both of the following requirements are met:

a) the amount of the transaction or of the set of transactions exceeds GEL 30 000 (or its equivalent in another currency), both in the case of cash and non-cash settlements;

b) the transaction is a suspicious transaction under Article 2(h) of this Law.

2. The transactions determined by paragraph 1(b) of this article, and transactions entered into or conducted by a person, and/or a set of transactions entered into or conducted for the purpose of dividing the transaction, shall be subject to monitoring by commercial banks if the amount of the transaction or of the set of transactions exceeds GEL 30 000 (or its equivalent in another currency) and, at the same time, by its content, the transaction (operation) belongs to one of the following types of transactions:

a) the receipt of money by means of bank cheques in bearer form;

b) foreign currency trading in cash;

c) the transfer of money from a bank account of a bank operating or registered in an attention or suspicious area to a bank account in Georgia, or the transfer of money from Georgia to a bank account of a bank operating or registered in such an area;

d) the issuance or getting of a loan by a person registered in an attention or suspicious area (including by such legal person's branch registered in Georgia), and/or any other transaction (operation) conducted by such person through a banking institution operating in Georgia;

e) the transfer of money from Georgia to the bank account of an anonymous person in a foreign state, or the transfer of money from the bank account of an anonymous person in a foreign state to Georgia;

f) the contribution of funds (in cash or non-cash form) to the capital of an enterprise (company), except for the acquisition of shares of a reporting enterprise as determined by the Law of Georgia on the Securities Market;

g) the placement of funds in cash form into a bank account by a natural person (non-entrepreneurial entity) and their transfer (except for transferring money to the State Budget and between its own accounts within Georgia);

h) the issuance of a loan secured by bearer securities;

i) the deposit of money in a bank account (in cash or non-cash form) within 90 calendar days after registration of a legal person (except for the registration of a change of the organisational and legal form of a person) and a branch of a foreign enterprise (except for commercial banks and legal entities under public law established by the State under the legislation or administrative acts of Georgia), or the transfer of money from that account (except for operations conducted between its own accounts in the same banking institution);



j) the deposit of the amount of a grant (except for grants allocated from the State Budget or the budget of a local self-governing unit) or charitable assistance in a bank account (in cash or non-cash form) or the transfer of such amount from the account;

k) transactions (operations) conducted with the participation of suspicious financial institutions.

2<sup>1</sup>. The transactions determined by paragraph 1(b) of this article, and transactions entered into or conducted by a person and/or a set of transactions entered into or conducted for the purpose of dividing the transaction, shall be subject to monitoring by brokerage companies if the transaction amount or the amount of the set of transactions exceeds GEL 30 000 (or its equivalent in another currency) and, at the same time, by virtue of its content, the transaction (operation) belongs to one of the following types of transactions:

a) a transaction entered into with bearer securities;

b) a transaction (operation) conducted with the participation of a suspicious financial institution;

c) a transaction conducted with securities by a person residing and registered in an attention or suspicious area (including such legal person's branch registered in Georgia), and/or by means of a bank account of a bank operating in such an area;

d) a cash transaction.

2<sup>2</sup>. The transactions determined by paragraph 1(b) of this article, and transactions entered into or conducted by a person and/or a set of transactions entered into or conducted for the purpose of dividing the transaction, shall be subject to monitoring by insurance companies if the transaction amount or the amount of the set of transactions exceeds GEL 30 000 (or its equivalent in another currency) and, at the same time, by virtue of its content, the transaction (operation) belongs to one of the following types of transactions:

a) returnable life insurance;

b) annuity and pension insurance;

c) return of premium personal insurance;

d) a transaction conducted by a person residing and registered in an attention or suspicious area (including such legal person's branch registered in Georgia), and/or conducted by means of a bank account in a bank operating in such area;

e) an insurance contract terminated within the first three months at the policy holder's initiative;

f) a transaction (operation) conducted with the participation of a suspicious financial institution;

g) a cash transaction.

2<sup>3</sup>. The transactions determined by paragraph 1(b) of this article shall be subject to monitoring by a lawyer and a person carrying out accounting and/or audit activities if the lawyer and the person carrying out accounting and/or audit activities participates in any of the following activities / transactions upon the instructions or on behalf of a client:

a) trading in real estate;

b) the management of funds, securities or other property;

c) the management of bank, savings or securities accounts;

d) the organisation of contributions for the establishment, operation or management of a legal person;

e) the establishment, operation or management of a legal person or a partnership;

f) the sale or purchase of (a participatory interest in) a legal person.

3. The bringing into or removal from Georgia of cash and securities exceeding GEL 30 000 (or its equivalent in another currency) shall be subject to monitoring by the Revenue Service.

4. Monitoring shall also be carried out of an attempted execution or the conduct of a transaction determined by paragraph 1(b) of this article or any other fact (circumstance) that, according to the written instructions of the Financial Monitoring Service of Georgia, may be related to illicit income legalisation or terrorist financing.

5. In addition to the transactions determined by paragraphs 1-23 and 4 of this article, the Financial Monitoring Service of Georgia may determine a list of specific transactions for a monitoring entity about which the Financial Monitoring Service must be informed in specified cases in accordance with the procedure established by the Financial Monitoring Service.

5<sup>1</sup>. Lawyers and persons carrying out accounting and/or audit activities under the legislation of Georgia shall submit a reporting form on a transaction subject to monitoring if the submission of the reporting form does not contravene the principle of protection of professional secrets determined by the legislation regulating their activities.

6. If there are reasonable grounds for suspecting a suspicious transaction, irrespective of the transaction amount, the monitoring entity shall not suspend the conduct of the transaction (provision of services to a person related to it through a business relationship (client)), except for the cases determined by paragraph 7 of this article and Article 10<sup>3</sup> of this Law.

7. If a person wishing to establish business relations with a monitoring entity cannot be identified, and in the event of refusal by the management in the



case determined by Article 6 (2)(a) of this Law, the monitoring entity shall refuse the person to conduct the transaction (provide services to the client). A monitoring entity shall also suspend a transaction if any party to the transaction is included in the list of terrorists or persons supporting terrorism, and shall immediately submit an appropriate reporting form to the Financial Monitoring Service of Georgia.

8. Monitoring entities shall take reasonable measures to ensure that all transactions (operations) are monitored for the prevention of illicit income legalisation and terrorist financing.

9. Monitoring entities shall pay special attention to unusual transactions, the transactions (operations) determined by paragraph 2(c)(d), paragraph 2<sup>1</sup>(c) and paragraph 2<sup>2</sup>(d) of this article, which have no clear economic (commercial) content or clear legitimate purpose, and shall examine, within reasonable limits, the purpose and grounds for the conclusion of such transactions, and shall record the results in a written form. In the case of the identification of a high risk of illicit income legalisation and terrorist financing, monitoring entities shall be obliged to carry out risk-based procedures for the enhanced identification and verification of a person as provided for by the legislation of Georgia. In that case, the monitoring of business relations should be enhanced in order to determine whether the transaction (operation) is an unusual or a suspicious transaction.

10. For the purposes of this Law, monitoring entities shall determine the principles for attributing transactions of persons related to them through a business relationship to unusual transactions.

*Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 4518 of 27 March 2007 – LHG I, No 9, 31.3.2007, Art. 83*

*Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55*

*Law of Georgia No 2829 of 23 March 2010 - LHG I, No 19, 13.4.2010, Art. 103*

*Law of Georgia No 3806 of 12 November 2010 – LHGI, No 66, 3.12.2010, Art. 414*

*Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011*

*Law of Georgia No 1638 of 27 November 2013 - website, 10.12.2013*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

*Law of Georgia No 3901 of 3 July 2015 – website, 10.7.2015*

#### **Article 6- Obligations of monitoring entities regarding the registration of information (documents) on transactions and parties to a transaction**

1. Monitoring entities (except for the persons determined by Article 3(e), (f), (h<sup>1</sup>), (j), and (m) of this Law) shall identify a client (its representative and principal, as well as a third party if a transaction is entered into for the benefit of a third party) and shall take reasonable measures to verify the client's identity based on information (documents) obtained from a reliable and independent source in the following cases:

- a) the transaction amount exceeds GEL 30 000 (or its equivalent in another currency);
- b) a client wants to carry out local and/or international money transfers, the amount of which exceeds GEL 1 500 (or its equivalent in another currency);
- c) the correctness or compliance of the identification data of a client has been put in question;
- d) a transaction is a suspicious transaction under Article 2(h) of this Law.

2. A person carrying out activities related to precious metals, precious stones and their products, and antiques, shall be obliged to identify a client if the transaction (operation) amount (amount paid in cash) exceeds GEL 30 000.

3. The Revenue Service shall be obliged to identify persons moving and/or sending / receiving more than GEL 30 000 (or its equivalent in another currency) in cash, national or foreign currency, cheques and other securities across the state borders of Georgia.

4. The LEPL National Agency of Public Registry shall be obliged to identify persons (their representatives and principals, and a third party if a transaction is entered into for the benefit of a third party) participating in a real-estate sale transaction.

4<sup>1</sup>. Lawyers and persons carrying out accounting and/or audit activities under the legislation of Georgia shall identify clients (their representatives and principals, and third parties if a transaction is entered into for the benefit of a third party) and shall take reasonable measures to verify their identity based on information (documents) obtained from reliable and independent sources, and shall fulfil other obligations determined by this article if they prepare and/or conduct a transaction (operation) for a client related to one of the following activities:

- a) trading in real estate;
- b) the management of funds, securities or other property;
- c) the management of bank, savings or securities accounts;
- d) the organisation of contributions for the establishment, operation or management of a legal person;
- e) the establishment, operation or management of a legal person or partnership;
- f) the sale or purchase of (a participatory interest in) a legal person.



4<sup>2</sup>. This article shall not apply to small value payment instruments / means determined by a legal act issued under the Law of Georgia on Payment Systems and Payment Services.

5. In the case of transactions conducted by brokerage companies for their clients through commercial banks, identification shall be carried out by the brokerage companies (and in that case, commercial banks are not obliged to identify the clients of the brokerage companies).

6. Pursuant to paragraph 1 of this article, a monitoring entity shall register and store transaction information (documents) relating to:

- a) the content of the transaction (operation);
- b) the date and place of the conclusion of the transaction as well as the amount and currency in which the transaction is be conducted;
- c) the information (documents) required by this Law submitted for identification of a party to the transaction (including a client);
- d) the information (documents) necessary for identifying a person upon whose instructions the transaction is entered into or conducted;
- e) the information (documents) necessary for identifying a person entering into or conducting a transaction upon the instructions of a third party.

7. For the purposes of this Law a monitoring entity shall determine the procedures necessary for the identification of a client (except for the procedure relating to the opening of an account). At the same time, a monitoring entity may require any other information (documents) related to the transaction (operation) and the parties to the transaction.

8. A monitoring entity shall, as a minimum, check the identification data based on an ID card or passport or other equivalent document determined by the legislation of Georgia; in the case of legal persons, the identification data shall be checked on the basis of such document issued by the state that allows for the verification of the establishment of the legal person and of the appropriate powers of its representative(s).

9. A monitoring entity may not open and/or maintain an anonymous account or an account in a fictitious name.

10. A monitoring entity shall be obliged to identify a beneficial owner of a client and take reasonable measures to verify its identity on the basis of a reliable and independent source, and to ensure that it knows the identity of the beneficial owner of the client.

10<sup>1</sup>. For the identification and verification of a legal person (and of an organisational entity that is not a legal person) a monitoring entity shall obtain information on the content of its activities and its ownership and management (control) structure.

10<sup>2</sup>. A monitoring entity shall be obliged to take appropriate measures to obtain information on the purpose and intended nature of business relations with a client.

11. For the identification and verification (identity check) of a client (or its beneficial owner) a monitoring entity may rely on a third party / intermediary that carries out identification and verification (identity checks) of a person according to FATF recommendations, and stores the documents (their copies) determined by Article 7 of this Law, and is subject to the supervision and regulation stipulated by FATF recommendations. A monitoring entity shall be obliged to immediately obtain, from a third party or intermediary, information related to the identification and verification of a client (or its beneficial owner), and information on the purpose and intended nature of business relations with the client. In addition, a monitoring entity shall be obliged to take appropriate measures to ensure that immediate access is granted by a third party / intermediary when the monitoring entity requests the identification data of a client (or its beneficial owner) and any other appropriate documents related to the identification and verification of a client (or its beneficial owner). In that case, the ultimate responsibility for the identification and verification (identity check) of a client as provided for by this Law shall be imposed on the monitoring entity. A monitoring entity shall choose a third party / intermediary on the basis of the information available on the risk of illicit income legalisation and terrorist financing in the country of residence of the third party / intermediary.

12. For the identification of a client (its representative and principal, and a third party if a transaction is entered into for the benefit of a third party) (or its beneficial owner) as provided for by this Law, a monitoring entity may, in accordance with the legislation of Georgia, use the electronic databases of the identification documents provided by the LEPL Public Service Development Agency of the Ministry of Justice of Georgia.

13. A monitoring entity shall be obliged to have an appropriate risk management system in place to identify clients whose activities may pose a high risk of illicit income legalisation or terrorist financing, and to carry out enhanced identification, verification and monitoring procedures against such clients. Identification and verification procedures must be carried out according to a risk-based approach considering the type and kind of client, the business relations, the product / service or the transaction, or in any other way determined by a normative act of the Financial Monitoring Service of Georgia.

13<sup>1</sup>. In the case of a low risk of illicit income legalisation and terrorist financing identified on the basis of a proper risk analysis, a monitoring entity may use simplified identification and verification procedures with respect to a client (or its beneficial owner) which are appropriate for low risk clients as determined by a normative act of the Financial Monitoring Service of Georgia. Simplified identification and verification procedures may not be used where there is a suspicion of illicit income legalisation and terrorist financing, or where there is a high risk of illicit income legalisation and terrorist financing as provided for by paragraph 13 of this article.

14. The identification and verification of each client and its beneficial owner under this article, as well as the acquisition of other information on them, must be carried out before conducting a transaction or opening an account or before establishing any other business relations, and before resuming business relations, if there is a suspicion of illicit income legalisation or terrorist financing, or the accuracy or compliance of the identification data of a client has been put in question. The Financial Monitoring Service of Georgia may determine cases where the verification of clients and their beneficial owners may be completed after the establishment of business relations, except for the cases determined by Article 5(7) of this Law.

15. A monitoring entity shall carry out permanent monitoring over business relations with a client, which monitoring shall include:

- a) keeping current information and records on the client and its beneficial owner;
- b) the periodic updating of existing identification data and ensuring their compliance with applicable standards;



c) the detailed examination of a transaction in order to determine whether the transaction complies with its information on the client, and with the commercial and personal activities of the client, or the risk group, and if necessary, the origin of the property (including funds).

16. A monitoring entity shall pay special attention to the risks related to the introduction of new technologies, products and services that facilitate anonymity in providing services, and take all measures to prevent their use for illicit income legalisation and terrorist financing. A monitoring entity shall have such an identification and verification policy and procedures in place as ensure the reduction of the risks related to the provision of remote services to a person in accordance with the legislation of Georgia. The policy and procedures referred to in this paragraph shall be used for establishing, and the permanent monitoring of, business relations.

*Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 4518 of 27 March 2007 – LHG I, No 9, 31.3.2007, Art. 83*

*Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55*

*Law of Georgia No 2829 of 23 March 2010 - LHG I, No 19, 13.4.2010, Art. 103*

*Law of Georgia No 3806 of 12 November 2010 – LHGI, No 66, 3.12.2010, Art. 414*

*Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011*

*Law of Georgia No 6317 of 25 May 2012 - website, 19.6.2012*

*Law of Georgia No 1638 of 27 November 2013 - website, 10.12.2013*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

*Law of Georgia No 4066 of 17 July 2015 – website, 29.7.2015*

## **Article 6<sup>1</sup> - Obligations of monitoring entities with respect to politically exposed persons**

1. A monitoring entity shall determine whether a client or its beneficial owner belongs to the category of politically exposed persons.

2. If a client of a monitoring entity or its beneficial owner is a politically exposed person, the monitoring entity shall carry out the following measures in addition to the measures determined by this Law:

a) obtain authorisation from the management to establish or resume business relations with such a client;

b) take reasonable measures to identify the origin of the property (including funds) of such a client or its beneficial owner;

c) carry out enhanced monitoring of business relations with such a client.

3. If, after establishing business relations with a monitoring entity, a client or its beneficial owner becomes a politically exposed person, the monitoring entity shall be obliged to apply the measures determined by paragraph 2 of this article with respect to such person as soon as such information becomes available to the monitoring entity.

*Law of Georgia No 2829 of 23 March 2010 - LHG I, No 19, 13.4.2010, Art. 103*

*Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011*

## **Article 7 - Obligations of monitoring entities regarding the keeping of transaction information (documents)**

1. A monitoring entity shall be obliged to keep the information (documents) on a client (or its beneficial owner) determined by Article 6 of this Law, and the documentation on the client's bank account, business correspondence and records, determined by Article 5(9) of this Law (including the records submitted in accordance with the procedure established by Article 6(12) of this Law), in tangible or electronic form for at least six years after terminating business relations with the client, unless a longer period is required by the relevant supervisory authority or other competent authorities for keeping such documents, and immediately submit such information (documents) to competent authorities when there are grounds determined by the legislation of Georgia.

2. The information (documents) specified in paragraph 1 of this article and the transaction information (documents) shall be kept in its original form or, if impossible, a copy of the information (document), certified by a notary or the recipient (its authorised employee) shall be kept. The data submitted for identification of a client according to the procedure determined by Article 6(12) of this Law and verified by a monitoring entity need not be certified.

3. A monitoring entity shall be obliged to keep the information (documents) of a transaction (both international and local transactions), except for the information (documents) determined by paragraph 1 of this article, for at least six years from the moment of entering into or conducting the transaction, unless a longer period is required by the relevant supervisory authority or other competent authorities and/or unless a longer period of time is established by the legislation of Georgia for keeping such information (documents).

4. Information (documents) shall be registered and kept in such a way that the data contained therein fully reflect the transactions entered into or conducted and, if necessary, enable its immediate submission to an appropriate supervisory authority or its use as evidence in criminal proceedings.

5. Monitoring entities shall be obliged to create electronic databases (systems) for the purpose of the identification of suspicious and divided transactions.



Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55

Law of Georgia No 2829 of 23 March 2010 - LHG I, No 19, 13.4.2010, Art. 103

Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011

Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014

#### **Article 8- Obligations of monitoring entities regarding internal control**

1. A monitoring entity shall be obliged to carry out internal control for the prevention of illicit income legalisation and terrorist financing.
2. A monitoring entity shall design internal regulations (internal control rules) and take appropriate measures to follow them. The internal regulations, in accordance with this Law and the normative acts of the Financial Monitoring Service of Georgia and taking into account the specific character of the activities of monitoring entities, shall lay down, within the monitoring entity (its branches and representational offices), the rules and procedures for the identification of clients and persons seeking to establish business relations, and for information analysis, the detection of suspicious transactions and the submission of information to the Financial Monitoring Service of Georgia, and the rules and procedures for fulfilling the instructions of the Financial Monitoring Service of Georgia under Article 10<sup>3</sup> of this Law; in addition, an employee or a structural unit shall be designated as responsible for detecting suspicious transactions and providing information to the Financial Monitoring Service of Georgia, and for acknowledging the receipt of the instructions of the Financial Monitoring Service of Georgia under Article 10<sup>3</sup> of this Law, and for fulfilling the instructions, and the rights and obligations of such employee or structural unit shall be determined by the said regulations. The Financial Monitoring Service of Georgia may determine a list of principles that must be met by internal regulations, and may request and review the internal regulations of a monitoring entity, and notify the monitoring entity in case of the non-compliance of the internal regulations with normative acts, and require the amendment of the same internal regulations.
3. Monitoring entities shall be obliged to systematise information on transactions subject to monitoring, which means creating a data registration system and ensuring its maintenance.
4. For the purpose of the systematisation of information and internal control, the head of a monitoring entity shall be obliged to designate a duly authorised employee or structural unit specifically for that purpose.
5. An authorised employee or structural unit, as designated under paragraph 4 of this article, shall:
  - a) monitor compliance with internal regulations developed under this Law in accordance with the procedures and the periodicity determined by the regulations;
  - b) submit written information on transactions subject to monitoring to the head of a monitoring entity in accordance with the procedures and within the periods determined by the internal regulations.
6. A monitoring entity shall be obliged to ensure the periodic training of employees engaged in the process of the identification of the facts of illicit income legalisation and terrorist financing.
7. The rules and conditions for monitoring compliance with this Law and with normative acts adopted (issued) under this Law by currency exchange offices, non-bank depository institutions and micro-finance organisations, brokerage companies and securities registrars, money transfer operators other than banks, entities organising lotteries and other betting games (except for casinos), persons carrying out activities related to precious metals, precious stones and their products and antiques, persons awarding grants and providing charitable assistance, notaries and the National Agency of Public Registry, shall be determined by a normative act of an appropriate supervisory authority in agreement with the Financial Monitoring Service of Georgia.

Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36

Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55

Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011

Law of Georgia No 3901 of 3 July 2015 – website, 10.7.2015

#### **Article 9- Obligations of monitoring entities regarding submission of reports on transactions subject to monitoring**

1. If a monitoring entity puts in question the authenticity of the identification data, or if despite efforts a client cannot be identified, or in the case of a transaction specified in Article 5 of this Law, the monitoring entity shall be obliged to inform the Financial Monitoring Service of Georgia in accordance with the form and procedure established by this Law and a normative act of the Financial Monitoring Service of Georgia.
- 1<sup>1</sup>. If a lawyer puts in question the authenticity of identification data, or if despite best efforts a client cannot be identified, or in the case of a transaction specified in Article 5(2<sup>3</sup>) of this Law, the lawyer shall inform the LEPL Georgian Bar Association, which shall ensure that a relevant notification is submitted to the Financial Monitoring Service of Georgia in accordance with the procedures established by this Law and a normative act of the Financial Monitoring Service of Georgia.
2. Notification of the Financial Monitoring Service of Georgia entails the completion and submission of an appropriate reporting form on a transaction by a monitoring entity, and the acknowledgement of its receipt by the Financial Monitoring Service of Georgia in accordance with the procedure established by a normative act of the Financial Monitoring Service of Georgia. A reporting form shall be submitted on the day when identification



becomes impossible or when a suspicion arises with respect to the authenticity of the identification data or the transaction, or within not later than five business days from entering into or conducting a transaction if the transaction (operation) amount exceeds the limit determined by Article 5 of this Law. If any party to a transaction is included in the list of terrorists or persons supporting terrorism and/or there are reasonable grounds for suspecting that a party to a transaction is related to them and/or the funds involved in a transaction may be related to or used for terrorism, terrorist acts, or by terrorists, terrorist organisations or entities financing terrorism, a monitoring entity shall submit a report together with all appropriate available materials and documents to the Financial Monitoring Service of Georgia on the day of receipt of such information.

3. A monitoring entity shall keep the relevant reporting form (in a written or electronic form) for at least six years, unless a longer period for keeping it is required by an appropriate supervisory authority.

4. A normative act of the Financial Monitoring Service of Georgia may determine exceptional cases where the Service is not notified despite the fact that a transaction is a transaction as specified in Article 5 of this Law. As a rule, this provision shall apply to a transaction which is not a suspicious transaction for the purposes of this Law.

*Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 4518 of 27 March 2007 – LHG I, No 9, 31.3.2007, Art. 83*

*Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55*

*Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011*

*Law of Georgia No 1638 of 27 November 2013 - website, 10.12.2013*

## **Article 10- Financial Monitoring Service of Georgia**

1. The Financial Monitoring Service of Georgia is a legal entity under public law established under the Law of Georgia on Legal Entities under Public Law that exercises its powers granted by this Law and appropriate legal acts.

1<sup>1</sup>. The Financial Monitoring Service of Georgia is independent in its activities and follows the Constitution of Georgia, international agreements and treaties of Georgia, this Law and other legal acts.

1<sup>2</sup>. Within its powers, the Financial Monitoring Service of Georgia represents Georgia in international meetings, councils and organisations.

1<sup>3</sup>. The Financial Monitoring Service of Georgia has its own seal depicting the state coat of arms of Georgia and the name of the Service; the Service maintains a standalone balance sheet and an account with the State Treasury. The Financial Monitoring Service of Georgia may, at the same time, have an account with a commercial bank in cases provided for by the legislation of Georgia.

1<sup>4</sup>. The Financial Monitoring Service of Georgia shall submit to the Government of Georgia an annual report on the activities carried out by the Service.

1<sup>5</sup>. The Financial Monitoring Service of Georgia shall be accountable to the Government of Georgia.

2. The Financial Monitoring Service of Georgia shall, in coordination with an appropriate supervisory authority, determine a form for reporting suspicious transactions. In addition to other information, a reporting form shall include information on suspicious transactions and its parties, and on bank accounts (if appropriate).

3. The Financial Monitoring Service of Georgia shall determine suspicious transactions and parties to such transactions, and for the purpose of the identification of suspicious transactions by monitoring entities shall provide monitoring entities with information (lists, instructions, etc.) on such transactions and parties.

4. The Financial Monitoring Service of Georgia may:

a) for identifying the facts of illicit income legalisation or terrorist financing or other criminal activities, where necessary, require and receive from a monitoring entity additional information and available documents (originals or copies), including confidential information, on any transaction (operation), including on a bank account, or on an attempt to enter into or conduct a transaction (operation), or on the parties to the transaction, and any other information that is necessary for fulfilling its obligations under this Law.

b) submit information to supervisory authorities in order for them to take appropriate measures;

c) issue subordinate normative acts, within its authority, for the purpose of implementing this Law;

d) participate in the drafting and review of normative acts regulating the economic sector and other issues related to its authority;

e) in order to perform its functions, send inquiries to and receive information from any state or local self-government bodies or institutions, and from any natural or legal person that exercises public law authority under the legislation of Georgia;

f) apply to a court for the seizure of property (including bank accounts) if there is a reasonable belief that the property (including the transaction amount) may be used for terrorist financing. In that case, the materials shall immediately be submitted to the appropriate departments of the Chief Prosecutor's Office and the State Security Service of Georgia.

5. The Financial Monitoring Service of Georgia shall:

a) create an information network, and systematise and analyse submitted information, and create and operate an appropriate database for recording relevant information;



b) immediately submit information (including confidential information) and relevant available materials to the appropriate departments of the Chief Prosecutor's Office and the Ministry of Internal Affairs of Georgia and/or the State Security Service of Georgia, without obtaining a permit from any authority or person, if the analysis of appropriate information gives rise to a reasonable belief that the transaction is suspicious and is being conducted for the purpose of illicit income legalisation or terrorist financing, or for the commission of other offences;

c) examine compliance with this Law and if necessary, draw up appropriate legislative proposals that ensure the achievement of the purposes of this Law.

6. A person or body may obtain information held by the Financial Monitoring Service of Georgia which is recognised as confidential by the legislation of Georgia only after submitting an appropriate act issued by a court, except for exceptional cases as determined by the Constitution of Georgia, the international agreements and treaties of Georgia, and by agreements entered into by the Financial Monitoring Service of Georgia under Article 13 of this Law. No one shall have the right to instruct the Financial Monitoring Service of Georgia to search for (obtain) any information.

7. The issues relating to the management, structure and accountability of the Financial Monitoring Service of Georgia shall be determined by the statute of the Financial Monitoring Service of Georgia, which is approved by the Government of Georgia. At the same time, Article 11 of the Law of Georgia on Legal Entities under Public Law shall not apply to the Financial Monitoring Service of Georgia.

*Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 3422 of 30 June 2006 – LHG I, No 27, 17.7.2006, Art. 222*

*Law of Georgia No 3644 of 10 November 2006 – LHG I, No 44, 27.11.2006, Art. 292*

*Law of Georgia No 483 of 1 November 2008 - LHG I, No 30, 7.11.2008, Art. 199*

*Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011*

*Law of Georgia No 1275 of 20 September 2013 - website, 2.10.2013*

*Law of Georgia No 2464 of 29 May 2014 - website, 2.6.2014*

*Law of Georgia No 2940 of 12 December 2014 - website, 24.12.2014*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

*Law of Georgia No 3901 of 3 July 2015 – website, 10.7.2015*

*Law of Georgia No 3961 of 8 July 2015 - website, 15.7.2015*

## **Article 10<sup>1</sup> - Head of the Financial Monitoring Service of Georgia**

1. The Financial Monitoring Service of Georgia is managed by the Head of the Financial Monitoring Service of Georgia, who is appointed, for a term of four years, and may be dismissed, by the Prime Minister of Georgia.

2. The Head of the Financial Monitoring Service of Georgia shall be removed from office:

a) upon resignation;

b) due to serious official misconduct;

c) on the grounds of inability to perform official duties for four consecutive months for health reasons, or if he/she is recognised by a court as a person with a disability or as a beneficiary of support, unless otherwise determined by a court decision;

d) upon the termination of his/her citizenship of Georgia;

e) upon entry into legal force of a court's judgement of conviction against him/her for committing a crime.

3. The Head of the Financial Monitoring Service of Georgia may issue a normative act, or an order.

*Law of Georgia No 2464 of 29 May 2014 - website, 2.6.2014*

*Law of Georgia No 3376 of 20 March 2015 – website, 31.3.2015*

## **Article 10<sup>2</sup> - Management and budget of the Financial Monitoring Service of Georgia**

1. The functions of the Financial Monitoring Service of Georgia and issues related to its management, structure, accountability, representation and control shall be regulated by this Law, other legislative acts and the statute of the Financial Monitoring Service of Georgia as approved by the Government of Georgia upon the recommendation of the Head of the Financial Monitoring Service of Georgia.

2. The staff list and the amount of remuneration of the employees of the Financial Monitoring Service of Georgia shall be approved by the Prime Minister of Georgia upon the recommendation of the Head of the Financial Monitoring Service of Georgia.



3. The amount of remuneration payable to an employee of the Financial Monitoring Service of Georgia shall correspond to the level of remuneration existing in the banking system of Georgia. The amount of remuneration payable to a part-time employee of the Financial Monitoring Service of Georgia shall be determined by a labour contract.

4. The following are the sources of financing of the Financial Monitoring Service of Georgia:

a) funds allocated from the State Budget of Georgia;

b) other income allowed by the legislation of Georgia.

5. The budget of the Financial Monitoring Service of Georgia shall be approved annually by the Government of Georgia upon the recommendation of the Head of the Financial Monitoring Service of Georgia. The operational expenses of the Financial Monitoring Service of Georgia may not be less than the financing allocated for the previous year. The operational expenses of the Financial Monitoring Service of Georgia may be reduced compared to the financing allocated for the previous year only with the prior consent of the Head of the Financial Monitoring Service of Georgia. If the Government of Georgia fails to approve the budget of the Financial Monitoring Service of Georgia, the Service shall be financed according to the amount allocated for financing of the Financial Monitoring Service of Georgia in the previous year.

*Law of Georgia No 2464 of 29 May 2014 - website, 2.6.2014*

### **Article 10<sup>3</sup> - Instruction of the Financial Monitoring Service of Georgia on the suspension of a transaction (operation)**

1. If there is a belief that a transaction is suspicious, irrespective of the transaction amount, the Head of the Financial Monitoring Service of Georgia shall be authorised to give written instructions to the monitoring entity to suspend, for not more than 72 hours (days off and public holidays shall not be included in that time limit), the execution of the transaction (operation) as well as any other transaction (operation) related to the transaction (operation) in question or to the parties to the transaction. In that case, the materials shall immediately be submitted to the appropriate departments of the Chief Prosecutor's Office and the Ministry of Internal Affairs of Georgia, and to the State Security Service of Georgia.

2. In the case of urgency, the Head of the Financial Monitoring Service of Georgia, or a person authorised by him/her, may give the instructions determined by paragraph 1 of this article, in verbal (personally or by electronic communication means) or written form, including by means of electronic communication, which must be documented within the following 24 hours by a written instruction of the Head of the Financial Monitoring Service of Georgia and submitted to the monitoring entity. After the expiry of this period, if appropriate written instructions are not received within that period, the monitoring entity shall stop following the above instructions. A written record shall be drawn up on the fact of giving the instructions determined by this paragraph, in accordance with the procedure established by a normative act of the Financial Monitoring Service of Georgia.

3. A monitoring entity shall immediately acknowledge to the Financial Monitoring Service of Georgia receipt of the instructions determined by paragraphs 1 and 2 of this article in accordance with the procedure established by a normative act of the Financial Monitoring Service of Georgia, and take necessary measures to ensure the immediate performance of the instructions.

4. The time limit determined by paragraph 1 of this article shall be calculated from the moment of receipt by a monitoring entity of the written instructions of the Head of the Financial Monitoring Service of Georgia or the instructions of the Head of the Financial Monitoring Service of Georgia or of the person authorised by him/her in accordance with the procedure established by paragraph 2 of this article.

5. The instructions determined by paragraphs 1 and 2 of this article may be cancelled before the expiration of the time limit specified in paragraph 1 of this article if the belief of the existence of a suspicious transaction is not confirmed, and if the interests of the investigation so require, upon a written application of the appropriate departments of the Chief Prosecutor's Office, the Ministry of Internal Affairs of Georgia and the State Security Service of Georgia. In such cases, the Financial Monitoring Service of Georgia shall immediately notify the monitoring entity in accordance with the procedure established by paragraph 2 of this article of the cancellation of the relevant instructions, which shall be documented by a written instruction of the Head of the Financial Monitoring Service of Georgia within the following 24 hours and submitted to the monitoring entity.

6. A monitoring entity shall keep the written instructions of the Head of the Financial Monitoring Service of Georgia (including the instructions given in an electronic form), determined by paragraphs 1 and 2 of this article, for at least six years, unless a longer period is required by an appropriate supervisory authority for keeping the instructions.

7. The Financial Monitoring Service of Georgia shall be authorised:

a) to give the instructions determined by paragraphs 1 and 2 of this article to a monitoring entity on the basis of the principle of reciprocity, upon a substantiated written application of the relevant foreign authorised body;

b) to request from an appropriate foreign authorised body the suspension of a transaction (operation) where there is a belief that the transaction is suspicious.

*Law of Georgia No 3901 of 3 July 2015 – website, 10.7.2015*

*Law of Georgia No 3961 of 8 July 2015 - website, 15.7.2015*

### **Article 11- Responsibility of supervisory authorities**

1. Supervisory authorities shall be responsible for monitoring the fulfilment of obligations determined by this Law (with respect to a transaction, including the systematisation and provision of the information submitted for identification of the parties to the transaction, internal control, etc.), by the monitoring entities in accordance with established rules and procedures.

2. Supervisory authorities shall cooperate with each other, and with Georgian and foreign authorised bodies and international organisations, by means of



exchanging information and sharing experience, and, within the scope of their authority, shall assist law enforcement bodies.

3. If a supervisory authority detects that a transaction was subject to monitoring but the corresponding information was not provided to the Financial Monitoring Service of Georgia, or the requirements of this Law, or of appropriate normative acts or of the instructions of the Financial Monitoring Service of Georgia, were violated, the supervisory authority shall immediately notify the Financial Monitoring Service of Georgia and shall impose an appropriate sanction on the wrongdoer.

*Law of Georgia No 3422 of 25 February 2004 - LHGI, No 7, 16.3.2004, Art. 36*

#### **Article 11<sup>1</sup> - Shell banks**

1. Shell banks may not be established or operated, and business relations (including correspondent relations) may not be established with shell banks.

2. The representatives of the financial sector shall take reasonable measures in order to establish:

a) whether a person with whom they have business relations (or with whom they establish business relations) belongs to the category of shell banks;

b) whether a person with whom they have business relations (or with whom they establish business relations) has business relations with a shell bank.

3. A financial institution shall make sure that a respondent financial institution prohibits the use by shell banks of accounts at the respondent financial institution.

*Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

#### **Article 12- Responsibility for protection and disclosure of information**

1. The heads and employees (in definite-term or indefinite-term employment) of the Financial Monitoring Service of Georgia, and of monitoring entities and supervisory authorities, may not notify a party to a transaction or other parties that, based on their obligations under this Law, information on the transaction has been submitted to an appropriate body and/or that the measures determined by Article 10<sup>3</sup> of this Law are being carried out.

2. Failure to comply with the requirements determined by paragraph 1 of this article shall result in the imposition of liability as determined by the legislation of Georgia.

3. The Financial Monitoring Service of Georgia, and supervisory authorities, and law enforcement bodies, and their heads and employees (in definite-term or indefinite-term employment), shall protect information received under this Law containing personal, banking, commercial or professional secrets, and shall not disclose such information as provided for by the legislation of Georgia.

4. The Financial Monitoring Service of Georgia, and monitoring entities, and supervisory authorities, and their heads and employees (in definite-term or indefinite-term employment), shall not be liable (including criminal, civil and administrative liability) for violating the confidentiality of information determined by a normative act or an agreement as a result of proper activities carried out within their authority, or for protecting or disclosing such information, except in the case of the commission of a crime provided for by the Criminal Code of Georgia.

5. The material damage caused to a natural or legal person as a result of the violation of an obligation to ensure the confidentiality of information received by the officials and employees of the Financial Monitoring Service of Georgia, and monitoring entities, and supervisory authorities, and law enforcement bodies, in the cases and in accordance with the procedures determined by this Law, shall be compensated by the damaging party, or the Financial Monitoring Service of Georgia, or the monitoring entity, supervisory authority or law enforcement body, respectively, in the amount established by a court decision.

6. The Financial Monitoring Service of Georgia, and monitoring entities and their heads and employees, shall not be liable for damage that may be caused to a natural and/or legal person as a result of the disclosure, in accordance with the requirements of this Law, of relevant information and materials to appropriate bodies and/or for the implementation of measures specified in Article 10<sup>3</sup> of this Law.

7. In fulfilling the obligation to provide information determined by this Law to the Financial Monitoring Service of Georgia, the identities of the employees of the monitoring entity may not be disclosed.

8. The material damage cause to a natural or legal person as a result of the disclosure of information and materials to the Chief Prosecutor's Office of Georgia, the Ministry of Internal Affairs of Georgia and the State Security Service of Georgia by the Financial Monitoring Service of Georgia based on a groundless suspicion inconsistent with this Law, or as a result of written or verbal instructions given to a monitoring entity as provided for by Article 10<sup>3</sup> of this Law, shall be compensated from the State Budget of Georgia based on a court decision in accordance with the procedure established by the legislation of Georgia.

*Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55*

*Law of Georgia No 483 of 1 November 2008 - LHG I, No 30, 7.11.2008, Art. 199*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

*Law of Georgia No 3901 of 3 July 2015 – website, 10.7.2015*



### **Article 13- Local and international cooperation**

1. In matters related to illicit income legalisation and terrorist financing, duly authorised bodies of Georgia shall, within their authority, cooperate with local and foreign authorised bodies and international organisations at the stages of obtaining necessary information, investigation, court hearings and enforcement of decisions.
2. The Financial Monitoring Service of Georgia shall have the right to enter into contracts (agreements) independently with appropriate foreign authorities in order to regulate the exchange of information, and other matters within their authority, in combating illicit income legalisation and terrorist financing. Such contracts (agreements) shall stipulate the protection of confidentiality of information and its use only for purposes determined by law.
3. With regard to issues relating to illicit income legalisation and terrorist financing, the Financial Monitoring Service of Georgia may send requests for necessary information to foreign authorised bodies and international organisations, and respond to their similar requests without obtaining permission from any authority or person.
4. With regard to issues relating to illicit income legalisation and terrorist financing, appropriate authorised bodies of Georgia shall ensure the protection of the confidentiality of appropriate information and shall use such information only for the purposes determined by the sent requests.

*Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 3619 of 24 September 2010 – LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 5580 of 20 December 2011– website, 28.12.2011*

### **Article 13<sup>1</sup> - State Commission for Implementing United Nations Security Council Resolutions**

1. The State Commission for Implementing United Nations Security Council Resolutions ('the Commission') has been established by the Government of Georgia and ensures the seizure of the property of persons related to terrorism and persons determined by Security Council resolutions ('UN Security Council Resolutions') adopted in accordance with Chapter 7 of the Charter of the United Nations (the 'UN'), in order to prevent those persons from financing terrorist or other illegal activities, or from otherwise supporting such activities.
2. For the accomplishment of its goals and objectives, the Commission shall cooperate with Georgian and foreign public authorities and international organisations, including with the UN.
3. The activities of the Commission shall be directed by the Chairperson of the Commission who is the head of the Commission, and who represents it in relations with third parties and signs documents adopted by the Commission.
4. The Chairperson of the Commission may delegate his/her rights and obligations, or the part of them, to another Commission member.
5. A working group shall be established within the Commission, which shall be headed by the Chairperson of the Commission.
6. The Government of Georgia shall determine the composition of the Commission, and shall appoint the Chairperson of the Commission and a co-chairperson from among the Commission members.
7. The structure, authority and rules of operation of the Commission shall be determined by the statute of the Commission, which shall be approved by an ordinance of the Government of Georgia.

*Law of Georgia No 5353 of 25 November 2011 – website, 8.12.2011*

*Law of Georgia No 4453 of 28 October 2015 - website, 11.11.2015*

### **Article 13<sup>2</sup> - Authority of the Commission and of the working group**

1. The Commission shall have the right to file a motion in court in accordance with the procedure established by the Administrative Procedure Code of Georgia for the seizure of the property of persons determined by UN Security Council Resolutions.
2. Upon the application of appropriate foreign and/or Georgian authorities, the Commission shall be authorised to draw up a list of persons related to terrorism and to file a motion in court for the seizure or release from seizure of the property of the persons on the list in accordance with the procedure established by the Administrative Procedure Code of Georgia.
3. A working group of the Commission shall be authorised to request the imposition of certain restrictions by appropriate state authorities for the purpose of the implementation of sanctions established by UN Security Council Resolutions. The request of the working group of the Commission shall be binding on appropriate state authorities.

*Law of Georgia No 5353 of 25 November 2011 – website, 8.12.2011*

*Law of Georgia No 4453 of 28 October 2015 - website, 11.11.2015*



## **Article 14- (Deleted)**

*Law of Georgia No 3422 of 30 June 2006 – LHG I, No 27, 17.7.2006, Art. 222*

*Law of Georgia No 5952 of 19 March 2008 – LHG I, No 8, 28.3.2008, Art. 55*

## **Article 15- Transitional provisions**

1. Within 10 days after the publication of this Law, the National Bank of Georgia shall draft appropriate legal acts related to the establishment of the Financial Monitoring Service of Georgia, and submit them to the President of Georgia for approval.

2. The President of Georgia shall be asked to issue, within one month after the publication of this Law, an edict on the approval of the statute of the Financial Monitoring Service of Georgia.

3. Within three months after the publication of this Law, the National Bank of Georgia shall complete the implementation of organisational, legal, and financial measures related to the establishment of the Financial Monitoring Service of Georgia.

4. In agreement with the supervisory bodies, the Financial Monitoring Service of Georgia shall adopt (issue) and periodically improve appropriate subordinate normative acts determining the rules and conditions for the receipt, systematisation, processing and transfer of information, and monitoring entities shall draw up internal regulations determined by Article 8 of this Law.

5. Supervisory bodies shall adopt (issue) the procedure for determining and imposing sanctions (including financial sanctions) on monitoring entities that violate this Law and normative acts adopted (issued) based on this Law.

5<sup>1</sup>. Before 31 December 2012, financial institutions shall apply Article 6 of this Law to clients and their beneficial owners with whom they have business relations as of 1 January 2012.

5<sup>2</sup>. Based on factual circumstances and appropriate risks, monitoring entities shall apply the identification and verification measures applicable to clients and their beneficial owners, as determined by Article 6(10<sup>1</sup>) and (10<sup>2</sup>) of this Law, to those clients with whom they have business relations as of 1 January 2015, within reasonable time limits, but not later than 31 December of 2015. At the same time, monitoring entities shall pay attention to the time when identification and verification measures were previously taken with respect to such clients, and the correspondence of the obtained information.

6. Within one year after the publication of this Law:

a) in coordination with the National Bank of Georgia, the Ministry of Finance of Georgia shall take appropriate measures regarding the registration of cash movements across the state borders of Georgia in such a way as to ensure the use of the obtained information in good faith and the free flow of capital;

b) the National Bank of Georgia shall take measures facilitating the use and broader application of non-cash settlement methods, and submit legislative proposals limiting the control of commercial banks by wrongdoers.

*Law of Georgia No 3422 of 25 February 2004- LHGI, No 7, 16.3.2004, Art. 36*

*Law of Georgia No 5580 of 20 December 2011- website, 28.12.2011*

*Law of Georgia No 2965 of 24 December 2014 - website, 31.12.2014*

## **Article 16- Final provisions**

1. This Law, except for Articles 10 and 15, shall enter into force on 1 January 2004.

2. Articles 10 and 15 of this Law shall enter into force upon promulgation.

**President of Georgia**

**Eduard Shevardnadze**

**Tbilisi,**

**6 June 2003**

**No 2391-IIb**

