

# Money Laundering and Terrorism Financing Risk Assessment of Georgia

---

**Report**

2019

## Contents

|   |    |
|---|----|
| <b>Introduction</b> .....                       | 3  |
| <b>Legal and Institutional Framework</b> .....  | 8  |
| <b>The Risk of Money Laundering</b> .....       | 25 |
| <b>Risk of Terrorism Financing</b> .....        | 38 |
| <b>Legal Persons</b> .....                      | 46 |
| <b>New Services and Delivery Channels</b> ..... | 52 |
| <b>Banking Sector</b> .....                     | 55 |
| <b>Non-Bank Financial Services</b> .....        | 66 |
| <b>Non-Financial Services</b> .....             | 75 |

## Chapter I

### Introduction

#### 1.1 Context

Georgia is located in Eastern Europe, at the crossroads of Europe and Asia. The country is bordered by Armenia, Azerbaijan, Turkey and Russia. Due to its geographical location, Georgia is an important knot of the transport corridor connecting Central Asia and Europe. The territory of the country covers an area of 69,700 km<sup>2</sup>, but the Central Government of Georgia cannot exercise effective control over 20% of its territory occupied by Russia.

According to 2014 census, population of Georgia is 3.7 million. The population is religiously and ethnically diverse<sup>1</sup>. As of 2016, there were 43,000 immigrant citizens from other countries in Georgia<sup>2</sup>. Citizens of 95 countries can enter Georgia without a visa. In 2018, the number of foreign visitors amounted to 8.7 million, and starting from 2017 Georgian citizens can also travel to the EU/Schengen countries without a visa.

Georgia is a small but growing economy. Average annual economic growth in the last 10 years was 4.5%. In 2018, GDP per capita was 4,345 USD. Georgia's main trading partner is the European Union. In 2018, other major trading partners in terms of total trade turnover were Turkey (13.7%), Russia (11%), Azerbaijan (8.8%), China (8.3%) and Ukraine (5.5%)<sup>3</sup>. Georgia is not an international or regional financial center. In 2018, the share of financial activities in the total economic output was 4%<sup>4</sup>.

Georgia is a parliamentary republic. The highest legislative body is the Parliament, which is elected by a mixed electoral system, and the government is headed by the Prime Minister. The Constitution is the supreme law of the country. International agreements that do not contradict the Constitution have prevalent legal force over the domestic law. In addition, Georgia belongs to the Civil Law system, although different elements of Common Law are also found in the legislation<sup>5</sup>. The judicial system includes the common courts<sup>6</sup> and the Constitutional Court. The criminal prosecution body of the country is the Prosecutor's Office, which is independent from the other branches of the government.

Georgia is a responsible player in the international system of the fight against money laundering and terrorism financing. Under the Association Agreement with the European Union, Georgia has undertaken the obligation to approximate its legislation to the EU law, including in the sphere of prevention, detection and fight against money laundering and terrorism financing. Georgia also participates in the work of the Council of Europe Committee of Experts on Evaluation of Anti-Money

---

<sup>1</sup> According to Geostat 86.6% are ethnic Georgians, 6.3% Azerbaijanis, 4.5% Armenians and 0.7% Russians; 83.4% are Orthodox Christians, 10.7% Muslims, and 2.9% belong to Armenian Apostolic Church.

<sup>2</sup> Data of the Governmental Commission on Migration. Immigrant is a person who has resided on the territory of Georgia for at least 183 days in the last 12 months.

<sup>3</sup> Data of Geostat.

<sup>4</sup> *Ibid.*

<sup>5</sup> E.g. the jury trial.

<sup>6</sup> District (City) Court, Court of Appeal and Supreme Court.

Laundrying Measures and Financing of Terrorism (Moneyval). Moneyval examines compliance of countries with the Financial Action Task Force (FATF) standards, one of the main requirements of which is to assess the risks of money laundering and terrorism financing.

In 2019, the Georgian Parliament adopted the Law on Facilitating the Prevention of Money Laundering and Terrorism Financing (hereinafter “AML/CFT Law”), and a year before the National Bank of Georgia adopted the Regulation on Information Accompanying the Transfer of Funds<sup>7</sup>. With these changes, the legal and institutional mechanisms for combating money laundering and terrorism financing in the country have significantly improved to comply with the FATF recommendations.

## 1.2 Purpose, Methodology and Priorities

Money Laundering and Terrorism Financing Risk Assessment Report (hereinafter the "Risk Assessment Report") was prepared in accordance with FATF standards<sup>8</sup> and taking into consideration experience of other countries. The purpose of the Risk Assessment Report is to raise the awareness of the competent authorities and the private sector on the risks of money laundering and financing of terrorism in Georgia. In particular, the key findings of the report will help the competent authorities to determine priorities consistent with risks and allocate resources correspondingly. The information contained in the report shall also help obliged entities<sup>9</sup> to identify and manage money laundering and terrorist financing risks related to their activities.

The preparation of the Risk Assessment Report was led by the Inter-Agency Council under the Government of Georgia, which is chaired by the Minister of Finance of Georgia (see section 2.1). A working group was set up within the Council consisting of representatives of all competent bodies<sup>10</sup>. The working group was tasked with preparing and submitting a draft risk assessment report to the Council. The Council of Europe expert<sup>11</sup> provided methodological support to the members of the working group. Thematic subgroups were created, composed of practicing experts of relevant spheres. In assessing risks, the risk assessment working group was guided by the notion of the risk as a combination of *threats, vulnerabilities and consequences*. Threat is a person or group of persons, object or activity that can cause negative impact (e.g. criminal group, criminal scheme). Vulnerability means a circumstance, that can be misused (e.g. geographical location of a country, legislative gap, anonymity

---

<sup>7</sup> Order №253/04 of the President of the National Bank of Georgia.

<sup>8</sup> FATF Guidance on National Money Laundering and Terrorism Financing Risk Assessment.

<sup>9</sup> Financial Institutions and Representatives of Non-Financial Businesses/Profession as defined by the AML/CFT Law.

<sup>10</sup> Ministry of Finance of Georgia, Revenue Service of Georgia, Prosecutor’s Office of Georgia, Ministry of Internal Affairs of Georgia, State Security Council of Georgia, State Security Service of Georgia, Ministry of Economy and Sustainable Development of Georgia, Ministry of Justice of Georgia, National Agency of Public Registry, Financial Monitoring Service of Georgia, National Bank of Georgia, Insurance State Supervision Service of Georgia, Service for Accounting, Reporting and Audit Supervision and Georgian Bar Association.

<sup>11</sup> Expert hired within the EU/CoE Partnership for Good Governance (PGG II) Project on “Enhancing the systems of prevention and combating corruption, money laundering and terrorist financing in Georgia”.

of financial services). Consequence is a negative impact that can occur to a country as a whole or a certain sector of the economy or a group of people.

The Risk Assessment Report consists of two main parts: assessment of risks of money laundering and terrorism financing at the national level<sup>12</sup> and at the sectoral level<sup>13</sup>. At the national level, the risk of money laundering was assessed as *medium*, and the risk of financing of terrorism was assessed as *low*. The risk assessment was carried out in several stages. At the first stage, thematic subgroups identified preliminary risk factors<sup>14</sup>. At the second stage, the thematic subgroups provided the in-depth analysis of the nature, source and scale of risk factors, which was based on multifaceted statistical data and analysis. For instance, *Modus Operandi*, used in money laundering cases was studied. At the third stage, the working group jointly discussed the weight of risk factors and the extent of probability of materialising the risk, and then determined by consensus the risk level for each of the thematic areas<sup>15</sup>. A workshop was held at the end of the process where the findings of the working group were discussed with the participation of representatives of the private sector. The results of the discussion were reflected in the final risk assessment report.

| <b>Sectorial Risk Level</b>         |                    |                     |
|-------------------------------------|--------------------|---------------------|
| <b>Sector</b>                       | <b>ML Risk</b>     | <b>FT Risk</b>      |
| <b>Financial Services</b>           |                    |                     |
| Banking Sector                      | <b>Medium</b>      | <b>Medium-Low</b>   |
| Payment service providers           | <b>Medium</b>      | <b>Medium - Low</b> |
| Microfinance organizations          | <b>Medium-Low</b>  | Low                 |
| Brokerage companies                 | <b>Medium-Low</b>  | Low                 |
| Securities Registrars               | <b>Medium-Low</b>  | Low                 |
| Currency exchange bureaus           | <b>Medium-Low</b>  | Low                 |
| Leasing companies                   | <b>Medium-Low</b>  | Low                 |
| Insurance companies                 | <b>Low</b>         | Low                 |
| Credit unions                       | <b>Low</b>         | Low                 |
| <b>Non-financial Services</b>       |                    |                     |
| Gambling business                   | <b>Medium-High</b> | Low                 |
| Real estate market                  | <b>Medium</b>      | Low                 |
| Trade in precious metals and stones | <b>Medium-Low</b>  | Low                 |

<sup>12</sup> Chapters II, III, IV, V and VI.

<sup>13</sup> Chapters VII, VIII and IX.

<sup>14</sup> Specific threat or vulnerability that is a major source or driving force of money laundering or terrorism financing.

<sup>15</sup> High, medium-high, medium, medium-low or low.

|                                 |                   |     |
|---------------------------------|-------------------|-----|
| Advocacy service                | <b>Medium-Low</b> | Low |
| Notary Service                  | <b>Low</b>        | Low |
| Accounting and auditing Service | <b>Low</b>        | Low |

All risk levels indicated in the Risk Assessment Report are "residual risks"<sup>16</sup>, which were determined taking into account the effectiveness of the legal and institutional system, as well as the quality of compliance control systems across the sectors. The thematic areas presented in the report are interrelated and impact the level of each other's risk. For example, when assessing risk levels in the different sectors, the working group took into account the risks identified at the national level. Likewise, the chapters on legal persons and new services and delivery channels focus more on vulnerabilities. However, when defining the level of the risk, the analysis of threats given in other sections of the report was taken into account. Moreover in the Risk Assessment Report the territories occupied by Russia is presented as a risk factor in the context of fight against terrorism. The impact of the situation in the occupied territories on the financial system of Georgia is insignificant.

Taking into account the main findings of the Risk Assessment Report, the working group also identified priority tasks fulfillment of which shall promote effective management of the risks of money laundering and terrorism financing in the country. Moreover, during the preparation of the report a lack of certain statistics data was also identified, which would be a useful source of information for future risk assessments. The priority tasks set by the working group are:

- Monitoring of the parallel financial investigation practices for all income generating offences;
- Improvement of the collection of statistics on the type and value of frozen, seized and confiscated property;
- Improvement of the practice of applying targeted financial sanctions according to the United Nations Security Council Resolutions in relation to persons linked to terrorism;
- Improvement of the software for operational-strategic analysis of the Financial Monitoring Service of Georgia;
- Implementing the risk-based supervision over the gambling business and determining appropriate fit and proper criteria for casino owners/administrators;
- Improvement of public/private partnership mechanisms for timely exchanging of the information on the methods and means of crime, and other threats among obliged entities and competent authorities.

Together with the Risk Assessment Report, 2 year action plan was developed that sets out the measures to fulfil the above mentioned priority tasks. The purpose of the action plan is not to duplicate the existing mechanisms for carrying out activities provided in other strategic and working documents of the country. For instance, the 2017-2021 Action Plan of the Prosecutor's Office of Georgia defines the necessary measures to be taken in order to improve the parallel financial investigation practices.

---

<sup>16</sup> The ultimate risk, calculated by taking into account the relevant Mitigants (factors reducing risks).

Therefore, the Action Plan of the Risk Assessment Report focuses on the improvement of the capabilities of Financial Monitoring Service of Georgia, the supervision of obliged entities, public and private cooperation and the collection of the statistics.

## Chapter II

### Legal and Institutional Framework

#### 2.1 Policy and Coordination

Since 2013 under the Government of Georgia has been functioning the Interagency Council, chaired by the Minister of Finance, which is composed of the heads of all competent state bodies<sup>17</sup>. The Council's task was to eliminate the shortcomings identified by the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (hereinafter referred to as "Moneyval") during the assessment of Georgia in 2012. In 2014, upon submission of the Council, the Government of Georgia adopted a 3-year Strategy and Action Plan to combat money laundering and terrorism financing. The strategy and action plan envisaged enhancing of customer due diligence measures, introducing risk-based supervision in the financial sector, improving the system of cash declaration at the border and conducting the national money laundering and terrorism financing risk assessment<sup>18</sup>. In the end of 2015, Moneyval confirmed the effectiveness of implemented reforms and released the country from the follow-up process.

In 2019, the Council will be replaced by the interagency commission, with the function to identify, analyse and evaluate the risks of money laundering and terrorism financing in the country, as well as coordination of appropriate measures for the purpose of management of identified risks. On biannual basis the Council shall elaborate and submit to the Government of Georgia a risk assessment report and action plan for its approval. In addition, the Council shall monitor implementation of the Action Plan and collect important statistical and other data for supervision over the effectiveness of the fight against money laundering and terrorism financing in the country.

#### 2.2 Prevention

Georgian legislation requires from the financial sector and representatives of designated non-financial businesses/professions (hereinafter referred to as "obliged entities") to prevent the misuse of their services for the purpose of money laundering or terrorism financing. The list of obliged entities<sup>19</sup> is consistent with the FATF recommendations with minor modifications. Trust and corporate service providers<sup>20</sup> and real estate agents are not deemed as obliged entities, as the service of such persons is limited in Georgia (see section 5.4 & 9.2). The National Agency of Public Registry<sup>21</sup> is a obliged entity in the field of real estate purchase and sale. It should be noted, that accounting is a self regulating profession in Georgia and only certified accountants are required to comply with professional

---

<sup>17</sup> Resolution No. 352 of the Government of Georgia on Approval of Establishment An Adoption of Regulations of the Interagency Council for Development of the Strategy and Action Plan for Combating Money Laundering and Terrorism Financing and Coordination of its Implementation.

<sup>18</sup> Resolution No. 236 of the Government of Georgia on Approval the AML/CFT Strategy and Action Plan.

<sup>19</sup> The obliged entities are defined on the basis of the AML/CFT Law.

<sup>20</sup> Trust and corporate services, as defined by the FATF, include services related to establishment nominal ownership and management of legal persons and trusts.

<sup>21</sup> The Legal persons of public law under the Ministry of Justice of Georgia.

accountants code of ethics (IESBA) standards (see section 9.6). The Revenue Service<sup>22</sup> is designated as obliged entity for the purpose of establishing of control over movement of cash and securities at the by the customs authorities at the Georgian border (see section 3.2.6).

| obliged entities <sup>23</sup>                                    | Number <sup>24</sup> | Year <sup>25</sup> |
|---|----------------------|--------------------|
| Commercial banks  | 15                   | 2004               |
| Microfinance organizations  | 52                   | 2008               |
| Payment service providers   | 28                   | 2015               |
| Brokerage companies   | 9                    | 2008               |
| Credit unions   | 2                    | 2004               |
| Lending entities  | 202                  | 2019               |
| Currency exchange bureaus   | 660                  | 2004               |
| Securities' registrars  | 4                    | 2008               |
| Insurance companies   | 17(16) <sup>26</sup> | 2004               |
| Non-state pension scheme founders                                 | 3                    | 2004               |
| Insurance/reinsurance brokers                                     | 17                   | 2019               |
| Leasing companies   | -- <sup>27</sup>     | 2013               |
| Casinos   | 20                   | 2004               |
| Entities organizing lotteries, gambling and other games of chance | 213                  | 2004               |
| Entities engaged in trade of precious stones/metals               | -- <sup>28</sup>     | 2004               |
| Notaries  | 269                  | 2004               |
| Auditors  | 458                  | 2012               |
| Audit firms   | 262                  | 2012               |

<sup>22</sup> The Legal person of public law under the Ministry of Finance of Georgia.

<sup>23</sup> Data provided by supervisors.

<sup>24</sup> The number of obliged entities is provided as of October 2019.

<sup>25</sup> The date of designation as a obliged entity.

<sup>26</sup> In brackets is given number of insurance companies, holding license for life insurance.

<sup>27</sup> Leasing is a non-regulated service and the exact number of business entities engaged in these activities is unknown.

<sup>28</sup> Trading precious stones/metals is a non-regulated business and the exact number of business entities engaged in such activities is not known.

|                       |                  |      |
|-----------------------|------------------|------|
| Certified accountants | -- <sup>29</sup> | 2019 |
| Lawyers               | 4,696            | 2014 |
| Law firms             | 323              | 2019 |

According to FATF recommendations, obliged entities<sup>30</sup> are required to implement whole range of measures, namely:

- Assess and manage the risks of money laundering and terrorism financing related to their own business and clients and introduction of new products and service delivery channels;
- Identify the identity of clients and beneficial owners<sup>31</sup>, examine their activities, and reveal unusual and suspicious transactions;
- Identify the source of wealth of high-risk clients and perform other enhanced customer due diligence measures in regard to them<sup>32</sup>;
- Introduce a compliance control system<sup>33</sup> that should include continuous training of the staff and independent audit function.

### 2.3 Supervision

Each group of obliged entities has its own supervisory structure, responsible for ensuring compliance with the requirements of anti-money laundering and terrorism financing legislation<sup>34</sup>. Most of the financial sector is supervised by the National Bank of Georgia (hereinafter referred to as the NBG). Starting from 2015, the NBG has launched full-scale risk-based supervision through off-site and on-site inspection methods. The NBG determines the risk profile<sup>35</sup> of each financial institution and evaluates the effectiveness of its compliance assurance system, which forms the basis of the annual oversight

---

<sup>29</sup> Before 2019, obliged entities were persons conducting accounting services.

<sup>30</sup> The National Agency of Public Registry and the Revenue Service carry out CDD measures in a limited form, taking into account the nature and purpose of their activities.

<sup>31</sup> Beneficial owners a natural person, representing an ultimate owner or controlling person of a client, or/and a person on whose behalf the transaction is being conducted; in case of a legal persons, a beneficial owner shall be the natural person, who directly or indirectly owns, holds and/or controls 25% or more of such person's share or voting stock, or otherwise exercises control over the governance of the legal persons.

<sup>32</sup> Enhanced CDD include frequent updating of client's and beneficial owner's identification data, obtaining additional information on intended purpose of the transaction, enhanced monitoring of business relationship and etc.

<sup>33</sup> The Compliance Control System includes internal control policies, rules, systems and mechanisms, that ensure compliance of the obliged entity's activities with anti-money laundering and counterterrorism financing legislation.

<sup>34</sup> AML/CFT Law and normative acts, adopted on its basis.

<sup>35</sup> The financial institution's risk profile is prepared on the basis of the results of the off-site supervision, as well as on-site audit.

plan<sup>36</sup>. The financial institution, which is related to increased risks and whose compliance assurance system is characterized by substantial shortcomings, is subject to enhanced supervision by the NBG<sup>37</sup>. Starting from 2019, the NBG has started implementing supervision over financial groups as well.

| Supervisors  | Obligated entities   |
|--|--|
| The National Bank of Georgia                               | Commercial banks;<br>Microfinance organizations;<br>Payment service providers;<br>Brokerage companies;<br>Credit unions;<br>Lending entities;<br>Currency exchange points;<br>Securities Registrars. |
| Insurance State Supervision Service of Georgia             | Insurance organizations;<br>Insurance / reinsurance brokers;<br>The founders of the non-state pension scheme.  |
| The Ministry of Finance of Georgia                         | Leasing companies;<br>Traders with precious stones/metals;<br>Casinos and other organizers of lotteries, gambling games and other games of chance;<br>The Revenue Service.                           |
| The Ministry of Justice of Georgia                         | Notaries;<br>National Agency of Public Registry  |
| Service for Accounting, Reporting and Auditing Supervision | Auditors / audit firms;<br>Certified accountants;  |
| Georgian Bar Association                                   | Lawyers/Law firms  |

Since 2017, the compliance criteria have become much more stringent for significant share of the financial institutions (10%) in regard to their owner, administrator and beneficial owner. The NBG verifies their criminal records, reputation, and source of wealth. These factors may serve as grounds for

<sup>36</sup> The NBG Supervision Plan provides for the type, frequency and intensity of audits of each financial institution.

<sup>37</sup> Enhanced oversight by the NBG includes quarterly review of the financial institution's risk profile, on-site audits once in every two years, and complex audit every 5 years, as well as identification of corrective actions and monitoring of their execution.

refusal of granting of a license<sup>38</sup> or registration<sup>39</sup> of a financial institution. The NBG is authorized to apply to a whole range of supervisory measures or impose sanctions depending on the severity of the identified breach<sup>40</sup>. In 2016, one commercial bank was deprived of a license for serious violations of the compliance control system. Since 2019, monetary penalties for commercial banks have also been increased. Moreover, in order to further increase the dissuasive effect of the National Bank of Georgia (NBG) sanctions, in 2019, the rule of disclosure of violations committed by a financial institution was determined. Supervision of accountable persons in the non-finance sector, especially in the gambling sector, still remains a challenge. Casinos are inspected within the limits of general permit conditions and are mainly limited to compliance control policy (see Chapter 8.1).

## **2.4 Suspicious Transactions**

Obligated entities should report suspicious transactions to the Financial Monitoring Service of Georgia (hereinafter referred to as the “FMS”). A transaction is suspicious, when there reasonable grounds exist to suspect that it was prepared, concluded or carried out using property acquired through criminal means or proceeds generated from that property, or is related to terrorism financing or money laundering. For meeting of the standard of a reasonable suspicion, it is not required to have undoubted knowledge that the crime has been committed, although a mere hypothetical assumption is not sufficient either. The FMS should be reported if, after examining unusual circumstances related to the client and/or transactions, the obliged entity shall conclude, that money laundering or terrorist financing offence may have occurred.

The authorized employee of a obliged entity shall independently, and without the need of obtaining of permission from his superior, decides on reporting to FMS regarding a suspicious transaction. Lawyers are not required to submit such report, if it contradicts with the principle of their professional secrecy. Auditors and certified accountants are also exempt from this obligation when giving legal advice to clients or if representing them during administrative proceedings, investigations, or in front of courts. Disclosure of the fact of submission of report on suspicious transaction to the FMS is prohibited. However, obliged entities may exchange such information with each other, or share it with similar entities in other countries, for the purpose of managing the risks of money laundering or terrorism financing.

## **2.5 Financial Monitoring**

The FMS shall examine the reports of suspicious transactions, submitted by obliged entities, and in case it concludes that the transaction is related to money laundering, terrorism financing or other

---

<sup>38</sup> Commercial Banks, Brokerage Companies and Non-bank Depository Institution - Credit Union are subject to licensing by NBG.

<sup>39</sup> A microfinance organization, a payment service provider, a lender and a currency exchange provider are subject to registration with NBG.

<sup>40</sup> E.g. imposing fines on the financial institution or its administrator, restricting of transactions, prohibiting of distribution of profits, increasing of remuneration or issuing bonuses, and suspending the authority of the administrator.

offences, shall forward the case file to the investigating authorities. The FMS is institutionally<sup>41</sup> and financially<sup>42</sup> independent body, and it is authorized to seek and obtain any information from obliged entities and administrative bodies. Starting from 2015, the FMS may also require from obliged entities to suspend suspicious transactions for 72 hours or freeze the relevant account for the purpose of preventing/deterring money laundering or terrorist financing<sup>43</sup>.

| <b>Suspicious Transaction Reports <sup>44</sup></b>             |                  |             |             |             |             |
|---|------------------|-------------|-------------|-------------|-------------|
| (number)  |                  |             |             |             |             |
| <b>Year</b>   | <b>2014</b>      | <b>2015</b> | <b>2016</b> | <b>2017</b> | <b>2018</b> |
| Commercial banks <sup>45</sup>                                  | 1,511            | 565         | 549         | 623         | 583         |
| National Agency of Public Registry                              | 601              | 309         | 296         | 135         | 107         |
| Microfinance organizations                                      | 73               | 39          | 65          | 113         | 80          |
| Remittance transfer providers <sup>46</sup>                     | 262              | 29          | 1           | 2           | 12          |
| Leasing companies   | 3                | 14          | 46          | 14          | 10          |
| Brokerage companies   | 19               | 7           | 1           | 3           | 4           |
| Organizers of lotteries and games of chance (excluding Casinos) | 0                | 0           | 27          | 0           | 1           |
| Securities' registrars  | 4                | 1           | 5           | 10          | 6           |
| Notaries  | 18               | 1           | 1           | 3           | 3           |
| Payment service providers                                       | -- <sup>47</sup> | 1           | 1           | 0           | 21          |
| Insurance organizations   | 6                | 6           | 0           | 2           | 2           |

<sup>41</sup> The requirements of Article 11 of the Law of Georgia on the Legal person of Public Law on the state control shall not apply to the FMS. Therefore, only the court can suspend/revoke decision of the Head of the FMS.

<sup>42</sup>FMS budget cannot be reduced without prior agreement of the Head of the FMS.

<sup>43</sup> In 2015-2018 FMS used this authority 4 times.

<sup>44</sup> Since October 2019 loan issuing entities, insurance/reinsurance brokers and certified accountants are not deemed as obliged entities. Therefore, STRs submitted by them to FMS were not included in this graph.

<sup>45</sup> Commercial banks send more than 60% of STRs to FMS.

<sup>46</sup> Registration of remittance transfer organizations is not requires since 2018.

<sup>47</sup> Payment service providers were not deemed as obliged entities till 2015.

|                                   |       |     |     |     |     |
|-----------------------------------|-------|-----|-----|-----|-----|
| Currency exchange bureaus         | 0     | 0   | 0   | 5   | 8   |
| Lawyers                           | 0     | 0   | 1   | 1   | 0   |
| Credit Unions                     | 0     | 0   | 0   | 0   | 0   |
| Casinos                           | 0     | 0   | 0   | 0   | 0   |
| traders in precious metals/stones | 0     | 0   | 0   | 0   | 0   |
| Auditors                          | 0     | 0   | 0   | 0   | 0   |
| Total                             | 2,497 | 972 | 993 | 911 | 837 |

The number of STRs sent to the FMS has substantially reduced lately - from 2,497 (2014) to 837 (2018). The high rate of STRs was largely driven by the NBG's increased oversight over the financial sector since 2011, which resulted in the so-called “defensive reporting”<sup>48</sup> and increase of unsubstantiated STRs to the FMS<sup>49</sup>. Due to development of compliance control systems in the majority of representatives of financial sector, the number of STRs has gradually decreased, while the quality of reports has improved. Thanks to the efforts of the FMS and supervisory authorities, Internet casinos<sup>50</sup>, payment service providers and currency exchanges started reporting suspicious transactions. In addition to suspicious transactions, obliged entities submit to FMS threshold transaction reports on certain type of transactions (e.g cash transactions) which exceeds pre-determined threshold<sup>51</sup>. Starting from 2019, types of threshold transaction reports have been substantially reduced<sup>52</sup>, allowing obliged entities to optimize costs and invest further into suspicious transaction identification systems.

**Cases referred by FMS to the investigative bodies and initiated investigations**  
(number)<sup>53</sup>

<sup>48</sup> Send suspicious transaction reports to the FMS for the purpose of avoiding sanctioning and without meeting the standard of reasonable suspicion.

<sup>49</sup> In 2011 alone, commercial banks sent 19,709 STRs to the FMS.

<sup>50</sup> In the first five months of 2019, Internet casinos sent 125 reports on suspicious transactions to the FMS.

<sup>51</sup> Such transactions and threshold is defined in the FMS regulations.

<sup>52</sup> Prior to the adoption of the AML/CFT Law in 2019, commercial banks were required to send to FMS CTRs on up to 20 types of transactions.

<sup>53</sup> Statistics provided by the FMS and the GPO

| Year | STRs <sup>54</sup> | Referred cases <sup>55</sup> | Money laundering investigations <sup>56</sup> | Investigation of predicate offences <sup>57</sup> | Investigation of terrorism financing |
|------|--------------------|------------------------------|---|---|--------------------------------------|
| 2018 | 837 (17)           | 137 (14)                     | 34  | 7   | 2                                    |
| 2017 | 911 (35)           | 147 (28)                     | 33  | 30  | 1                                    |
| 2016 | 993 (46)           | 118 (15)                     | 27  | 42  | 1                                    |
| 2015 | 972 (19)           | 103 (7)                      | 29  | 56  | 2                                    |
| 2014 | 2,497 (0)          | 83 (0)                       | -- <sup>58</sup>                              | -- <sup>59</sup>                                  | 0                                    |

Obligated entities send suspicious transaction reports and threshold transaction reports to the FMS electronically. The FMS software allows verifying identity of the person, indicated in the received STRs with the data already in its disposal. Currently the technical capacity of FMS is being improved. Despite decreasing of the number of STRs on suspicious transaction in recent years, the number of cases referred by the FMS to the investigative bodies has increased from 83 (2014) to 137 (2018). Also, the number of STRs, used in cases has increased. In 2016-2018, on average 20%-25% of STRs on suspicious transactions were included in the cases sent to investigative bodies. This indicates to the improved quality of the FMS's analytical activities, as well as the quality of reports, submitted by obliged entities. However, out of 64 cases<sup>60</sup> sent by FMS on the possible financing of terrorism in 2014-2018, the State Security Service (hereinafter referred to as "the SSSG") has initiated investigation only in regard to 6 cases<sup>61</sup>. The main reason for this is the use of caution and a relatively low standard by the FMS in the course of filtering out STRs related to possible financing of terrorism. As a result, the FMS sends more than 90% of such STRs to the SSSG.

## 2.6 The Offence of Money Laundering

---

<sup>54</sup> In brackets are provided reports related to cases of possible financing of terrorism.

<sup>55</sup> In brackets are provided cases sent to investigative bodies, related to possible financing of terrorism.

<sup>56</sup> Statistics includes investigations initiated by all investigative authorities on the basis of cases referred to them by the FMS.

<sup>57</sup> The statistics includes only the investigations initiated by the Office of the Prosecutor General of Georgia on the basis of cases referred to it by the FMS.

<sup>58</sup> Exact data is not available.

<sup>59</sup> Exact data is not available.

<sup>60</sup> The 64 cases referred by the FMS to the SSSG include 110 STR related to possible financing of terrorism.

<sup>61</sup> Investigation has already been initiated in regard to several cases referred by the FMS to the SSSG in 2016 on the issue of possible financing of terrorism.

Money laundering in Georgia has been criminalized in accordance with the requirements of the Palermo<sup>62</sup> and Vienna<sup>63</sup> Conventions. The offence of money laundering occurs if a person commits one of the following acts:

- giving legal form to illicit and/or undocumented property in order to conceal its illegal and/or undocumented origin or to assist another person in evading liability;
- concealment or disguising of genuine nature, source of origin, location, dislocation, movement of illicit and/or undocumented property, its title and/or of other rights related to it.

Illicit property means both the property obtained in violation of the requirements of the law and the income derived from it, while undocumented property is the property with no legal proof of its acquiring in lawful manner. Legalization of illicit or undocumented property can be conducted through use, purchase, possession, conversion, transfer or other actions in connection with property. Money laundering is punishable by imprisonment for the term of from 3 to 12 years. Georgian law does not specify predicate offenses<sup>64</sup>, consequently, the object of money laundering may be the property derived through committing of any offense (regardless of value). Conviction of a person for money laundering does not require his conviction for committing of a predicate offense. However, knowingly use, possess, acquire, or sell the property obtained through unlawful acts is punishable, notwithstanding the intent.

## **2.7 The Offence of Financing of Terrorism**

The financing of terrorism has been criminalized under the UN Convention on Suppression of Financing of Terrorism. A person will commit the offence of financing terrorism if he commits one of the following acts:

- Collection/supply of financial resources or other assets knowing that they will or may be used in full or in part by a terrorist or a terrorist organisation and/or for carrying out terrorist activities, or for the commission of one of the offences defined in Articles 144, 227, 227<sup>1</sup>, 227<sup>2</sup>, 227<sup>3</sup>, 229, 230, 231, 231<sup>1</sup> and 231<sup>265</sup> of this Code, regardless of whether or not any of the offences has been committed;
- rendering services to a terrorist or a terrorist organisation;
- provide a terrorist with a hiding place or shelter;
- Provide a terrorist of a terrorist organisation with resources or other material support.

---

<sup>62</sup> The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

<sup>63</sup> The United Nations Convention against Transnational Organized Crime of 2000.

<sup>64</sup> Predicate offense, proceeds of which can become an object of money laundering.

<sup>65</sup> Taking a hostage; illegal seizure of aircraft, water vessels or railway rolling stock; posing danger to the navigation of water vessels; illegal seizure, destruction or damage of a stationary platform; posing danger to aircraft; explosion; illegal handling of nuclear material or equipment, radioactive waste and radioactive substances; seizure of nuclear material, radioactive substances or other sources of ionizing radiation; unlawful demand of nuclear materials; threat to illegally seize or use nuclear substances.

Terrorism related activity includes all those types of activities that are punishable according to the chapter XXXVIII of Georgian Criminal Code (Terrorism). Financing of terrorism is punishable irrespective of whether the property was collected/delivered for a particular terrorist act. Financing departure abroad is also punishable, if a person is planning to engage in terrorist activity or combat training. Also, the property intended to finance terrorism can be both acquired illegally, as well as legally. Financing terrorism is a particularly grave crime and is punishable by 10 to 20 years of imprisonment, or imprisonment for indefinite term.

## **2.8. Confiscation of property and other coercive measures**

Georgian law allows for confiscation of property in favor of the state by way of both criminal and civil procedure. According to criminal law procedure the object and instrument of crime, criminally acquired property and the proceeds thereof shall be confiscated. Such property is confiscated, regardless of whether it is in the possession of the accused or convicted person, or of a third party. Confiscation is possible without conviction, if the accused dies or is incapable.

According to the civil law procedure, racketeered property and Illicit or undocumented property of a person, convicted of money laundering or terrorism financing, being a thief in law, human trafficking and drug trafficking, as well as his/her family member, close relative or related person, may be confiscated. At the same time, the standard of proof required to prove illegality of property in the civil process is significantly lower, and does not require proof of link between the property and particular offence. In the case of undocumented property, the burden of proof is reversed. In such cases the defendant must submit to the court the proof of legitimacy of the property in question.

Georgian legislation provides for the seizure of property for the purpose of its possible confiscation. A court order is required for the seizure of property. In the event of urgency, if there is a reasonable suspicion that the property will be concealed or destroyed, prosecutor can also issue the order of seizure, which later should be confirmed by the court. In accordance with UN Security Council resolutions the property of persons associated with terrorism is subject to administrative seizure (see section 4.3).

## **2.9 Investigation and Criminal Prosecution**

Investigation of money laundering and related predicate offenses falls under the competence of the Prosecutor General's Office of Georgia, and the State Security Service of Georgia investigates cases related to financing of terrorism<sup>66</sup>. Investigative authorities have all the powers necessary for effective investigation. With the court's permission, they have the right to seize any object, document and other

---

<sup>66</sup> Order #34 of the Minister of Justice of Georgia on Determination of Investigative and Territorial Jurisdiction in Criminal Cases.

information relevant to the case, as well as monitor bank accounts, controlled delivery, planting of a secret agent in a criminal group, or monitoring of online communication.

| <b>Investigation<sup>67</sup></b> |      |      |      |      |      |
|-----------------------------------|------|------|------|------|------|
| (cases)                           |      |      |      |      |      |
| Year                              | 2014 | 2015 | 2016 | 2017 | 2018 |
| Money laundering                  | 31   | 35   | 44   | 42   | 44   |
| Terrorism financing               | 0    | 2    | 1    | 2    | 4    |

The main source of operational information on money laundering and terrorism financing for investigating authorities is the results of the FMS analysis. Out of 165 money laundering investigations conducted in 2015-2018, 123 cases (75%) were based on information received from the FMS. In cases related to terrorism financing this figure is 67%<sup>68</sup>. Starting from 2019, for the purpose of supporting parallel financial investigations on the issue of money laundering and terrorism financing, or other investigations, initiated independently of the FMS, the investigative bodies can access information stored in the FMS<sup>69</sup>.

| <b>Seizure/Impounding/Confiscation and compensation of damages<sup>70</sup></b> |      |      |      |      |      |
|---|------|------|------|------|------|
| (value of property)   |      |      |      |      |      |
| Year  | 2014 | 2015 | 2016 | 2017 | 2018 |

<sup>67</sup> Data provided by the GPO

<sup>68</sup> In 6 out of 9 cases of terrorism financing in 2014-2018, the investigation was initiated on the basis of information provided by FMS.

<sup>69</sup> Based on the substantiated request from the Prosecutor General of Georgia, the Chief of the State Security Service of Georgia, the Minister of Internal Affairs of Georgia or their deputies so authorized, the FMA shall provide information at its disposal, necessary for investigation of money laundering, terrorist financing or drug-related crimes.

<sup>70</sup> Statistics provided by the GPO

|  |      |       |     |     |       |
|--|------|-------|-----|-----|-------|
| Seizure/Impounding <sup>71</sup> (million GEL) | 44.1 | 169.6 | 4.1 | 71  | 134.9 |
| Confiscation <sup>72</sup> (million GEL)       | 2    | 11.5  | 2   | 2.3 | 2.3   |

The Ministry of Justice of Georgia in 2010 and the Prosecutor General of Georgia in 2015 issued a recommendation in regard to conducting parallel financial investigation into all income generating crimes. In such cases, investigative bodies should examine the signs of money laundering and existence of the property, which may be the subject of confiscation and in the event of their identification, the relevant divisions of the Prosecution Office should be informed. In 2014-2018 property of the value of approximately 20 million GEL was confiscated and victims were compensated for damages incurred as a result of money laundering and related predicate offenses in the amount of 8 million GEL. In 2018, for the purpose of increasing of efficiency of identification of property subject to confiscation, the Prosecutor General's Office of Georgia started monitoring of investigation of crimes motivated by material gain<sup>73</sup>.

| <b>Criminal prosecution and conviction for money laundering<sup>74</sup></b> |             |             |             |             |             |
|--|-------------|-------------|-------------|-------------|-------------|
| (persons)  |             |             |             |             |             |
| <b>Year</b>  | <b>2014</b> | <b>2015</b> | <b>2016</b> | <b>2017</b> | <b>2018</b> |
| Prosecution  | 13          | 20          | 15          | 26          | 5           |
| Conviction   | 6           | 9           | 4           | 16          | 23          |

The prosecutor oversees the investigation and initiates prosecution. Within the framework of the 2017-2021 Action Plan of the General Prosecutor's Office, there is established a continuing training program for prosecutors on the issues of effective investigation and prosecution of money laundering offences. In recent years, the number of money laundering cases, which terminated with conviction of offenders, has increased. In addition in 2014-2018 58 persons were convicted in money laundering.

<sup>71</sup> The statistics includes only the value of property seized and confiscated within the framework of investigation of money laundering cases by the Prosecutor General's Office of Georgia.

<sup>72</sup> The statistics includes the value of property confiscated in favor of the state in all cases of money laundering, and predicate offences, related to money laundering, investigated by the State Prosecutor's Office.

<sup>73</sup> The purpose of monitoring is to identify such cases, where the person in charge of the investigation has not taken all appropriate measures to identify and recover the property, acquired through criminal acts.

<sup>74</sup> Statistics provided by the GPO

| Criminal prosecution and conviction for terrorism financing <sup>75</sup> |      |      |      |      |      |
|---|------|------|------|------|------|
| (cases)   |      |      |      |      |      |
| Year  | 2014 | 2015 | 2016 | 2017 | 2018 |
| Prosecution   | 0    | 0    | 0    | 1    | 2    |
| Conviction  | 0    | 0    | 0    | 1    | 2    |

**2.10 Interagency and public-private cooperation**

There are several mechanisms for cooperation and exchange of information between the investigative bodies, the FMS and the oversight bodies. In 2013 was concluded a Memorandum of Understanding on Enhancing the Effectiveness of Inter-Agency Cooperation in the Law Enforcement Sphere<sup>76</sup>, which envisages the establishment of joint investigative teams to combat money laundering and terrorist financing. In addition, on the basis of the memorandum, the FMS has direct access to the databases of the Ministry of Internal Affairs and the Revenue Service, and receives information on the outcome of the cases referred to the investigative bodies. The FMS has also signed Memorandum of Understanding with supervising bodies, which provide to FMs information on violations identified during auditing by obliged entities. The FMS, for its part, prior to conducting of audit, notifies supervisors of possible violations by the obliged entities, that FMS has identified during performance of its functions.

In 2018, within the framework of the Action Plan of the Prosecutor General's Office of Georgia for the period of 2017-2021, a permanent analytical platform was established to support cooperation between the FMS, investigative bodies and obliged entities<sup>77</sup>. The platform should provide a systematic analysis of the means, trends and threats of money laundering and terrorism financing and raise awareness among the stakeholders. The platform shall enhance solving of operational and investigative challenges, and assist obliged entities in improving compliance control systems. Other forms of public-private cooperation include development of indicators of suspicious transactions by the FMS<sup>78</sup> and sharing of information on criminal schemes to obliged entities<sup>79</sup>. Likewise, the NBG conducts trainings,

<sup>75</sup> Statistics provided by the GPO

<sup>76</sup> A Memorandum of Understanding was concluded between the FMS, the General Prosecutor's Office of Georgia, the Ministry of Internal Affairs of Georgia and the Investigation Service of the Ministry of Finance of Georgia. In 2015, the MoU joined by SSSG.

<sup>77</sup> Analogous to JMLIT in the UK.

<sup>78</sup> E.g. In 2019, the FMS issued Guidelines for Casinos on Detection of Suspicious Transactions, and in 2016, "Guidelines for the Financial Sector on Indicators of Possible Terrorism Financing".

<sup>79</sup> The most common crime schemes are also described in the annual reports on FMS activities, that are publicly disclosed.

workshops and consultations<sup>80</sup>, develops guidelines<sup>81</sup> and through a special portal provides to financial institutions advice on high risk clients, products and services<sup>82</sup>. The President of the NBG, on the basis of submission of FMS, endorses the list of high-risk jurisdictions that obliged entities have to take into consideration<sup>83</sup>.

## 2.11. International Cooperation

Money laundering and the financing of terrorism are transnational crimes and the effective fighting against them requires close international cooperation in the field of justice. Georgia has ratified 34 international agreements and concluded 8 bilateral agreements governing legal aid. Georgia can provide legal aid to another country on the basis of individual agreement<sup>84</sup> or the principle of reciprocity. Such aid includes the search, seizure and confiscation of property, as well as the monitoring of bank transactions and other measures necessary to recover the property subject to confiscation. In the event of urgency, where there is a risk of concealment or destruction of property, such measures may be conducted even before receiving of a formal request from the competent authority of another country.

In 2015-2018, the number of requests for legal aid sent to, and received by the Prosecutor General's Office of Georgia on money laundering and terrorism financing has increased. An example of successful international cooperation is the unveiling of GozNym's global cybercrime network, to which Georgia has contributed significantly. The network sought to gain access to internet banking accounts of 41,000 victims and fraudulently seize \$ 100 million. In 2019 the leader and one member of the network was indicted by the General Prosecutor's Office<sup>85</sup>. In the same year, a cooperation agreement with Eurojust<sup>86</sup> was concluded, which shall speed up the process of exchange of evidence between Georgia and EU member states and promote coordinated fight against transnational crime.



---

<sup>80</sup> NBG's annual Supervision Plan stipulates for conducting of thematic trainings. The NBG also meets with the leadership of high risk-related financial institutions on annual basis, to discuss effectiveness of compliance control systems and risk management measures.

<sup>81</sup> In 2019, the NBG has developed three new guidelines on the risk assessment/management, identification of beneficial owners and correspondent relationships.

<sup>82</sup> In recent years, the NBG has advised financial institutions to pay particular attention to crypto currency assets, internet acquiring and binary options.

<sup>83</sup> Jurisdictions whose legal and institutional system of anti-money laundering and financing of terrorism are clearly incompatible with international standards.

<sup>84</sup> Written agreement concluded in regard to specific case.

<sup>85</sup> Press release of Europol on GozNym case: <https://www.europol.europa.eu/newsroom/news/goznym-malware-cybercriminal-network-dismantled-in-international-operation>

<sup>86</sup> EU body that coordinates cooperation between EU Member States in the field of criminal justice.

| Requests within the frame of bilateral legal aid <sup>87</sup> |       |       |       |        |
|--|-------|-------|-------|--------|
| (number)   |       |       |       |        |
| Year   | 2015  | 2016  | 2017  | 2018   |
| Submitted request  | 30(0) | 31(0) | 26(0) | 50(23) |
| Granted request  | 29(0) | 29(0) | 11(0) | 20(8)  |
| Received request   | 0     | 5(0)  | 11(0) | 9(1)   |
| Granted request  | 0     | 5(0)  | 11(0) | 8(0)   |

International cooperation in law enforcement involves exchange of operative information<sup>88</sup> and conducting of operative-investigative measures by the investigating authorities of other countries on the territory of Georgia<sup>89</sup>. In order to promote cooperation in law enforcement sphere, Georgia has signed 33 bilateral interstate agreements on combating crime, and has assigned police attachés to 16 countries<sup>90</sup>. A cooperation agreement was signed between Georgia and Europol in 2017, which significantly accelerated the process of exchange of operational information with EU member states. In 2018 a memorandum of mutual understanding on safe communication channel and agreement of cooperation was signed. On the basis of this agreement, since 1<sup>st</sup> of September, 2018 Georgia has assigned liaison officer in Europol headquarters. Since 2012, the Office of the Prosecutor General of Georgia participates as an observer in the informal network CARIN<sup>91</sup> and is exchanging information to assist in the search and recovery for property acquired through criminal activities. In 2018 Georgian Prosecutor Office has assigned responsible person for cooperation with the EU Property Recovery Service.

FMS has been a member of the Egmont Group since 2004<sup>92</sup> and exchanges operational information with similar services in other countries through its secure communication channel<sup>93</sup>. The FMS is also

<sup>87</sup> The statistics includes requests sent, received and approved by the Prosecutor's Office of Georgia in regard to money laundering and terrorism financing cases.

<sup>88</sup> Through Interpol, liaison officers and police attachés, as well as bilateral protected communication channels and diplomatic channels.

<sup>89</sup> E.g. Controlled delivery, placement of covert agents, or cross-border visual control.

<sup>90</sup> A person assigned abroad by the Ministry of Internal Affairs whose function is to facilitate exchange of operative or other information on crime.

<sup>91</sup> International network, which aims to assist countries in search for the property acquired through criminal activities.

<sup>92</sup> Union Financial Intelligence Services of 158 Jurisdictions Worldwide.

<sup>93</sup> Financial Intelligence Services responsible for obtaining and analyzing of confidential information related to possible cases of money laundering and terrorism financing, and, if necessary, its provision to investigative bodies.

authorized to provide information to non-Egmont member countries. The FMS does not need to enter into agreement to exchange information, however it has signed 42 MoUs with the services of those countries, that cannot share confidential data otherwise. In 2014-2018, the FMS received requests from 64 countries on provision of information, and satisfied them on average within 10 days. During the same period, the FMS submitted 175 requests for provision of information to 53 countries. In addition, the FMS, on its own initiative, provided operational information to its foreign partners 64 times. The FMS is authorized, at the request of similar service of another country, to instruct obliged entities to suspend suspicious transactions or block relevant account.<sup>94</sup>

| Request sent/received by FMS on provision of information <sup>95</sup> |                   |                  |                   |                                    |
|--|-------------------|------------------|-------------------|------------------------------------|
| (number)   |                   |                  |                   |                                    |
| year   | Submitted request | Received request | Satisfied request | Provided information <sup>96</sup> |
| 2018   | 36                | 45               | 44                | 27                                 |
| 2017   | 28                | 50               | 50                | 16                                 |
| 2016   | 35                | 62               | 62                | 10                                 |
| 2015   | 49                | 36               | 36                | 9                                  |
| 2014   | 27                | 25               | 25                | 2                                  |

The NBG exchanges information with financial sector supervisors in other countries to verify the eligibility criteria for financial institution administrators, large shareholders (10%), and beneficial owners, and for supervision at the group level. NBG may exchange confidential information on the basis of bilateral agreements concluded with the supervisors of all financial sectors of the country, where the head offices of affiliated commercial banks<sup>97</sup> or affiliated banks<sup>98</sup> are located, which are

<sup>94</sup> In 2015-2018, the FMS has exercised this authority three times at the request of similar services of other countries.

<sup>95</sup> Statistics provided by the FMS

<sup>96</sup> Operative information, sent by FMS upon its own initiative.

<sup>97</sup> Germany, Azerbaijan, Kazakhstan, Turkey and China.

<sup>98</sup> Belorussia.

registered in Georgia. International cooperation of other supervisors is limited to membership in professional unions and sharing of supervisory experience<sup>99</sup>.

## 2.12 Summary

Georgian legislation and institutional arrangements are compatible with FATF standards. In recent years, the effectiveness of obtaining, processing and using of operative information on money laundering and terrorist financing by FMS and investigative bodies has increased substantially. There are effective mechanisms for inter-agency and international co-operation in the field of justice and law enforcement. There are many tools available, which are promoting public-private cooperation. In the financial sector. Competent authorities have sufficient resources to carry out their functions. The NBG carries out comprehensive risk-based supervision. Oversight of the non-financial sector remains a challenge. Taking into consideration these circumstances, the country's legal and institutional system's readiness to deal with the risks of money laundering and terrorism financing was rated as **medium-high**.

---

<sup>99</sup> The Insurance State Supervision Service of Georgia is a member of the International Association of Insurance Supervisors; The Accounting, Reporting and Audit Supervision Service is a member of the International Forum of Independent Audit Regulators.

## Chapter III

### The Risk of Money Laundering

#### 3.1 Predicate Offences

##### 3.1.1 Fraud

Taking property of another person or obtaining title to property by deceit is punishable by Georgian law. Committing the same act using official position is punishable by imprisonment for the term of 6 to 9 years. 4,824 probable cases of fraud (2.9% of registered crime) were identified<sup>100</sup> in 2015-2018, for which 2,039 persons were convicted<sup>101</sup>. Recently, the number fraud cases has increased significantly. Most of them are classical fraud cases: through document forgery (e.g. forgery of data in Delivery and Acceptance Form, elevated estimates of expenditures), embezzlement of state funds or gaining trust and making false promises of assistance or services (e.g. overseas employment, vehicle import), embezzlement of personal funds. Along with introduction of modern technologies, there are also increasing cases of fraud committed on the Internet (e.g. by fraudulently stealing money in social networks through so called “identity thefts”).

Fraud is often of transnational character and Georgia is vulnerable to international social engineering schemes. Majority of Money Laundering cases investigated in 2015-2018 were related to the transfer of fraudulent funds, unlawfully acquired abroad through communication media platforms to the bank accounts or remittances to Georgia. The methods of committing of crime were diverse and included such means, as fraudulently presenting oneself as a business partner through so called “boiler rooms”<sup>102</sup>, persuading targets of offence to invest in fraudulent investment schemes, or use of so-called “The Nigerian Prince” fake emails<sup>103</sup>. In one of high publicity cases, the fraudsters misled a prominent Japanese fishery and fraudulently persuaded it to transfer 1.1 million USD into their bank account. As a result, of the operative action of the investigation authorities, the money was fully refunded to the company, while the perpetrators were convicted.

Threat Level - The number of fraud cases in Georgia is increasing. The transnational nature of Internet fraud make it difficult to identify perpetrators and gather evidence. In most cases of money laundering, the predicate offense was fraud. On the other hand, fraud is being actively fought against. Given these circumstances, the risk of money laundering through fraud was assessed as **Medium-High**.

##### 3.1.2 Cybercrime

Georgian law criminalizes unauthorized access to a computer system, and other offenses, stipulated by the Council of Europe Convention on Cybercrime (the Budapest Convention)<sup>104</sup>. 2,559 cases of

---

<sup>100</sup> Stipulated in Article 180 of the Criminal Code of Georgia.

<sup>101</sup> Data from the Prosecutor’s Office of Georgia.

<sup>102</sup> Call center through which investment or other products are sold.

<sup>103</sup> Fraudulent emails, in which the recipient is mostly requested to provide his/her bank account data.

<sup>104</sup> Georgia ratified the Budapest Convention in 2012.

cybercrime were identified<sup>105</sup> in 2014-2018, and 401 persons were convicted<sup>106</sup> with criminal offences. The number of cybercrime cases has increased lately. In 2018 alone, MIA detained 129 persons suspected in committing cybercrime. The reason for this is the increased spread of e-commerce and internet banking, which leads to increased reliance on digital technologies and new opportunities for cybercrime. In 2018, about 65% of Georgia's population used Internet<sup>107</sup>, and the number of bank cards issued in the country amounted to 7.6 million<sup>108</sup>. However, public awareness of cybercrime is gradually increasing, which also contributes to increase of cases of referring to investigative bodies.

Following the cyber-attacks on the country during the 2008 Russian-Georgian war, significant steps have been taken to improve cyber security in the country. A Cybercrime Division under the Ministry of Internal Affairs was established, which operates as contact point on 24/7 basis and ensures quick response to requests received from other countries' investigative bodies in regard to storing of computer data. The MIA has also set up a digital computer forensics unit to collect digital evidences. At the same time, the Computer Emergency Response Team (CERT), which conducts monitoring of cyberspace and directs efforts towards minimizing harm, was set up at the Data Exchange Agency<sup>109</sup>. In 2011, CERT's work gained international recognition for detection of virus<sup>110</sup> created for cyber espionage and tracking its source. To promote public-private collaboration, CERT also regularly organizes cyber security forums and information meetings on impending threats. As a result, Georgia was ranked 8<sup>th</sup> out of 165 countries in the world according to 2017 Cyber Security Index, released by the International Telecommunication Union (ITU). The index assesses countries' readiness to prevent cyber-attacks. In the National Strategy for the Fight against Organized Crime for the period of 2017-2020 a special chapter is dedicated to cybercrime<sup>111</sup>. Priority areas are increasing awareness of private sector on cyber security and development of the material-technical base of the MIA's Cybercrime unit.

Cybercrime committed in Georgia, which generate illicit proceeds, includes the use of so-called Spam<sup>112</sup>, Hacking<sup>113</sup>, Phishing<sup>114</sup> and Carding<sup>115</sup>. The above-mentioned crimes have not been technologically complex or of high value. Illegal income has sometimes been transferred to bank or online casino accounts. However, with the introduction of modern technologies, it is expected that the

---

<sup>105</sup> Crimes provided in the Chapter XXXV of the Criminal Code of Georgia.

<sup>106</sup> Data from the Prosecutor's Office of Georgia.

<sup>107</sup> UN International Telecommunication Union (ITU) data.

<sup>108</sup> NBG data.

<sup>109</sup> Legal Entity of Public Law under the Ministry of Justice of Georgia, which aims to promote e-governance and implement information security policy.

<sup>110</sup> Win32/Georbot virus, characterized by high ability of penetration in the computer systems, which can gain access to any document and implement audio-video recordings independently of the computer owner.

<sup>111</sup> The Government of Georgia Decree №235.

<sup>112</sup> Opening an internet link or attached document specified in the mass-sent e-mails, which causes the computer system to be infected with malware.

<sup>113</sup> E.g. Illegal access to online casino accounts, fast payment machines or online trading platforms.

<sup>114</sup> Enticing of a victim to go to a fake web site similar to the real one, and seizing personal data, and illegally accessing his/her computer system.

<sup>115</sup> Cloning a payment card or otherwise capturing card data.

methods used for committing of cybercrime shall get more sophisticated. In one of the cases, the perpetrators were transforming international phone calls into local calls through use of the SIM boxes, thus causing substantial damage to mobile operators. Cybercrime is often transnational in nature, which is a major challenge for investigative bodies as it is difficult to obtain evidence. Several cases have been identified, when as a result of illegal access to e-mails or seizure of payment card data, funds were deposited in bank accounts opened in Georgia, or cash was withdrawn from credit cards through a fictitious trade transaction with local business entities (see section 3.2.4). An active cooperation is established with law enforcement agencies of other countries (see section 2.11) to combat international cybercrime groups. On the basis of the Budapest Convention, national investigative authorities successfully cooperate with international Internet service providers concerning storing of computer data. In 2018, 94% of requests to Facebook from the Prosecutor's Office of Georgia were satisfied, which is quite a high rate.

Threat Level - The amount of illicit proceeds generated by cybercrime in Georgia is relatively small. The existing institutional instruments to combat cybercrime are functioning effectively. The investigating authorities have a thorough knowledge of the offenses involved and have established successful cooperation with the competent authorities of other countries. However, public awareness in regard to cyber security issues is still low. Effective combating of the growing number of cybercrimes requires further development of the material-technical basis of the investigative bodies. Given these circumstances, the threat of money laundering stemming from cybercrime was rated as **Medium**.

### 3.1.3 Drug trafficking

The legislation of Georgia criminalizes and punishes crimes related to illicit drug trafficking, while in the event of presence of aggravating circumstances, the offender may be sentenced to life imprisonment. Also, in case of unlawful possession and sales of drugs the procedure of civil confiscation applies to undocumented property of the convicted person, his/her family members, close relatives and related persons (see section 2.8). In 2015-2018, there were 3,020 cases of illicit drug production<sup>116</sup>, sales and border-crossing attempts, for which 332 persons were convicted<sup>117</sup>. The common drugs in Georgia are Heroin, Buprenorphine, and new psychoactive substances, that are produced outside the country<sup>118</sup>. The routes of transportation of drugs into Georgia (land, air and sea), methods of concealment and countries of origin (mainly Middle Eastern and European countries) have been well studied and documented.



---

<sup>116</sup> Stipulated in Articles 260, 261, 262, 263 and 265 of the Criminal Code of Georgia.

<sup>117</sup> Data from the Prosecutor's Office of Georgia.

<sup>118</sup> MIA data.

| Drugs and Psychoactive Substances Seized from Illegal Transfer <sup>119</sup> |              |              |               |               |
|---|--------------|--------------|---------------|---------------|
| (gram/pill)   |              |              |               |               |
| Type  | 2015         | 2016         | 2017          | 2018          |
| Marihuana and hashish   | 107,497      | 52,577       | 48,663        | 71,119        |
| Cannabis (plant)  | 199,460      | 115,219      | 155,930       | 1,097,208     |
| Heroin  | 3,042        | 96,870       | 814           | 10,935        |
| Buprenorphine   | 3,404 (pill) | 6,985 (pill) | 17,148 (pill) | 12,662 (pill) |
| Cocaine   | 24,121       | 201          | 9.1           | 4,400         |
| Codeine   | 1,412        | 72           | 68            | 5,988         |
| Morphine  | 8.67         | 3.06         | 12.99         | 148           |
| Other drugs   | 65,000       | 9,800        | 10,441        | 24,187        |
| Psychoactive substances   | 8,973        | 12,774       | 4,711         | 928           |
| New psychoactive substances   | 1,809        | 1,473        | 6,471         | 689           |

According to unofficial data, the number of injecting drug (problematic) users is about 55,000<sup>120</sup>. In 2017 types and measures of sentence for sowing, harvesting and cultivation of cannabis in various quantities for personal consumption were abolished<sup>121</sup>. In the same year, consumption of Marijuana was decriminalized<sup>122</sup>. 2018 use of up to 5 grams of Marijuana in private environment was allowed<sup>123</sup>. The effect of these changes on the level of demand on drugs is not known yet. The National Drug Strategy<sup>124</sup> along with limiting drug supply, prioritizes prevention of drug use, treatment of drug-

---

<sup>119</sup> MIA data (net weights identified from examination).

<sup>120</sup> The Ombudsman of Georgia’s 2018 report “On the State of Human Rights and Liberty in Georgia”.

<sup>121</sup> Constitutional Court of Georgia 14 July 2017 decision (#1/9/701,722,725), which abolished deprivation of freedom for illegal sowing, harvesting or cultivation of cannabis up to 151 gr for personal use, and established punishment measures (6-12 years of imprisonment) for illegal sowing, harvesting or cultivation of the plant of cannabis up to 266 gr for personal use. The decision has not been put into effect yet at legal level, although the relevant norms of the Criminal Code have been abolished.

<sup>122</sup> Constitutional Court of Georgia 30 November 2017 (#1/13/732) decision, which was put into effect on 30 November 2018.

<sup>123</sup> Constitutional Court of Georgia 30 July 2017 (#1/3/1282) decision, which was put into effect on 30 November 2018.

<sup>124</sup> The National Drug Strategy, approved by the Interagency Coordination Council on Combating Drugs in 2013.

dependent persons and harm reduction. The National *Monitoring Centre for Drugs* is being developed for the purpose of monitoring illegal consumption and circulation of drugs<sup>125</sup>.

Georgia's geographic location is a risk-factor in terms of the international drug transit. The Drug Transit Prevention Team has been operating since 2014, and monitors incoming cargoes and carriers for the purpose of detecting signs of drug trafficking. All major drug trafficking routes through Georgia are studied and documented. Since 2012, a container control program is implemented within the framework of which joint teams of MIA and the Revenue Service identify drugs and other illicit cargoes transited through Georgia. The United Nations Office on Drugs and Crime (UNODC) communication channel ContainerCOMM is used to exchange information on risk-related containers with other countries. As a result, of successful, 15 tons of precursors (Acetic Anhydride) were seized at Port in 2018.

Threat Level – Geographical location of Georgia is a risk-factor in terms of drug transit. On the other hand, there are effective inter-agency coordination mechanisms in the field of fighting against drug-related crimes. The cases of drug trafficking have been successfully identified and investigated. Given these circumstances, the risk of money laundering due to drug trafficking was assessed as **Medium-Low**.

#### **3.1.4 Tax evasion**

Georgian law criminalizes tax evasion if the amount of tax liability exceeds 100,000 GEL. The period of statute of limitation for tax audit is 3 years, and in the event of payment of the outstanding tax liability within 45 days, the person shall be exempted from criminal liability. In 2014-2018, 815 cases of tax evasion were identified<sup>126</sup>, for which 148 persons were convicted<sup>127</sup>. During the same period, GEL 134 million were accumulated in the state budget. Most tax evasion cases were related to reduction of taxable income or turnover through filing fraudulent tax declarations, failure of accurate accounting, or overestimated indication of deductible costs on the basis of fraudulent tax documents. Complex cases, related to setting up of corporate structures in offshore zones are quite rare. The reason for low number of cases of tax evasion, and its less complex nature is simple taxation system in Georgia and efficient administration of taxes.

According to the International Monetary Fund (IMF)<sup>128</sup>, one of the most successful tax reform in the world was implemented in Georgia. Namely, in 2004-2015, the tax rates, as well as number of taxes (from 21 to 6) were substantially reduced, with introduction of modern technologies (e.g. electronic declarations) opportunities for corruption were eliminated, and tax collection improved significantly. As a result, the share of tax revenues in GDP rose from 12% to 25% - a tenfold increase in nominal

---

<sup>125</sup> Interagency Coordination Council on Combating Drugs approved in 2018 the structure, regulations and operation modalities of the Centre.

<sup>126</sup> Stipulated in Article 218 of the Criminal Code of Georgia.

<sup>127</sup> The Prosecutor's Office of Georgia data.

<sup>128</sup> Fiscal Monitor of 2019 and Public Funds Management of 2018.

terms. In order to further simplify the tax system, tax on distributed profit was introduced<sup>129</sup>. According to the World Bank's Doing Business 2019 ranking, Georgia ranks 16<sup>th</sup> in terms of tax burden and short tax payment time. The Revenue Service uses automated risk management systems for tax administration. Selection of entities for tax and customs declaration audit is based on predefined risk factors. Tax audits, conducted in the period of 2014-2018, the recovered proceeds from accrued tax liabilities amounted to 2.8 billion GEL<sup>130</sup>,

In 2018 IMF published a working document, according to which the share of shadow economy in Georgia in 2015 was 53% of GDP. However, this document measures the share of informal economy in GDP, and this figure needs to be verified. For example, almost two-thirds of the Georgian labor force is self-employed, i.e. carries out economic activities independently and do not employ hired workers (e.g. individual farmers, household appliance repairers). Majority of them are not subject to registration with the Revenue Service, and/or are exempted from taxes. The added value created by the self-employed remains in the informal economy, as it is not recorded in detail for tax purposes. However, the fruits of their labor, as well as major share of informal economy, are not included in the activities prohibited by law. The National Statistics Office of Georgia (Geostat) uses a different methodology. Geostat separates informal economy from so called "unobservable economy", which is beyond the state control and implies the proceeds from illicit activity. By this method, the shadow economy of Georgia is only 10% of GDP<sup>131</sup>.

Most of developing countries of the area are characterized by a fairly high level of tax offenses and flow of illegal financial fund. In 2011 Georgia became a member of the Global Forum on Transparency and Information Exchange for Tax Purposes<sup>132</sup>. In 2016, the Global Forum assessed Georgia's cooperation with other countries in the field of taxation as being in line with the international standard on exchange of information on request (EOIR). Currently, Georgia may, for tax purposes, exchange information with 103 jurisdictions, including its major trading partners and all EU member countries<sup>133</sup>. In 2016 Georgia also joined the inclusive platform of the tax base erosion and profit shifting (BEPS) project. In 2017, within the frame of BEPS project, preferential tax regimes in Georgia were assessed as non-harmful tax practice<sup>134</sup>.

Threat Level - A simple tax system in Georgia and effective tax administration lead to low levels of tax evasion. The shadow economy is only 10% of GDP. Relatively high rate of tax evasion and flow of

---

<sup>129</sup> Businesses have to pay profit tax only after distribution of dividends.

<sup>130</sup> Out of which, 1.2 billion GEL was proceeds from imposed fines.

<sup>131</sup> In the interview with Forbes, the head of the IMF mission in Georgia confirmed that the Geostat's data on the shadow economy is reliable: <https://forbes.ge/news/3782/ramdenad-Crdilovania-saqarTvelos-ekonomika>

<sup>132</sup> Set up on auspices of Organization for Economic Development and Cooperation (OECD), which is composed of 150 member countries.

<sup>133</sup> In 2011 Georgia acceded to the International Convention on Mutual Administrative Assistance in Tax Matters. Georgia has also concluded double taxation avoidance treaties with 55 countries, and agreements on mutual administrative assistance and information exchange on tax matters with 3 countries.

<sup>134</sup> International Finance Company, Special Trading Company, Free Industrial Zone Enterprise and Virtual Zone Entity.

illegal funds in the countries of the area is a risk-factor, however, there is active cooperation with other countries in the sphere of taxation. There is little likelihood of use of preferential tax regimes for aggressive tax planning in the country. Given these circumstances, the risk of money laundering due to tax evasion was assessed as **Medium-Low**.

### 3.1.5 Organized crime

Membership in criminal groups is punishable by deprivation of liberty from 7 to 10 years according to the Georgian legislation, while being a thief in law - 9 to 15 years. In 2015-2018 number of persons charged with membership in a criminal group, or for being a thief in law was 72<sup>135</sup>. Majority of crimes committed by them were related to racketeering or extortion, the purpose of which was to replenish the “common fund” of the criminal world, or personal gain. In 2018, the legal means for combating the organized crime were substantially strengthened. The notion of membership of a criminal group<sup>136</sup> and related offences was expanded<sup>137</sup>. As a result, in 2018 alone, the Ministry of Internal Affairs arrested 52 individuals and 4 criminal authorities<sup>138</sup>. The strategy for combating of organized crime for the period of 2017-2020 is aiming at further refining of legislative framework and improvement coordination between investigative bodies.

In the post-Soviet countries the widespread form of criminal activities was association of criminals, governed by informal rules - the "Criminal Code". The modern criminal world was formed within the Gulag system in the 1930s, and such criminal groups were particularly strong in Georgia in the 1990s and early 2000s. During this period, the weakness and corruption of public institutions created fertile ground for organized crime. In 2005 membership in criminal groups and being a thief in law became punishable, and the civil law procedure of confiscation of property was applied to them. The new approach was based on the so-called US Rico Act and Italy's anti-mafia legislation. Organized crime has declined sharply as a result of active fight against the criminal world. Majority of thieves in law left Georgia. Georgia ranks 24th in the World Economic Forum's 2018 Global Competitiveness Index, which measures the impact of organized crime on business. According to the above-referred survey, racketeering and extortion of business entities by organized crime groups is rare in the country.

Georgian criminal groups finding refuge in other countries was a by-product of the successful fight against the criminal world within the country. They are the most active in several EU countries and are mainly involved in the robbery of apartments and commercial properties. Cases of importing of these proceeds to Georgia have not been identified. LEAs of other countries have not informed FMS and LEAs of Georgia about this practice. As a result of MIA's close cooperation with law enforcement agencies of other countries, 12 special operations were carried out in five EU countries since 2018, which resulted in the arrest of 166 persons of Georgian descent, who belonged to various criminal

---

<sup>135</sup> The Prosecutor's Office of Georgia data.

<sup>136</sup> Passive belonging to the criminal world has become punishable, and it is sufficient to declare the intent of committing of a crime without being engaged in any criminal activities.

<sup>137</sup> Participating in so called “meetings of criminal authorities”, supporting activities of the criminal world, and applying for assistance to criminal authority became punishable.

<sup>138</sup> MOIA data.

groups. In one of the most prominent special operations of the last years, known under the name of “Normandy of the Caucasus”, 38 citizens of Georgia were arrested simultaneously in France and Greece, including 4 Thief in Laws.

Threat Level - Georgia has achieved tangible success in fight against the criminal world. The level of organized crime in the country is low. Investigative agencies have effective legal instruments to combat organized crime. In order to identify criminal groups of Georgian origin, close cooperation with law enforcement agencies of other countries has been established. Cases of money laundering of illicit income by such organized criminal groups have not been identified in Georgia. Given these circumstances, the risk of money laundering related to organized crime was assessed as **Medium-Low**.

### 3.1.6 Corruption

Georgian law criminalizes all forms of corruption (e.g., giving/receiving bribes, influence peddling, abuse of power, accepting of gifts prohibited by law). Promise or offer of a bribe, as well as giving of a bribe is punishable. Taking a bribe is an accomplished crime from the point of requesting or offering/promising a bribe. The minimum sentence for bribery is 6 years of imprisonment. A person giving a bribe may be convicted for up to 3 years of deprivation from freedom even when aggravating circumstances do not exist. The severity of the penalty is sufficient incentive for the accused to cooperate with the investigation, which facilitates successful investigation of complex cases. The procedure of civil confiscation of illegal or undocumented property applies to officials, their family members, close relatives and related persons (see section 2.8). In 2014-2018 490 cases of offering/taking bribes were identified<sup>139</sup>, for which 218 persons were convicted<sup>140</sup>. Most of them were middle and high-ranking local government officials, who demanded bribes in exchange for various unlawful benefits.

Georgia has attained significant progress in the fight against corruption as a result of targeted efforts of investigative bodies and public administration reform. Georgia ranks 41<sup>st</sup> according to 2018 Transparency International Corruption Perception Index, which measures the level of corruption in countries, which is the best result in Eastern Europe and Central Asia region. Among reforms, conducted in recent years for the purpose of fighting against corruption, is noteworthy to mention introduction of a system of monitoring of property declarations of officials and their families. Property declarations have been published for many years, but since 2017 the Civil Service Bureau has been checking the accuracy of information contained in about 10% of declarations every year. Also, the legal mechanisms for protection of whistleblowers have improved, transparency of public procurement has increased, and obliged entities were required to establish the origin of property of politically exposed persons. The Action Plan for 2019-2020 elaborated on the basis of Georgia's National Anti-Corruption Strategy envisages systematic analysis of corruption risks in the country and increase of transparency of local self-government activities<sup>141</sup>. Most of the countries of the area are characterized by high level

---

<sup>139</sup> Stipulated in Articles 238 and 239 of the Criminal Code of Georgia.

<sup>140</sup> The Prosecutor's Office of Georgia data.

<sup>141</sup> The Government of Georgia Decree #443.

of corruption and outflow of illicit funds. Therefore, financial institutions are systematically provided with information on high-risk jurisdictions<sup>142</sup>.

Threat Level - The level of corruption in Georgia is low. Reforms targeted to increase transparency in the public sector are continuing. The fight against corruption is being actively pursued. However, high rate of corruption and illegal financial flows in the countries in the region is a risk-factor. Given these circumstances, the risk of money laundering due to corruption was assessed as **Medium-Low**.

### 3.1.7 Human Trafficking

Georgian law criminalizes any form of trafficking, including sexual and labor exploitation of a victim and use of victim's services. Trafficking is punishable by imprisonment from 7 to 20 years. In case of trafficking in minors, the sentence may be increased to life imprisonment. 80 cases of trafficking were identified<sup>143</sup> in 2015-2018, for which 15 traffickers<sup>144</sup> were convicted<sup>145</sup>. The victims of trafficking were mostly Georgian and Uzbek nationals. They were promised highly paid jobs, but were later deprived of their liberty, passports and through coercion were forced to engage in different activities. Majority of cases of trafficking were of transnational in nature - victims were deceitfully brought to Georgia for sexual exploitation, or were taken to several countries of Middle East for the purpose of forced labor. In the Report on Trafficking of the US State Department for the year 2016 is stated, that Georgia was moved to the first basket of countries, and still holds this position, which is indicative of high effectiveness of fight against trafficking. Similarly, according to the Global Index of Slavery, published in 2018, Georgia ranks the 15<sup>th</sup> out of 167 countries in the world from the standpoint of fighting against trafficking and modern forms of slavery.

The high rate of underreporting is characteristic of trafficking, as it is one of the most covert crimes. Proactive detection of trafficking is therefore particularly important. There are four mobile teams set up under the Ministry of Interior, and a joint working group of prosecutors and investigators is operating in Adjara, which inspects high risk sites from the standpoint of trafficking<sup>146</sup>. The Revenue Service uses special indicators to identify alleged traffickers and victims at the customs border-crossings. MIA has signed a Memorandum of Understanding with the Labor Inspection<sup>147</sup>. If the inspection reveals signs of labor exploitation during inspection of a business entity, it shall immediately inform the Ministry of Internal Affairs regarding this<sup>148</sup>. Also, the National Referral Mechanism grants the status of victims to those persons, who have been victims of trafficking, but who for various reasons refuse to cooperate with the investigative authorities. During last several years 15 individuals have been

---

<sup>142</sup> "Manual for Evaluation of Risks Associated with Money Laundering and Terrorism Financing", approved by the President of NBG #82/04 order.

<sup>143</sup> Stipulated in Articles 143<sup>1</sup> and 143<sup>2</sup> of the Criminal Code of Georgia.

<sup>144</sup> 8 citizens of Georgia and 7 citizens of foreign countries

<sup>145</sup> Ministry of Justice data.

<sup>146</sup> In 2017, were inspected hotels, bars, nightclubs and baths, where 682 persons were employed.

<sup>147</sup> Structural Unit of the Ministry of Labor, Health and Social Affairs of Georgia – the Department of Labor Inspection.

<sup>148</sup> In 2017, 55 persons, employed in such organizations, which failed to meet labor standards, were considered as "high risk" from the standpoint of being subjected to trafficking.

granted such status<sup>149</sup>, which includes undergoing of medical examinations, provision of psychological and legal assistance, shelter, and receiving of financial compensation. For the purpose of improving efficiency of measures targeted at fighting against trafficking, a Coordination Council<sup>150</sup> was set up whose priorities, as stated in the action plan for the period of 2019-2020, include working with vulnerable groups and refining mechanisms for detecting trafficking.

Threat Level - The number of cases of human trafficking in Georgia is small, while the legislation is in line with international standards. Mechanisms for detecting and preventing trafficking, protection of victims and inter-agency cooperation are effective. Given these circumstances, the threat of money laundering stemming from human trafficking was assessed as **Low**.

## **3.2 Means and methods of money laundering**

### **3.2.1 Bank accounts**

Bank accounts are one of the most common means used for money laundering offences. Majority of suspicious transaction reports sent to FMS and the most of the money laundering cases are related to depositing/transferring money through a bank account and then withdrawing/transferring. Bank accounts are opened by persons, committing predicate offences, as well as their family members, accomplices and third parties. In some cases, non-resident<sup>151</sup> persons managed to open bank accounts with fake IDs. Corporate bank accounts are often used in so-called complex money laundering schemes, such as “layering”. Layering means a chain of financial transactions, the purpose of which is disguising of the true source of money, and quite frequently it takes form of multiple cross-border cash transfers<sup>152</sup>. In such cases, a large amount of money is transferred to the account of a fictitious legal person<sup>153</sup> from other countries, which are then quickly transferred abroad. Transfers are performed on the basis of agreements on loan receiving/repayment or purchase goods/services. Investigation of such cases is connected with many challenges. Reports on suspicious transactions sent to the FMS by commercial banks are often related to already implemented transactions. The international dimension characteristic of such schemes means, that the success of investigation largely depends on the effectiveness of cooperation speed of other countries. As a result of more stringent supervision by the NBS in recent years, commercial banks better detect misuse of their accounts and block suspicious international transfers. One commercial bank was deprived of its license due to deficiencies in

---

<sup>149</sup> Ministry of Justice data.

<sup>150</sup> The Coordination Council is chaired by the Minister of Justice of Georgia and it is composed of representatives of the competent public bodies, as well as representatives of local non-governmental and international organizations.

<sup>151</sup> Persons whose principal place of residence or place of business is in another country.

<sup>152</sup> Layering is an intermediate phase characteristic of complex money laundering schemes, which occurs between the phases of placement of illegal proceeds into the financial system and their integration into the formal economy.

<sup>153</sup> A legal person that essentially carries out the function of money conduit and does not carry out any business activities.

compliance control systems, which made it possible to use bank accounts for implementation of suspicious transactions (see Section 7.3).

### **3.2.2 Remittance**

Remittance services by non-bank financial institutions<sup>154</sup> are one of the major means of laundering illegal proceeds, generated abroad through Internet fraud. On the one hand, the speed of Remittance and their international dimension, and, on the other hand, less developed compliance control systems of non-bank financial institutions, were contributing factors to the misuse of these services. In previous years, Remittances were most frequently used for the purpose of covering the origin and movement of proceeds, gained as a result of so called “Nigerian Prince” or other fraudulent schemes, implemented through use of social engineering. Initially, in the criminal schemes were engaged mainly non-resident individuals of common ethnic origin, who were receiving multiple small and medium volume transfers from various countries, upon collection of received funds, the lump sum was transferred to their country of origin again through the Remittance systems. After some time, this schemes have been modified and Georgian citizens started being engaged in their implementation. In 2013-2016 the number of such cases has substantially increased. In the following years, as a result of efforts of the FMS and investigative bodies, several criminal groups were identified and their leaders were convicted. At the same time, fit and proper criteria for non-banking financial institutions became stricter that led to improvement of their corporate governance culture. As a result, the number of cases of use of using remittance services illegally has been reduced.

### **3.2.3 Legal Persons**

The use of legal persons is convenient for disguising true origin of illicit income and the ultimate beneficiary. Moving of large sums of money under the guise of legitimate entrepreneurial activity, is less suspicious. Fictitious legal persons and complex corporate structures, that comprise companies created in different jurisdictions, make it difficult to identify<sup>155</sup> the criminals operating behind them. In almost all cases of money laundering involving large amounts of money, there is legal person standing behind it. According to the experience of FMS and investigative bodies, limited liability companies (hereinafter "LLC") are most frequently used for money laundering purposes. It is relatively easier to establish an LLC, than other legal person, and persons of this form have a number of advantages (see section 5.3). Therefore, fictitious companies are usually registered under this organizational-legal form. In recent years, small number of reports on suspicious transactions, submitted to the FMS were related to enterprises in the free industrial zone, but connection to the criminal activities of such enterprises has not been confirmed. Several reports were related to legal persons governed by the same director or entrusted person. However, activities of corporate service providers in Georgia is a rare occasion (see section 5.4).

---

<sup>154</sup> Remittance services apart from commercial banks, are provided by microfinance organizations and payment service providers.

<sup>155</sup> As of 2018, the share of legal persons of commercial bank’s corporate clients, whose beneficial owner resides in so called offshore jurisdictions or is registered in high risk jurisdiction was approximately 1%.

### 3.2.4 Third parties

Third parties are used in laundering of proceeds of crime committed in Georgia or abroad. The third parties are those persons, who have not committed a predicate offence directly, but participate in the laundering of the proceeds of crime. In Georgia, in money laundering schemes are predominantly engaged students and non-residents with low incomes, who open bank accounts or implement remittance in exchange for a small fee, and are usually unaware of the purpose of the transaction. Although, in some cases, complex schemes of money laundering were planned and implemented with the participation of third parties. Namely, were identified facts of unlawful appropriation of funds through fraudulent payment card data, in which were engaged the heads of local business entities. Such payment cards were used for payments in restaurants, or for tourist or other services, but the service was actually not provided. The funds were deposited in the bank account, cashed by the director of the business entity and distributed to the accomplices. In 2014-2018, there were three convictions for money laundering by a third party.

### 3.2.5 Cash

In the case of predicate offenses, illicit proceeds are often generated in the form of cash (e.g. drug trafficking). Cash is easily convertible, difficult to follow, and anonymous. Therefore, the use of cash in various forms is characteristic of laundering of proceeds from any predicate offense. In addition, cash is a convenient way of moving of illicit income or its placement into the formal economy bypassing the financial system. Cash is the main means of payment in Georgia. Cash transactions in the financial sector are substantial (see sub-chapter 7.3). However, in recent years the volume of cashless payments is rapidly increasing<sup>156</sup>. Georgia has also made significant progress in terms of financial inclusion<sup>157</sup>. Compared to 2011, number of bank account holders almost doubled and in 2017 amounted to 61%. Cashing and spending of money acquired through fraud and cybercrime, or its layering and depositing on bank accounts or conducting remittances for the purpose of further laundering of illicit proceeds, are commonly used methods.

Fast payment machines spread in Georgia allows its users to deposit cash in the electronic wallet or bank account. Because of the remote nature of the service and difficulty of identifying the person making the payment, the machines are vulnerable to the placement of cash obtained through unlawful activities into the financial system. Although as a result of adoption of new anti-money laundering and counterterrorism legislation<sup>158</sup>, the use of anonymous electronic money was significantly restricted. An electronic wallet can only be used by a properly verified payer., which is an effective mechanisms for preventing the use of fast payment machines for illegitimate purposes. Although, obliged entities notify FMS regarding the cash transactions, which are above the pre-defined threshold.

---

<sup>156</sup> According to the NBG payment card statistics, the volume of payment transactions performed by merchants/service providers through payment cards in 2018 increased almost by 2.5 times compared to 2016.

<sup>157</sup> World Bank Report on Financial inclusion in Europe and Central Asia for 2019.

<sup>158</sup> AML/CFT Law and Regulation No. 253/04 on Information Accompanying Transfers, approved by the President of the NBG.

At customs border movement of cash needs to be declared if the amount of cash exceeds 30,000 GEL. Since 2015, the requirement of submitting of declarations has been extended to legal persons and remittances, and in the declaration should be indicated the origin of funds, purpose of remittance, and recipient/sender. In recent years mostly cash in USD was moved across the border, and cash was mainly brought in the country by citizens of neighboring countries<sup>159</sup>. The Revenue Service uses an automated risk management system for the purpose of detecting cases of bringing of cash funds bypassing customs controls, or to detect cash outflows at the border<sup>160</sup>. The FMS is notified of such facts, as well as provided with any declarations filled in at the border.

| Cases of violation of rules related to submission of declarations and imposed sanctions <sup>161</sup> |            |                     |
|--|------------|---------------------|
| Year   | Violations | Fine <sup>162</sup> |
| 2018   | 217        | 1.8 (million)       |
| 2017   | 213        | 1.4 (million)       |
| 2016   | 147        | 0.8 (million)       |
| 2015   | 126        | 0.6 (million)       |

### 3.3 Summary

Theft makes up about a third of all registered crime. However, the overwhelming majority of theft cases are petty. Fraud is the main source of generation of illicit proceeds. Bank accounts are the main means of money laundering. Legal persons often appear in complex criminal schemes. On the other hand, the overall crime rate in Georgia is low. According to reputable research, Georgia is one of the safest countries in the world<sup>163</sup>. Legal instruments for combating crime and inter-agency coordination mechanisms are effective. Given these circumstances, the risk of money laundering in Georgia was assessed as **medium**.

---

<sup>159</sup> Cash was taken out from Georgia mainly by the citizens of Georgia.  
<sup>160</sup> Individuals and vehicles are screened based on predefined risk factors.  
<sup>161</sup> Data from revenue services  
<sup>162</sup> In case of foreign currency, its equivalent in GEL is calculated.  
<sup>163</sup> According to the Gallup survey "World Order - 2018" which measures the level of public safety in countries, Georgia ranks 17th out of 142 countries of the world.

## Chapter IV

### Risk of Terrorism Financing

#### 4.1 Combating terrorism

The fight against terrorism is the priority of the Government of Georgia. Georgia became an active member of the Global Coalition against Daesh at an early stage, and through its participation in multinational operations, significantly contributes to maintaining peace and security in the world. Moreover, Georgia had the largest military contingent per capita in the NATO international mission in Afghanistan. In January 2019, the Government of Georgia approved the National Strategy of Georgia on Fight against Terrorism<sup>164</sup>, together with its three-year Action Plan, defining the vision of the country in the fight against terrorism, extremism and radicalization. Georgia took significant steps towards enhancing the legislation in the field of fighting terrorism, *inter alia*, it is noteworthy that Georgia is one of the first countries among the UN member states, which in 2015 fully criminalized activities related to the travel of the so-called Foreign Terrorist Fighters in accordance with the UN Security Council Resolution 2178 (2014).<sup>165</sup>

Joint efforts of Georgia's state authorities are required to protect the country from terrorist threats. The State Security Service of Georgia (SSSG) is the lead agency in the unified system of the country's fight against terrorism, ensuring detection, prevention and suppression of terrorist crimes, including financing of terrorism, through the application of special and criminal intelligence activities; collecting information on the activities of foreign and international terrorist organizations and conducting the systemization of this information. In order to effectively carry out the counter-terrorism activities, the SSSG coordinates the activities of the subjects in the fight against terrorism through its structural subdivision – appropriately equipped and trained Counterterrorism Centre. The subjects that are directly involved in the fight against terrorism, as well as other state authorities are required to provide any terrorism-related information to the Counterterrorism Center of the SSSG. In addition, for the purposes of counterterrorism activities, instructions and requirements of the Counterterrorism Centre are obligatory to comply with by those subjects.<sup>166</sup> The Operational Headquarter of Extreme Situation Management, headed by the Head of the SSSG, manages the extreme situation created by the terrorist

---

<sup>164</sup> Resolution №53 of the Government of Georgia on Approving the National Strategy of Georgia on Fight against Terrorism. The Strategy encompasses seven basic directions and, in the context of combating terrorism, highlights the importance of such activities as: collection and analysis of terrorism-related information, prevention, protection, preparedness, prosecution, development of legislative framework and international cooperation. The goal of this Strategy is to determine joint actions of the State, international partners, private sector and civil society to respond to threats stemming from terrorist organisations, extremist groups and their certain supporters.

<sup>165</sup> Consequently, as a result of legislative amendments, the criminal liability was established for crossing or an attempt of crossing the state border of Georgia with the purpose of carrying out terrorist activity, preparing it or participating in such activities or in terrorist training.

<sup>166</sup> Resolution №254 of the Government of Georgia on Approving the Rules of Organizing Counterterrorist Activities in the Country and of Coordinating the Activities of the Subject in the Fight against Terrorism.

activity and is directly in charge of the counterterrorism operation.<sup>167</sup> Since 2018, in order to properly implement the UN Security Council Resolution 2396 (2017), international air carriers are required to provide free-of-charge Advance Passenger Information (API) and Passenger Name Record (PNR) to the competent authority - LEPL Operational-Technical Agency of Georgia of the State Security Service, for the purposes of improving border control, supporting the prevention, detection, investigation or prosecution of terrorism and also other grave crimes.<sup>168</sup>

It is also important to note the Law of Georgia on the Legal Status of Aliens and Stateless Persons, the Law of Georgia on International Protection and other relevant laws and bylaws, which envisage relevant restrictions on entering the country by a foreigner and granting relevant legal status to this foreigner, whose presence in the country represents a threat to the state security and/or public order of Georgia, including when there is the information, with high degree of probability, indicating the individual's link to terrorist and/or extremist organizations.

Although Georgia is not among the countries with high risk of terrorist attacks, the region-wide processes have a significant impact on the country. The developments taking place in the North Caucasus, Middle East and Central Asia have posed different types of threats to Georgia at various times. Consequently, the geographical proximity of Georgia to the conflict zones where Daesh and other terrorist organizations carry out their activities, remains a challenge. Moreover, Georgia's defense forces have become the target of Taliban attacks in Afghanistan, on a number of occasions. In the context of terrorism threats, the territories occupied by the Russian Federation and the uncontrolled situation on the ground, remain a significant challenge for Georgia.

Overall, given the recent trends concerning the scale of international terrorist threats, it should be noted that large-scale terrorist activities have not been observed in Georgia. It is noteworthy that the law enforcement authorities neutralized a group which was planning a terrorist attack in the country. On 21-22 November 2017, counterterrorism operation led by the SSSG was conducted against international terrorist - Akhmed Chatayev and his terrorist group. As a result of criminal intelligence and investigative activities conducted by the SSSG, the group was identified and respective measures were carried out against them. Casualties among the civilian population were prevented. In the course of the special operation, an officer of SSSG was killed and four law-enforcement officers were injured. Later, other individuals connected to Chatayev's terrorist group were also identified. As a result, in the course of investigation of the case on international terrorist - Akhmed Chatayev and his terrorist group and connected individuals, in 2017 and 2018, among the persons detained<sup>169</sup>, 6 individuals were detained on charges of the financing of terrorism, provision of other material support or resources to terrorist activities (Article 331<sup>1</sup> of the Criminal Code of Georgia). All of them were convicted pursuant to relevant charges and sentenced to the deprivation of liberty ranging from 10 to 13 years.

---

<sup>167</sup> Resolution №662 of the Government of Georgia on Approving the Rules of Organization and Activities of the Operational Headquarter of Extreme Situation Management.

<sup>168</sup> Resolution № 174 of the Government of Georgia Approving the Rules of Providing API and PNR by the air carrier to the competent authority.

<sup>169</sup> Overall eight persons were detained in the course of investigation of this case.

The phenomenon of Foreign Terrorist Fighters that had activated during the ongoing conflict in Syria and Iraq, once again demonstrated to the modern world the necessity to effectively protect borders in the process of fight against terrorism. Operative information is exchanged with other countries to prevent the transit of foreign terrorist fighters through Georgia (see Subsection 2.11). It should be noted that as a result of efforts taken by the State Security Service and other relevant state authorities, over the recent period not a single fact of travel to Syria and Iraq by the citizens of Georgia has been observed. Furthermore, during the recent years, as a result of relevant measures carried out by the Service, facts of attempts of transit movement through the territory of Georgia by terrorism-affiliated individuals have been considerably reduced. Notwithstanding the mentioned, similarly to other countries of the world, certain challenges still remain. Movements at the state customs and border-crossing points are strictly controlled, as well as constant monitoring of crossings at the state border is carried out, in order to avoid the threat of entering of terrorism-affiliated individuals into the territory of Georgia. Routes and channels that might be used in order to illegally enter the territory of the country are subject to observation. Therefore, the Georgian territory as a transit route is currently unfavorable for foreign terrorist fighters.

Several dozens of Georgian citizens went to fight in Iraq and Syria. Some of them have even become influential members of terrorist organizations affiliated with Daesh and Al-Qaeda. However, the number of supporters of terrorist organizations and their ideology in Georgia sharply reduced as a result of special operations carried out by the law enforcement authorities and the targeted policy of the State. It should be noted that in 2016, the Court sentenced the so-called representative of Islamic State – Aiuf Borchashvili and members of his group to various terms of imprisonment.<sup>170</sup> In 2014-2018, the criminal prosecution was initiated against a number of Georgian citizens under Articles 327 (membership in a terrorist organization, participation in its activities, or establishment or management of a terrorist organization) and 328 (joining a foreign country's terrorist organization or a terrorist organization subjected to a foreign control or supporting it in terrorist activities) of the Criminal Code of Georgia.

Return of Georgian terrorist fighters to the country is a challenge. The current strategy of Daesh is to activate its supporters beyond a conflict zone. The threat remains that, similar to other countries, particular individuals residing in Georgia who might support the ideas of the Islamic State, act by order of the leaders of the terrorist organization. Similar to the overall challenge, Georgia also faces the threats of radicalization and recruitment through the internet carried out by Daesh. In case of return to the country and in case of existing evidence on specific individuals, confirming connection to terrorism, respective measures prescribed by the Georgian legislation will be carried out.

Explosive devices, ammunition and chemical, biological, radiological and nuclear materials/substances could become the objects of interests for terrorists and extremists. In addition,

---

<sup>170</sup> Aiuf Borchashvili was sentenced to 14 years of imprisonment under Articles 327<sup>1</sup> (recruiting a person for membership in a terrorist organization or for carrying out terrorist activities) and 328 (joining a foreign country's terrorist organization or a terrorist organization subjected to a foreign control or supporting it in terrorist activities) of the Criminal Code of Georgia.

uncontrolled situation in the Georgian territories occupied by the Russian Federation creates the threat of illegal circulation of nuclear materials and radioactive substances. The Coordination Council on Combating Chemical, Biological, Radiological and Nuclear (hereinafter referred as "CBRN") Threats, which is led by the SSSG, approved CBRN Threat Reduction Strategy in 2014 and its Action Plan in 2015. All customs checkpoints in the country are equipped with effective radiation control systems (detectors). In 2014-2018, 5 cases of illegal handling of nuclear or radioactive materials were detected, for which 21 persons were prosecuted.

#### **4.2 Methods and Means of Financing Terrorism**

In international practice, methods of obtaining, storing and transferring of funds for terrorism financing are similar to those, used in cases of money laundering. However, the motivation differs - instead of receiving of personal gain, these resources are used for supporting terrorism activities. Identifying terrorism financing and obtaining evidence is difficult, as quite often the financing of terrorism is conducted via the proceeds obtained from legal sources, and usually requires small amount of funds. Moreover, the financing of terrorism includes both the support of actual terrorist attacks, and the financing of non-violent elements of terrorist activity, such as covering expenses for living, travel and training of members of terrorist groups, as well as for propaganda and other organizational expenses.

In Georgia, in 2014-2018, six persons were convicted of terrorist financing, providing other material support or resources for terrorist activities (Article 331<sup>1</sup> of the Criminal Code of Georgia).<sup>171</sup> All six were found guilty of providing transport-logistical support to Akhmed Chatayev and his terrorist group. In case of Georgian terrorist fighters who went to Syria and Iraq, and against whom the investigation was initiated under Articles 327 ([membership in a terrorist organization, participation in its activities, or establishment or management of a terrorist organization](#)) and 328 (joining a foreign country's terrorist organization or a terrorist organization subjected to a foreign control or supporting it in terrorist activities) of the Criminal Code of Georgia, they funded their own travel. Due to geographical proximity, travel from Georgia to regions adjacent to the conflict zone required small amounts of funds. The intermediaries present in a foreign country ensured the further transportation of terrorist fighters. The suspicious transaction reports received by FMS concerning the financing of terrorism and further forwarded to SSSG, were often "false positives", including those with the UNSCR terrorist lists. In some cases there were also transactions carried out through third parties, but connection with terrorism was not confirmed.

The suspicious transactions reported to FMS by obliged entities were mostly related to high risk jurisdictions<sup>172</sup>, and were carried out through remittances.<sup>173</sup> Similarly, the requests, submitted by other countries' FIUs in recent years were also related to remittances. Georgia is a recipient of remittances. In 2018, USD 1.6 billion was transferred to Georgia through remittances<sup>174</sup>, which accounts for more

---

<sup>171</sup> They were sentenced to imprisonment for the term from 10 to 13 years.

<sup>172</sup> Order №67/04 of the President of the NBG.

<sup>173</sup> Both, through commercial banks and non-bank payment service providers.

<sup>174</sup> Data of NBG. Remittances from Georgia totaled USD 230 million.

than 10% of GDP. The major share of these funds was transferred by Georgian migrants to their families.<sup>175</sup> The share of high risk jurisdictions in incoming remittances was only 0.1%<sup>176</sup>, and 0.6%<sup>177</sup> in outgoing remittances. The obliged entities notify FMS of all remittances above the pre-determined limit transferred to and from high-risk jurisdictions.

Financial institutions are systematically provided with information on terrorism financing indicators.<sup>178</sup> Given the threats of terrorism, the focus is largely on remittances and cash withdrawals in regions adjacent to conflict zones, where terrorist groups carry out their activities, and the potential support of radicalized individuals from overseas under the guise of charity or purchasing of services/goods. The cases of cash transportation across the Georgia's customs border for the purpose of terrorist financing have never been identified. Furthermore, transportation of cash over GEL 30,000 is subject to declaration. The FMS is notified of all such facts, as well as those related to attempts to transport the cash bypassing the customs controls or secretly (see Subsection 3.2.6). The use of social media platforms for collecting funds for terrorist financing purposes has also not been identified.

The NBG monitors unauthorized provision of payment services based on public sources and in the course of inspections. Prepaid (unidentified) cards issued in Georgia cannot be used outside the country, which reduces the risk of movement of funds across the borders via such means. Financial institutions are also being informed, based on the experience of foreign countries, about the ways of using of loans and new payment instruments to finance terrorism. The degree of compatibility of banks' compliance control systems with the anti-money laundering and financing of terrorism legislation is high (see Chapter VII). In addition, thanks to enhanced supervision by NBG in recent years, the compliance culture and risk management in non-bank financial institutions has also improved substantially (see Chapter VIII).

### **4.3 UNSCR Sanctions**

The Inter-Agency Commission under the Ministry of Justice (hereinafter referred to as "the Commission") is responsible for implementation of UN Security Council resolutions on prevention, detection and elimination of terrorist financing. The commission applies to the court<sup>179</sup> with the motion on to freeze the property of those persons, who have been included in the UNSCR list of persons associated with international terrorist organizations such as "Al-Qaeda and Daesh"<sup>180</sup> or "Taliban"<sup>181</sup>. The court shall issue the freezing order without the review on merits and without notifying the person

---

<sup>175</sup> The main sources of remittance inflows in recent years are Russian Federation, Italy, Greece, the US and Israel.

<sup>176</sup> USD 2.2 million.

<sup>177</sup> USD 1.5 million.

<sup>178</sup> In 2016, FMS developed Guidelines for the Financial Sector on Indicators for Detection of Possible Facts of Terrorism Financing. FMS regularly organizes meetings with financial institutions to discuss the terrorism financing typologies.

<sup>179</sup> Administrative Chamber of Tbilisi City Court.

<sup>180</sup> The Sanctions Committee operating on the basis of UNSCR 1267 (1999), 1989 (2011) and 2252 (2015).

<sup>181</sup> The Sanctions Committee operating on the basis of UNSCR 1988 (2011).

concerned after checking the identification data of the relevant person. The court, so far, has never refused to issue the freezing order.

The Commission is also authorized, in accordance with the UNSCR Resolution 1373 (2001), to review applications submitted by the competent authorities of Georgia or other countries concerning the freezing of property of persons associated with terrorism. If the information provided in the application provides grounds for reasonable suspicion that a person has committed a terrorist attack (attempt) or carried out other activity defined under the UNSCR Resolution 1373 (2001), the Commission shall apply to the court for the freezing order. In such situations, the court shall review the Commission's application on merits.

The amendments to the AML/CFT Law in 2019<sup>182</sup> significantly enhanced effectiveness of the enforcement of UN Security Council sanctions:

- The speed of freezing the property of international terrorists substantially increased. Namely, the Commission shall immediately apply to the court after the listing of a person. The court shall issue the freezing within 3 days.
- The notion of assets subject to freezing has been expanded. In particular, the court shall freeze the property of both the persons associated with international terrorism and persons under their control.
- The enforcement mechanism of UNSCR 1373 (2001) has been improved. In particular, the timeframe for reviewing applications concerning persons related to terrorism submitted by competent authorities of Georgia or other countries, the applicable standard of proof and the procedure to review the decisions of the Commission have been determined.

Before the procedure to freeze the property of international terrorists is finalized, the intermediate mechanism for preventing the outflow of funds or the disposal of property in other ways is in place. Obligated entities are prohibited from carrying out transactions where a party is listed or acts on behalf of or at the direction of a listed person. Most of the financial institutions use commercial databases and modern transaction monitoring systems to detect such transactions. Other reporting persons rely on the UNSCR lists published on the websites of the UN Security Council and the FMS.

#### **4.4 Non-profit organizations**

In Georgia, non-profit organizations are registered in only one legal form - as a non-profit legal person. Religious associations may, in certain cases, be granted the status of a religious organization, which requires registration in a different form. However, legislation applicable to non-profit legal persons still applies to religious organizations (see Subsection 5.3). A non-profit legal person may be membership-based. In such cases, the founding members shall be registered in the National Agency for Public Registry, whilst the new members shall be recorded in accordance with the statute of the organization. The National Agency for Public Registry, upon the registration of all legal persons, verifies the presence of its founder (partner), director and representative in the UNSCR lists. There have been several cases of the so called "false positives" in recent years, when part of the founder's

---

<sup>182</sup> The AML/CFT Law.

identification data matched with the data of a listed person, although the match was accidental<sup>183</sup>. In such cases, information is promptly provided for further verification to the SSSG and the FMS.

As of 2018, 25,000 non-profit legal persons were registered<sup>184</sup>. The history of such organizations in Georgia dates back to the mid-90s. Since the collapse of the Soviet Union, one of the priorities of international donors has been to strengthen the democratic governance in Georgia via supporting civil society organizations. Access to finance and simplicity of the registration have resulted in the establishment of thousands of non-profit legal persons. According to recent surveys, currently about 95% of their income still comes from the international grants.<sup>185</sup> In 2017, the International Development Assistance (IDA) allocated to Georgia in the area of democratic governance, rule of law and justice amounted to GEL 1.1 billion.<sup>186</sup> The European Commission and the US Agency for International Development (USAID) are the largest donors. Non-profit organizations, with few exceptions, do not receive funding from Asian and Middle Eastern countries.

Alternative sources for funding non-profit organizations are limited. The membership fees are the essential sources of income for only a small number of organizations (e.g. business associations and trade unions). There are some tax incentives for philanthropy. Donations are deductible from taxable income if their amount does not exceed 10% of the deductible income. Nonetheless, the recent studies suggest that only 6% of the population make donations. Cooperation with businesses is minimal. In the 2018 Global Donation Index, Georgia ranks 118th out of 139 countries. The State was granted the authority to issue grants starting from 2009, and since then the list of state bodies having such authority has been significantly expanded.<sup>187</sup> Despite the significant increase of budgetary grants in recent years,<sup>188</sup> their share in the total income of non-profit legal persons is small.

On the one hand, the reliance of non-profit legal persons on international donors is a serious challenge for their sustainability. The lack of institutional funding, frequently changing priorities of donors, and strong competition mean that only a small number of well-developed organizations can achieve financial sustainability. Many organizations cease functioning after a certain period of time. As a result, almost 18,000 of the non-profit legal persons are nonnative. On the other hand, at the donor's request, appropriate systems of internal control have been introduced in the majority of operating organizations. In particular, the internal or external audits are regularly conducted, and external boards (advisory committees) are established. International standards on transparency and accountability (e.g. HAP, SPHERE and InterAction PVO) are gradually being introduced. The transparency of activities of

---

<sup>183</sup> Although, the match was related to the founding partner of the entrepreneurial legal person.

<sup>184</sup> Including branches of non-profit legal persons from 176 other countries, and 48 religious organisations.

<sup>185</sup> 2017 USAID Civil Society Sustainability Index.

<sup>186</sup> 2017 Report on Foreign Assistance of the Government of Georgia.

<sup>187</sup> Legal persons of public law and ministries have the right to issue grants. Grants exceeding 50,000 GEL may be awarded only upon the consent of the Government of Georgia.

<sup>188</sup> The largest budgetary grant in 2010-2017 - over GEL 10 million - was issued by the Centre for Electoral Systems Development, Reform and Training.

charitable organizations is also facilitated by the requirement of legislation to make their financial and activity reports publicly available (see Subsection 5.2).

The absolute majority of operating non-profit legal persons operate in Tbilisi and are focused primarily on human rights and governance issues. Activities of local organizations are focused on providing educational, social and healthcare services to specific groups of beneficiaries (e.g. children, youth, and women). Non-profit legal persons perform similar work in several vulnerable local communities, whose members have travelled to Syria and Iraq to fight. Organizations supporting terrorist ideology have not been identified. Religious organizations mostly represent Christian denominations<sup>189</sup> and they are engaged in social work and charity actions in addition to disseminating their confession. Among 117 charitable organizations, there are representatives of several well-known international networks (e.g. Oxfam, Caritas, and Catharsis). A small number of international NGOs have regional offices in Georgia and they also implement projects in other South Caucasus countries. However, none of the non-profit legal persons registered in Georgia with humanitarian or other missions, operate in conflict zones or adjacent regions where terrorist groups carry out their activities.

#### **4.5 Summary**

There are effective legal and institutional mechanisms in place to combat terrorism in Georgia. The threat of foreign terrorists using the territory of Georgia for transit is effectively controlled. Appropriate counterterrorism measures are applied to Georgian citizens who are members of terrorist organizations. In addition, trafficking of nuclear and radioactive materials is successfully suppressed. The methods of committing a crime in terrorism financing cases include the transport-logistical support. Also, the self-funding was identified in certain cases. The procedure for freezing property of listed persons was substantially expedited, and the mechanism for applying financial sanctions on the basis of UNSCR 1373 (2001) has improved. Non-profit legal persons do not operate in areas of conflict zone where terrorist organizations carry out their activities. No organizations supporting terrorist ideology or cases of collecting donations for terrorism purposes were identified in Georgia. Given these circumstances, the risk of financing the terrorism in Georgia was assessed as **low**.

---

<sup>189</sup> Data of the Revenue Service. The rest of them are unions of Muslim, Yazidi, Jew and Krishna followers.

## Chapter V

### Legal Persons

#### 5.1 Registration system

The registration of legal persons is carried out by the National Agency of Public Registry (hereinafter referred to as the "Public Registry"). According to the World Bank's Doing Business survey of 2019, the business registration system in Georgia is one of the most effective in the world. Registration is conducted in one business day, and businesses can undergo registration in more than 400 service points, including authorized banks and notaries. The registration procedures and samples of registration documents (e.g. charter) are available on the Public Registry's website, and registration fee is only GEL 100. Also, there is no need to indicate in the registration application the amount of capital, or notarize the application. A branch is not a legal person, however, if a foreign legal person wants to establish a branch in Georgia, it is subject to registration in the Public Registry.

| Legal persons and branches, registered in Georgia <sup>190</sup> |                |
|--|----------------|
| Legal form   | Number         |
| Limited liability company  | 238,564        |
| Joint stock company  | 2,425          |
| Joint Liability Company  | 2,877          |
| Commandite company   | 159            |
| Cooperative  | 3,979          |
| Non-profit legal person  | 25,105         |
| Religious organization   | 47             |
| Branch of a foreign entrepreneurial legal person                 | 1,621          |
| Branch of a foreign non-profit person                            | 176            |
| <b>Total</b>   | <b>274,953</b> |

A legal person shall be deemed to have been established from the moment of its registration with the Public Register. Registration in the public registry automatically implies its tax registration. In 2018, the Public Registry declined to register a legal person 502 times, largely due to failure of timely correction of a defect in the registration application. The registration of a legal person will be canceled

---

<sup>190</sup> Data provided by the Public Registry as of 2018.

if it is liquidated<sup>191</sup>, or if it is found that the initial decision of the Public Registry was reached in violation of the requirements of the law. Currently, about 130 thousand (47%) legal persons registered in Georgia are inactive<sup>192</sup>. The reason is, on the one hand, the simplicity of setting up of a legal person and the low cost required for its operation, and on the other hand, a relatively complicated process of liquidation. Also, by the end of 2018, only 8,000 inactive corporate accounts were opened in commercial banks<sup>193</sup>, while the practice of buying and selling of inactive (“Shelf Company”<sup>194</sup>) legal persons was not identified.

## 5.2 Access to information

Registration data of legal persons and documents registered by the Public Registry are available free of charge<sup>195</sup>. The search engine of the Public Registry website is multifunctional and allows easy access to the relevant data and scanned documents. The electronic documents obtained in this way and their hard copy shall have equal legal force. The high quality of public registry online service makes its website popular. In 2018 alone, the number of website visitors exceeded 10 million, which is more than 20% compared to the previous year.

The Public Register shall, among other data, register following information related to all legal persons:

- The name, legal form and address;
- Founder’s/partner’s identification data;<sup>196</sup>
- Partners’ ownership interest;<sup>197</sup>
- Director’s/representative’s identification data;
- Governing body and the decision-making procedure.

In case of non-profit legal person, the Public Registry additionally registers following data:

- Purpose of the activity;
- The procedure for accepting and withdrawing a member;
- Liquidation/reorganization rules and decision makers.

---

<sup>191</sup> In 2018, the registration of 332 legal persons was cancelled due to their liquidation.

<sup>192</sup> As provided by the Revenue Service, among inactive legal persons the largest share represents limited liability companies (104,889) and non-commercial legal persons (17,743).

<sup>193</sup> The NBG considers the account to be inactive, if during one year no transactions have been conducted.

<sup>194</sup> “Shelf Company” is established for the purposes of its further sale. In a number of countries, purchasing such a company is a way to avoid complicated and time-consuming procedure required for the registration of a legal person.

<sup>195</sup> The registration data of a legal person and scanned founding documents can be accessed at the Public Registry website: [https://enreg.reestri.gov.ge/main.php?m=new\\_index](https://enreg.reestri.gov.ge/main.php?m=new_index)

<sup>196</sup> In case of joint stock company and cooperative, only information concerning the founding shareholders and shareholders accordingly shall be submitted.

<sup>197</sup> Shares of LLC’s and commandite company’s shareholders.

Any changes to the above registration data (e.g. sale of shares of LLC) shall become legally effective upon the registration with the Public Registry. Therefore, the data on legal persons registered in the Public Registry is up-to-date and reliable.

A joint stock company, which has more than 50 shareholders or issued public securities, maintains register of its own shareholders through the Securities Registrar. The Shareholder Registry records the shareholders and the number/class of their shares. The transfer of ownership of the shares shall be evidenced only by the entry in the Shareholder Registry, which ensures the accuracy of the information maintained by the Securities Registrar. No voting rights are recorded in the Shareholder Registry. However, one common share is equal to one vote at the General Meeting of shareholders, and any other rule of distribution of votes is determined by the Charter, which is available in the Public Registry. The NBG and FMS have timely access to the data recorded by the registrars. Currently, 4 registrars are licensed by the NBG, which, as for 2018, maintain Registries of 912 joint stock companies. All other joint stock companies register shareholders themselves. The Revenue Service monitors the maintenance of their stock records, when issuing dividends or tax audits. Shares of joint stock companies are securities, that can be issued only in nominative and intangible form. Therefore, shares exist as an entry in the Shareholder Registry, and not a paper form.

Cooperatives maintain the registry of shareholders themselves. In case of agricultural cooperative, the maintenance of registry of members (shareholders) is carried out in accordance with the procedure approved by the decree of the Minister of Environment and Natural Resources Protection of Georgia.<sup>198</sup> In particular, the name and surname, as well as the amount of shares and their value/type are registered with the registry. An analogous information is registered in relation to associated members and their contributions. Any changes in the above-mentioned data must be registered within a week. Additionally, non-bank depository institution – credit union, which is a obliged entity, shall be registered in the legal form of a cooperative. Both, NBG and FMS have timely access to information concerning the identity of new members of credit unions and their contributions.

New members of a non-profit legal person based on membership shall not be registered in the Public Registry. A non-profit legal person, which has been granted the status of a charity, must submit activity and financial reports to the Revenue Service annually. The purpose of the procedure is to determine the extent to which the activity of a legal person is in line with the charitable objectives. Each charity also publishes description of its activities and financial statements. The Revenue Service maintains a Registry of Charities that is publicly accessible.<sup>199</sup> Currently, 117 non-profit legal persons are granted status of a charity.

Beneficial owners of legal persons are not registered in the Public Registry, but the reporting persons are obligated to identify them. Nonetheless, on the basis of Public Registry data, it is possible to identify the beneficial owner, if the founders/partners of legal persons are natural persons, or legal persons registered in Georgia. Additionally, out of all corporate customers of commercial banks, only 2% have

---

<sup>198</sup> Decree №2-16 of the Minister of Environment and Natural Resources Protection of Georgia.

<sup>199</sup> Registry of charitable organizations: <https://www.rs.ge//4761>

the ownership/control structure that is relatively complex<sup>200</sup>. The degree of compatibility of banks' compliance control systems with the anti-money laundering and anti-terrorism financing legislation is high (see Chapter VII). The securities registrars are also obliged entities, and they are obligated to identify the beneficial owners of joint stock companies. Only commercial banks and securities market intermediaries (e.g. brokerage companies) can be nominee shareholders. The Registrar shall open a special account for the nominee shareholder, which in turn maintains the sub-registry of shares. The registrar may obtain information on the shareholders registered in the sub-registry. The NBG and the FMS have timely access to information held by obliged entities.

### **5.3 Types of legal persons**

In Georgia, legal persons can be divided into two main groups: entrepreneurial and non-entrepreneurial. Despite some common features, the two groups differ substantially. The overwhelming majority of entrepreneurial legal persons that are involved in money laundering cases are registered as a limited liability company (hereinafter "LLC"). LLC is the most common legal form for entrepreneurial activity. Its capital is divided into shares, the sale of which does not require notarial approval, and both, natural and legal persons may be appointed as directors. LLCs provide 90% of total turnover of business entities.<sup>201</sup> The reason for the widespread use of the LLC, compared to other legal persons, is the less stringent requirements and relatively small costs associated with its establishment and management:

- The LLC may be established by only one partner, while the establishment of a commandite company, joint liability partnership, or cooperative requires at least two partners/founders;
- The LLC may be set up for any entrepreneurial purpose, while the aim of cooperative is to improve economic activity and increase revenue of its members;
- Unlike membership-based legal persons, in case of commandite partnership or joint liability partnership, change of partner does not result in reorganization of LLC;
- Partner's liability to creditors is limited to LLC's property, while in case of joint liability partnership and commandite partnerships (full partners), partners are liable personally and with their property;
- Almost all key management issues of the LLC may be regulated by its statute, while the complex procedures are set forth by the law for the activity of a joint stock company<sup>202</sup>.

A non-profit legal person is set up solely for non-entrepreneurial purposes. Any entrepreneurial activity can only be only ancillary. The distribution of profits resulting from such activities among founders, members, and directors is inadmissible. Any religious association that has a historical

---

<sup>200</sup> Data provided by the NBG as of first half of 2018. The NBG considers the ownership/control structure of a legal person as relatively complex, if for the purpose of establishing of its beneficial owner it is necessary to examine two or more legal persons.

<sup>201</sup> Provided by the National Statistics Office of Georgia.

<sup>202</sup> The rules of convening the general meeting and taking decisions, establishment and operation of the Supervisory Board, amendment of voting rights, the acquisition of controlling shares, and other matters are regulated in detail by the legislation.

connection with Georgia, or is recognized as a religion in the Council of Europe countries, may be registered as a religious organization. The legislation applying to non-profit legal persons also applies to religious organizations, although they are registered as legal persons of public law<sup>203</sup>. A non-profit legal person may be granted the status of a charitable organization, if it has been engaged in charitable activity for at least one year<sup>204</sup>. Charities are not taxed. Since 2007, a total of 38 non-profit legal persons have been deprived of their status of a charity, mostly for the failure to submit the activity and financial reports to the Revenue Service within set timeframe.

#### **5.4 Corporate service providers**

The business of corporate service providers in Georgia is limited due to several circumstances. Registration of a legal person in Georgia does not require "professional intermediaries"<sup>205</sup>. Also, nominee shareholding is permitted only in case of a joint stock company. The nominee shareholder may only be the securities market intermediary, which is supervised by the NBG (see Chapter 5.2). The institute of nominee directors is not developed in Georgia either. Legislation does not make exceptions from the Director's obligation to always act in the interests of the legal person. The Director shall be liable personally and with its own property if has not acted in good faith and diligently in the conduct of the legal person. Therefore, non-executive members of the Board of Directors are usually appointed as nominee directors in Georgia.

Georgia is not a party to the Hague Convention on the Law Applicable to Trusts and their Recognition. The legislation does not recognize the concept of "dual ownership"<sup>206</sup> characteristic to the common law trusts (hereinafter referred to as the "trust") or its analogues in continental European law<sup>207</sup>. Therefore, the Georgian institute of trusted property, unlike trusts, fails to properly protect the interests of the trustor in front of third parties. The property (e.g. shares of the LLC) is transferred to the entrusted person in an unlimited ownership, and the trustor cannot claim restitution of the property sold against his interests<sup>208</sup>. As a result, the institute of trusted property is rarely used in Georgia for the purpose of disposing of property or investing. Nonetheless, resident persons can become trustees of a trust that owns a legal person registered in Georgia, but is regulated by the laws of another country. In such a case, if a trust carries its economic activities in Georgia<sup>209</sup>, it is subject to domestic tax legislation. Also, as of the first half of 2018, the ownership/control structure of only 0.04% of

---

<sup>203</sup> The legal person of public law is the legal form of public agencies, that are under state control, but independently carry out social, educational, cultural or other public activities.

<sup>204</sup> The decision on granting status of a charity to an organization is reached by the Revenue Service.

<sup>205</sup> In some jurisdictions, the registration of a legal person is carried out through a so-called "registered agent" who also registers beneficial owners of a legal person.

<sup>206</sup> On the one hand, it is the formal legal property of the trustee (at law), and on the other hand, based on the principle of fairness towards the trustor, it is recognized as a property (in equity).

<sup>207</sup> Fideicomiso, treuhand, fiducie.

<sup>208</sup> The only exception is an immoral transaction where the trustee and his or her counterparty have acted in agreement to the detriment of the interests of the trustor.

<sup>209</sup> Economic activity does not include depositing of funds by a natural person in a commercial bank.

corporate customers of commercial banks included the element of nominee ownership/management or a trust relationship.

## **5.5 Summary**

There are effective mechanisms for accessing reliable and up-to-date information on the identities of directors and beneficial owners of legal persons. The activities of corporate service providers are limited. However, legal persons are often used as one of the means of money laundering. LLC is most commonly used for money laundering because its establishment and management involves less complicated procedures. Other forms of legal persons are less vulnerable to such illegal activities. Given these circumstances, the risk of money laundering by legal persons was assessed as **Medium-High** and the risk of terrorism financing as **Low**.

## Chapter VI

### New Services and Delivery Channels

#### 6.1. General overview

Along with the development of the Georgian financial sector and technologies, there is an increasing trend in quantity of innovative payment products and their non-face-to-face service providers, as well as the users. In this regard, special attention is drawn to products with technical features/delivery channels that are associated with increased risks of money laundering and terrorism financing. Based on the analysis of the local financial market, such products/delivery channels may include payments carried out by means of electronic money, crypto assets, services provided by pay boxes and prepaid cards. Over the recent years, along with traditional payment instruments, delivery channels offering products/services on non-face-to-face basis have been developed and improved in Georgia, which allow customers to carry out transactions through various electronic channels and to carry out internet payments not only by means of bank cards, but also by means of electronic money.

#### 6.2. Electronic money and crypto assets

Currently, there are several electronic money providers operating in Georgia (20 provider by 2018) that allow customers to make payments within their electronic money balance in order to purchase various services and products online or transfer the money to another user's electronic money account. However, in 2014-2017, the growth dynamics in the number of payments conducted through electronic money was observed. In 2017, abovementioned indicator constituted 41% of quantity and 14% of amount of payment service provider's total payments volume. Rapid development of transactions carried out by means of electronic money, besides positive results (e.g. high speed and convenience of transactions), has also created favorable conditions for abusing such products/services for illegal purposes. In particular, high speed of transactions and operations carried out by small amounts, has complicated the process of transaction monitoring. Moreover, the involvement of various agents and intermediaries in the process has revealed problems related to the traceability of transaction's chain.

The observation of international transactions identified the need for the proper analysis of ML/TF risks related to geographic area. In order to address identified risk factors, based on the NBG instruction, payment service providers were given the authority to conduct international transactions only in a manner prescribed by Georgian legislation or on behalf of those clients, whose identity is verified by way of transfer carried out from Georgian bank accounts in client's name. In addition, according to the new AML/CTF legislation<sup>210</sup>, due diligence measures should be carried out on every e-wallet owner regardless of transaction type and volume (except low-risk e-money instrument prescribed by law).

---

<sup>210</sup> AML/CTF Law and Terrorism Financing and Regulation No. 253/04 on Information Accompanying Transfers, approved by the President of the NBG.

Payment service providers used to provide their clients services related to crypto assets during certain period of time, which significantly increased sector-related risks. In the first half of 2018, transactions conducted through virtual assets platform constituted 195 million GEL. Legislative changes enacted in the summer of 2018, defined exhaustive list of payment service provider's activities and thus, they were no more able to conduct virtual asset's exchange transactions/custodian services. However, this does not preclude payment service providers from carrying out payment transactions on behalf of clients in the process of purchasing virtual assets. As of June 30 2018, 2 039 clients have been registered in payment service provider's sector, whose activities were related to virtual assets and the total volume of the turnover in the first half of 2018 constituted 8 million GEL. As of December 31 2018, 6 clients have been registered and the volume of transactions carried out by them in the second half of 2018 constituted 1.4 million GEL. Under the instruction of NBG, payment service providers are able to carry out payment transactions related to the crypto assets (payments for purchasing/transfers as a result of selling crypto asset) only on behalf of duly verified clients. Furthermore, based on the analysis of sector-specific risk factors and as a result of issuing relevant guidelines, the awareness of the sector has been significantly increased, concerning the risks related to the provision of abovementioned services and about proportional measures used for the risk mitigation.

### **6.3. Pay boxes**

Pay box network receiving cash is developing rapidly in the Georgian payment market, enabling customers to carry out various types of payments conveniently and quickly. In the absence of proper control mechanisms, pay boxes provide an opportunity for placing cash in financial sector without identifying the cash depositor and sometimes without determining the purpose of the transaction. In addition, non-face-to-face provision of the service increases the vulnerability of the product. . Pay boxes are also used for funding of online gambling accounts. As of 2017, the total volume of transactions carried out through pay boxes constituted almost 8 billion GEL(average amount of a transaction - 33 GEL), 64% of which constituted cash depositing transactions on bank accounts and 11-11% - transactions related to gambling and utility payments respectively.

In order to address the risks mentioned above, NBG defined following control mechanisms: Funding of bank account or electronic wallet, or carrying out other payment transactions will be able only in case when cash depositor/payee is verified (identifying name, surname and ID number) and proper due diligence measures are being carried out.<sup>211</sup>

### **6.4. Prepaid Cards**

Prepaid card is a card instrument that enables carrying out transactions within the pre-paid amount (nominal value of electronic money, where credit limit is not allowed) without opening a card account on behalf of the customer/cardholder.

---

<sup>211</sup> Regulation No. 253/04 on Information Accompanying Transfers, approved by the President of the NBG.

Prepaid cards can be divided into two main groups – identified and non-identified prepaid cards. According to the NBG regulation, the limit for both types of abovementioned cards is identical and should not exceed 1000 GEL in both cases. In addition to this limitation, it is impossible to conduct online transactions or cash out money from non-personalized prepaid card or to use such types of card abroad. However, both, type prepaid cards can be of open or close type (each of them may be either loaded or unloaded). Closed prepaid card may be used only in one predefined place (merchant), while open prepaid card does not have such limitation. Accordingly, open type prepaid card is considered to be relatively high risk bearing in terms of ML/TF and therefore, different limits are used on maximum balance amount for any period of time (3 000 GEL for open and 1 000 GEL for closed prepaid card) for risk mitigation purposes.

It is worth to admit that non-identified prepaid cards are mainly used for the payments of transport service fee or as shopping gift cards. Prepaid cards related to the gambling business-related activities are being issued only on identified clients. As of September 2019, almost 171 000 prepaid cards related to gambling sector have been issued.

## **6.5 Summary**

According to the new AML/CFT legislation, only duly verified persons are able to open e-wallet accounts and to carry out transactions through pay boxes. These measures significantly decrease the vulnerability of such products/services. Moreover, through the supervisory measures conducted by NBG, risks related to crypto assets are managed. Restrictions on prepaid cards decrease the risks related to cross boarder movements of funds for TF purposes. Given these circumstances, the money laundering risk related to the new services and delivery channels was assessed as **Medium-Low** and the risk of terrorism financing as **Low**.

## Chapter VII

### Banking Sector

#### 7.1 General Overview

As of 2018, the ratio of banking sector assets to GDP was 96.6%, while the share of assets in total financial sector assets (excluding the National Bank) was 92.6%, indicating its dominant position in the economy. The total value of assets of commercial banks is characterized by increasing trends (for the last three years 16% growth on average) and at the end of 2018 years was determined amounts to 39 bln. GEL.

As of 2018, the share of non-resident beneficial owners in the assets of commercial banks was 87% and in equity 84%. Headquarters/largest shareholders (direct shareholders and not beneficial owners) except Georgia, are registered in the following countries: Great Britain, Germany, Azerbaijan, Turkey, Russia, Kazakhstan, the Netherlands and China. In most cases, commercial banks are not part of a large international banking group. The number of commercial banks reduced from 21 to 15 in 2014-2018, which largely stipulated by ongoing processes in the parent banks.

| <b>Banking sector overview</b>         |                  |                  |                  |                  |
|--|------------------|------------------|------------------|------------------|
| <b>Year</b>                            | <b>Dec. 2014</b> | <b>Dec. 2015</b> | <b>Dec. 2016</b> | <b>Dec. 2017</b> |
| Number of Banks                        | 21               | 19               | 16               | 16               |
| Number of branches and service centers | 964              | 952              | 969              | 981              |
| Loan portfolio (bln. GEL)              | 12.9             | 16               | 18.9             | 22.2             |
| Number of accounts (mln)               | 4.9              | 5                | 5.7              | 6.3              |
| Total cost of the accounts (bln. GEL)  | 11.6             | 14.3             | 16.9             | 19.7             |
| Cost non-resident accounts (bln. GEL)  | 1.8              | 2.4              | 2.8              | 3.2              |

In connection with issuing and termination of banking licenses, the NBG has broad and discretionary powers consistent with “Core Principles of Effective Banking Supervision” issued by the Basel Committee, EU directives and the best international practice. When licensing banks, the NBG examines documentation submitted by a legal person interested in receiving a banking license in terms of content and legal accuracy. The documentation must include information on compliance with the criteria established by the law on administrators and about beneficiary owners and direct owners of the large shares and, also, about their declarations of suitability.

Apart from the documentation envisaged by the legislation, that are mandatory to submit, the NBG has discretionary authority to request any other information that is required in connection with the licensing decision-making and which, usually this includes information about the commercial bank ownership structure, the Supervisory Board, the Audit Committee and the Directorate, as well as the Bank's business plan and documentation approved by the Supervisory Board. The NBG collects information about persons interested in establishing a bank and their potential owners, their resources, experience, reputation, as well as their plans and strategies. The aim of the process is to obtain the assurance that a new market participant has an appropriate plan and the ability to implement it and that the entrance of the mentioned player into the market shall not endanger the stability of the financial sector.

A seeker of a license for banking activities should present information that includes data on the origin of the stated authorized capital and supervisory capital and source of funds. In this way the NBG collects information about persons interested in the establishment of a bank, potential owners of banks and their resources, the sources of income and the legal origin of this income. When assessing significant share (10%) acquisition transactions, The NBG also examines the legality of buyer's financial resources. In the supervisory process, NBG pays special attention to the transactions connected to the beneficial owners.

## 7.2 Clients

The types of products offered by commercial banks to clients are diverse. Products are delivered both face-to-face and electronically (non-face-to-face). 98% of clients are resident individuals and approximately 93% of transactions are carried out by them. Approximately 3% of the clients are legal person.

| <b>Account-holder clients</b> |                  |   |  |                            |
|-------------------------------|------------------|---|--|----------------------------|
| <b>(number)<sup>212</sup></b> |                  |   |  |                            |
| <b>Years</b>                  | <b>Residents</b> | <b>Non-residents (high risk jurisdiction)</b> | <b>Non-residents (offshore zone)<sup>213</sup></b> | <b>Other non-residents</b> |
| 2018                          | 5,554,985        | 10,943  | 1,601  | 83,292                     |
| 2017                          | 4,935,352        | 9,003   | 1,279  | 63,996                     |
| 2016                          | 7,192,607        | 26,793  | 1,178  | 96,361                     |

<sup>212</sup> Summary data of all banks as of the second quarter of each year. Note, that the same person may have accounts in several banks.

<sup>213</sup> For supervisory purposes NBG defined a list of offshore zones, which currently includes 58 jurisdictions. The list of offshore zones is based on the data of competent international organizations.

|      |           |        |       |        |
|------|-----------|--------|-------|--------|
| 2015 | 6,488,682 | 18,912 | 1,068 | 80,823 |
|------|-----------|--------|-------|--------|

In the context of money laundering and terrorism financing, non-resident clients (especially residents of high risk jurisdictions as well as residents of offshore zones) are considered to be high risk bearing due to the complexity of verifying of information about them. However, in many cases, non-resident (mostly legal) entities carry out significant volume of transactions.

| <b>Transactions by account-holder clients</b><br>(volume in mln GEL) <sup>214</sup> |                  |   |                                      |                            |
|---|------------------|---|--------------------------------------|----------------------------|
| <b>Years</b>  | <b>Residents</b> | <b>Non-residents (high risk jurisdiction)</b> | <b>Non-residents (offshore zone)</b> | <b>Other non-residents</b> |
| 2018(I) <sup>215</sup>  | 125,607          | 278   | 2,420                                | 7,006                      |
| 2017  | 200,511          | 850   | 4,050                                | 10,204                     |
| 2016  | 170,341          | 1,650   | 2,227                                | 7,887                      |
| 2015  | 164,880          | 835   | 1,725                                | 4,942                      |

As of June 30, 2018, the total volume of balance of clients of commercial banks constitutes 19.4 billion GEL of which the share of offshore resident assets is 3%, despite the fact that according to the number of persons, natural persons residents of offshore zone dominate, 80% of assets are placed by legal person. Due to trust legal relationship, in case of offshore companies, the identification of beneficial owners is particularly difficult. On-site inspection experience shows that companies registered in offshore zones that are concentrated in the same bank, in some cases represent an interconnected group of persons (e.g.: have the same nominal owners, beneficial owners, registration agents, documentation verifying notaries or identical activity type, etc.).

As of first 6 months of 2018, 1.36% of the total assets of clients of commercial banks are assets of residents of the high risk jurisdictions. Between those kind of clients, resident natural persons of high risk jurisdictions are dominating, both according to the number of persons and the volume of assets. From the high risk jurisdictions, the volume of assets of the clients of the commercial bank, residents of St. Kitts and Nevis, Seychelles, Cayman are worth mentioning.

|  |
|--|
| <b>Account holder non-resident customers per jurisdictions (turnover in mln GEL)<sup>216</sup></b> |
|--|

<sup>214</sup> in the statistical data, debits and credits are summed up in absolute value.

<sup>215</sup> summed up data for the end of the first half of 2018

<sup>216</sup> in the statistical data, debits and credits are summed up in absolute value

| TOP-10 countries               | 2015  | 2016  | 2017  | 2018(I) |
|--------------------------------|-------|-------|-------|---------|
| United Kingdom                 | 1,305 | 1,967 | 2,472 | 1,755   |
| Virgin Islands (Brit.)         | 837   | 397   | 851   | 383     |
| Russian Federation             | 551   | 830   | 1,401 | 771     |
| Israel                         | 529   | 724   | 1,243 | 515     |
| Turkey                         | 360   | 442   | 737   | 405     |
| USA                            | 331   | 384   | 636   | 840     |
| Seychelles <sup>217</sup>      | 280   | 641   | -     | -       |
| France <sup>218</sup>          | 272   | 164   | -     | -       |
| Malta                          | 227   | 170   | 508   | 241     |
| The Philippines <sup>219</sup> | 220   | -     | -     | 126     |

In commercial banks, in 2013-2016 among clients there were non-resident FOREX companies, whose ownership structure (e.g.; same beneficial owners, managers, trust relationship) and the transactions carried out raised suspicion. In particular, the inspection revealed that there was an undisclosed flow of funds between the companies. The beneficial owners of the company encashed funds abroad through an ATM. The NBG communicated with commercial banks, that resulted in 79% decrease in 2017 and a further 70% decrease in 2018 in the number of the forex companies that hold accounts in commercial banks (as of the first half of 2018, there are 6 forex companies in the sector). The volume of their transactions is also characterized by significant dynamics of decline.

Along with the non-resident clients, resident companies that are in various ways affiliated with persons registered in high-risk jurisdictions or offshore zones have been considered to be risk-bearing. As of 2018, the share of corporate clients of commercial banks in legal persons whose beneficial owner is registered in an offshore or high risk jurisdiction is approximately 1%. Also, there is a threat when resident legal persons, are involved in international transactions with off-shore companies. The NBG supervisory practice identified cases when non-resident merchants (merchants) were trying to obtain acquiring services in Georgia. Because of the limitations of such services, resident legal persons were used to avoid restrictions.

<sup>217</sup> In 2017-2018 years, Seychelles could not hit in the TOP 10 countries.

<sup>218</sup> In 2017 year, France could not hit in the TOP 10 countries.

<sup>219</sup> In 2016-2017 years, The Philippines could not hit in the TOP 10 countries.

In the case of the legal persons with a complex ownership/structure it is difficult to determine the identity of the beneficiary owners and the origin of their funds, furthermore, complex structures are characteristic for the companies with non-resident persons in the structure or the companies with trust legal relationship. However, as of the first half of 2018, only 2% of the legal person clients ownership/structure of the commercial bank was relatively complex. The NBG considers the ownership/control structure to be relatively complex if the identification of a beneficial owner requires examine of two or more legal persons. As of the first half of 2018, only 0.04% of the corporate clients' ownership/control structure of the commercial banks included a nominal ownership/management or trust relationship element.

In light of extensive transactions and light supervision regime (see sub-paragraph 9.1), commercial banks consider Gambling business operator as increased risk bearing. Their turnover in the first half of 2018 amounted to 1% of the total turnover of account holder clients.

### 7.3 Products and Services

The total turnover of commercial banks is characterized by increasing trend, and the volume of risk-bearing products/operations is on average 15%. Determination of a product as risk-bearing is based on supervisory practices, information requested from commercial banks and the experience of domestic and international investigative bodies.

| <b>Certain risks-bearing products/transactions</b><br>(mln) |             |             |             |                |
|---|-------------|-------------|-------------|----------------|
| <b>year</b>   | <b>2015</b> | <b>2016</b> | <b>2017</b> | <b>2018(I)</b> |
| Cash transactions   | 29 361      | 34 220      | 31 473      | 15 098         |
| Remote transactions   | 13 440      | 15 904      | 20 250      | 12 146         |
| Loans   | 12 593      | 2 521       | 1 239       | 1 345          |
| Transactions carried out on nominal accounts                | 2 477       | 4 436       | 1 867       | -              |
| International bank guarantees and letters of credit         | 1 408       | 1 313       | 892         | 443            |

Cash transactions combine currency exchange, cash deposits (including non-face-to-face means) and bank check encashment transactions. In this group, by volume, cash deposit transactions dominate stably, which, in turn, involves risks related to identifying/verifying the source of funds. It should also be noted that in the threshold transaction reports sent to the FMS, on average, 20% is foreign currency cash purchase and sale, and 19% - cash deposition/transfer transactions by natural persons. This indicates that in most cases cash transactions are large.

The group of transactions carried out by non-face-to-face means includes international and domestic transactions through internet bank, bank-client, ATM and other technical means. The tendency of carrying out transactions through non-face-to-face means is increasing, on average 68% of international transactions are carried out by non-face-to-face means. Transactions carried out by non-face-to-face means are vulnerable towards cybercrime and fraud (see sub-paragraph 3.1.1 and 3.1.2).

A nominal account may be opened for a notary, payment service provider, securities market intermediary, lawyer/law office and pension agency. Most of the mentioned persons are obliged entities and are obliged in case of demand, to submit to the bank information on the persons, whose funds are deposited in nominal accounts, though, internal control systems of the above entities, are less affective in terms of AML/CFT in compare of commercial banks, therefore transactions in nominal accounts pose certain risk to the bank. For example, it is difficult for the bank to verify whether appropriate CDD have been carried out (for example identification of beneficial owners). In 2016, there was an 80% increase in transactions on nominal accounts, probably due to the activity of payment service providers. It is noteworthy that in 2017 due to on-site inspections provided by NBG registration of several payment service providers were revoked (see sub-paragraph 8.2).

False loan or sale and purchase agreements are instruments for money laundering schemes (see sub-paragraph 3.2.1). The detail analyze of this type of agreements is complicated (activity fields of counterparties, the source of funds) especially in case of international transactions. In this context, international banking guarantees and letters of credit, which are mainly used by large importer/exporter companies, are considered as risk-bearing.

According to the supervisory experience, the NBG considers internet acquiring as high risk bearing. Due to the characteristics of business relations (non-face-to-face provision of service, difficulty in verifying business activity field), the monitoring process of transactions is complicated. However, the volume of Georgian e-commerce market is not substantial. The development of the market in 2014-2016 was partially result of providing services to non-resident merchants, that was suspended after supervisory actions.

#### **7.4 International transactions**

The volume of international transactions made by clients of commercial banks within and outside the country constitutes in total, as of the first half of 2018 - 41% (60% in 2015, 44% in 2016, 42% in 2017). The money laundering cases where bank accounts and remittance systems were used illegally (see paragraph 3) in various ways were connected to international transactions, therefore international transactions are high risk bearing.

**International transactions<sup>220</sup>**

---

<sup>220</sup> statistical data includes money remittances as well

| (Mln)    |                        |              |               |              |                    |              |
|----------|------------------------|--------------|---------------|--------------|--------------------|--------------|
| year     | High-risk jurisdiction |              | Offshore zone |              | other jurisdiction |              |
|          | transfer in            | Transfer out | Transfer in   | Transfer out | transfer in        | Transfer out |
| 2018 (1) | 75                     | 18           | 2,538         | 2,267        | 11,099             | 13,362       |
| 2017     | 164                    | 27           | 4,562         | 4,060        | 18,630             | 23,515       |
| 2016     | 399                    | 505          | 4,068         | 3,832        | 16,439             | 19,024       |
| 2015     | 139                    | 201          | 3,660         | 3,117        | 14,188             | 17,781       |

Usually, transfer in transactions from offshore zones exceed the transfer out operations in such zones, and furthermore, the trend of transactions related to offshore zones is increasing. As for the high risk jurisdictions, if in 2015-2016 transfer out operations exceeded transfer in operations, in 2017-2018 this trend changed and number of transfer in exceeded the number of transfers out. The trend of percentage indicator related to high risk jurisdictions in international transactions consistently constitutes at average 1% and related to offshore zones- 17-18%.

| International transactions by jurisdictions |       |       |       |         |
|---|-------|-------|-------|---------|
| (Mln gel)                                   |       |       |       |         |
| year  | 2015  | 2016  | 2017  | 2018(I) |
| Turkey                                      | 4 167 | 4 267 | 4 570 | 2 647   |
| USA   | 3 559 | 4 184 | 5 326 | 2 655   |
| United Kingdom                              | 3 433 | 4 092 | 3 951 | 2 705   |
| Russian Federation                          | 2 828 | 3 285 | 4 613 | 2 597   |
| Switzerland                                 | 2 262 | 2 812 | 3 152 | 2 192   |
| Azerbaijan                                  | 2 043 | 1 661 | 2 200 | 1 597   |
| Latvia                                      | 1 891 | 2 230 | 1 820 | 612     |
| Germany                                     | 1 762 | 2 049 | 3 317 | 1 374   |
| United Arab Emirates                        | 1 337 | 1 530 | 1 629 | 844     |

|             |       |       |       |     |
|-------------|-------|-------|-------|-----|
| Netherlands | 1 300 | 1 141 | 1 259 | 880 |
|-------------|-------|-------|-------|-----|

Based on the results of on-site inspections, it can be said that in case of international transactions, the analysis of transactions, including transaction counterparties, is quite complicated. The international movement of large volume transactions between companies is often based on a loan agreements. Loan agreements that do not specify the purpose of the loan are risk bearing. Also, it is the indicator of fictitious agreement when the loans are issued without interest and collateral, for a long period.

| <b>Transactions related to offshore zones</b> |             |             |             |                |
|---|-------------|-------------|-------------|----------------|
| (mln GEL)                                     |             |             |             |                |
| <b>year</b>                                   | <b>2015</b> | <b>2016</b> | <b>2017</b> | <b>2018(I)</b> |
| Switzerland                                   | 2 262       | 2 812       | 3 152       | 2 192          |
| United Arab Emirates                          | 1 337       | 1 530       | 1 629       | 844            |
| Hong Kong                                     | 746         | 845         | 783         | 331            |
| Cyprus  | 652         | 621         | 774         | 409            |
| Luxembourg                                    | 605         | 783         | 1 150       | 325            |
| Malta   | 362         | 322         | 129         | 63             |
| Liechtenstein                                 | 205         | 161         | 114         | 72             |
| Singapore <sup>221</sup>                      | 192         | 273         | -           | -              |
| Bahrain                                       | 110         | 76          | 37          | 21             |
| Ireland                                       | 75          | 85          | 143         | 135            |

Various remittance systems are actively used in the banking sector. Given that walk-in customers use remittance systems and certain systems have quite a high limit of transactions (20000 USD/equivalent), these operations are considered to be risk bearing. In 2015, in the banking sector international transactions through money remittance worth GEL 2.5 billion, in 2016 - 3 billion, 2017 - 3.6 billion and GEL 1.7 billion in the first half of 2018.

|  |
|--|
| <b>international transactions related to high risk jurisdictions</b> |
|--|

<sup>221</sup> In 2017-2018 Singapore is not among Top 10

| (mln gel)           |      |      |      |         |
|---------------------|------|------|------|---------|
| Year                | 2015 | 2016 | 2017 | 2018(I) |
| Iraq <sup>222</sup> | 37   | 22   | 20   | 15      |
| Tajikistan          | 15   | 15   | 15   | 10      |
| Nigeria             | 10   | 35   | 12   | 6       |
| Cayman Islands      | 8    | 2    | 2    | 11      |
| Afghanistan         | 5    | 408  | 113  | 31      |

As for correspondent banking activities, the majority of Loro accounts have been opened in Georgian commercial banks by Azerbaijani, Armenian, Latvian and Russian banks, while Nostro accounts have mainly been opened in Russian, German, Azerbaijani, USA and Turkish banks. In recent years, the NBG has implemented significant supervisory measures to reduce the risks associated with correspondent relations.

## 7.5 Supervision

NBG has gradually established risk-based supervision of commercial banks and later of non-banking financial institutions since 2015. NBG AML Department is composed of the Methodology and Off-site supervision and On-site inspection divisions. The methodology and off-site supervision division ensures off-site assessment of risks related to money laundering and terrorism financing of supervised entities, as well as identification of weaknesses and negative trends of internal control system. With the aim to effectively manage identified risks, off-site supervision ensures the determination of supervisory mechanisms (including the on-site inspection intensity and the determination of priorities). On-site Inspection division provides on-site checks of the status of the activities carried out to combat money laundering and terrorism financing. Based on the results of on-site inspection NBG provides guidance notes and recommendations or implements other supervisory measures.

In order to mitigate the identified risks, bring the activities of the financial institutions in line with international standards and best practices, the department also conducts methodological activities and systematically updates the methodological guidelines for the financial sector. In order to simplify communication, the department has launched special web-portal. In case of identification of threats and negative tendencies meetings are immediately organized with the representatives of the sector and the effective risk management measures are planned respectively.

---

<sup>222</sup> Since July, 2018 Iraq is not a high risk jurisdiction any more

An important means for the effectiveness of supervision is the sanctioning regime with proportional and restrictive effect. The sanctions are diverse in relation to commercial banks and include imposing sanctions on commercial banks, their administrators and controllers, suspension of signatures for administrators, imposing restrictions, monetary fines, license termination, etc. Within the last years the amount of sanctions for violating of legislation preventing money laundering and terrorism financing has significantly increased.

The license of one of the commercial banks was terminated due to the weakness in compliance while suspicious transactions were implemented using banks accounts. Within the framework of acquiring services, legal persons registered in Georgia had contractual relations with the bank, most of whom had no accounts in the bank and transactions were carried out without opening an account for them, through the transit account of the bank, that is forbidden according to Georgian law. Thus, to bypass VISA/MASTERCARD regulations<sup>223</sup>, for the purpose of conducting payments on the websites, the above mentioned companies registered in Georgia were found in the card system, although the ultimate recipient of the amount of internet transactions carried out within the framework of services provided by the acquirer, in most cases, were non-resident companies, which were not identified by the bank. At the same commercial bank cases of improper use of payment, in particular, commercial cards were revealed. According to the NBG regulations, a commercial card is a debit or credit card that allows its holder to dispose an account of a legal person or entrepreneur natural person and perform transactions, however, since the account of an entrepreneur is disposed of, the owner of the commercial card must be identified. On-site inspection revealed that a large number of commercial cards issued by the bank were handed over to several legal person and the identification process of the card holders were not conducted.

Within the certain period, the commercial banks had a certain deficiencies in client risk assessment and risk management processes. Thus, the process of verification of beneficiary owner was also considered as weakness, especially in relation to non-resident clients. Though systematic thematic on-site inspections, the growth of sanctions, intensive communication, new guidelines on risk identification and identification/verification of beneficiary owner facilitated the growth of compliance level of banking sector in terms of combating money laundering and terrorism financing.

Most of the STR submitted to FMS are reported by commercial banks. The quality of reporting has significantly increased over the years (see sub-paragraph 2.5). Mainly, that was a result of strengthening supervisory policy and improving the compliance level in banking sector. Despite, its important to allocate additional resources to improve the systems of detecting suspicious transactions.

---

<sup>223</sup> According to regulations, commercial banks registered on the territory of Georgia are restricted to establish business relationships with non-resident merchants.

In the banking sector, one of the measures to mitigate the risk of financing terrorism is the usage of the databases, which are integrated with the operational program, that automatically perform screening of those willing to establish business relations, counterparties, beneficiaries, etc. with the lists of UN international terrorism associated and other sanctioned persons. Thus, for the verification purposes, commercial banks use the LEPL "Electronic Database of State Services Development Agency"<sup>224</sup>, which significantly reduces the risk of using false identification documents by residents. Banks, irrespective of the amount, establish minimum identification data (while single transactions) and screening with relevant lists.

The supervisory practice revealed that internal policy and procedures established by some commercial banks required to be more precise in terms of risk assessment/management and information verification. Consequently, NBG has established the guidelines for customer due diligence measures and organizational risk management. Thus, the supervisory practice has also revealed some deficiencies in correspondent banking risk management. As a result, NBG has established a guideline, which defines, risks and risk management procedures of correspondent banking. Based on the document payable-through account<sup>225</sup> services are prohibited and the risk factors are defined to carry out significant attention to (i.e transactions are reversed in the initiated country through other countries). NBG also studies the measures of commercial banks carried out towards respondent institutions, as well as assesses the effectiveness of it.

Commercial banks allocate significant resources to establish effective compliance system . The awareness level of MLRO towards revealing and preventing money laundering and terrorism financing is high in the banking sector. Consequently, despite deficiencies mentioned above, the risk management is carried out adequately in the banking sector.

## 7.6 Summary

Banking sector has a dominant position in Georgia's Economy. The assets of commercial banks are substantial, various services are provided to customers. Thus, bank accounts are one of the most common means of money laundering in Georgia. Despite the abovementioned, the compliance level of banking sector towards preventing money laundering and terrorism financing is high. Comprehensive Risk based supervision applies to banking sector. Given these circumstances, the level of money laundering risk in banking sector was assesses as **Medium**, while the terrorism financing risk as **Medium Low**.

---

<sup>224</sup> LEPL acting under Ministry of Justice of Georgia.

<sup>225</sup> Corresponding account, client has an ability to conduct transactions by own name.

## Chapter VIII

### Non-Bank Financial Services

#### 8.1 General Overview

In 2018, the ratio of the assets of non-bank financial institutions to GDP stood at 6.2% and to the assets of total financial sector (excluding the NBG) at about 6.1%<sup>226</sup>. In 2014-2016, the ratio of the assets of non-bank financial institutions to GDP as well as to the assets of total financial sector was characterized by growing trend (mainly due to microfinance organizations). However, the share of the non-banking sector has declined in 2017 due to the relocation of the largest microfinance organization to the banking sector.

The development of the non-bank financial sector is driven by the availability of products and services and a broad network of services, and in some cases, by low fees, speed of service and remote delivery channels as well. The sector's development, compared to commercial banks, was facilitated by the "light" prudential supervisory regime. However, legislative changes in 2017 have tightened NBG's supervisory approach to non-bank financial institutions, in particular market entry conditions. If a violation of anti-money laundering and counter-terrorist financing legislation is detected, the power of NBG to apply sanctions has become as large as in the case of commercial banks. There was an increase in the amounts of existing monetary penalties and additional sanctions introduced in order to improve sanctions' deterrent effect.

#### 8.2. Payment service providers

Activities of payment service providers (hereinafter referred to as "providers") include payments through self-service kiosks (express pay boxes), issuance of payment cards and electronic money, and performance of payment operations through them. Share of payment services performed by providers increased by 48% in 2015 and by 35% -in 2016 and constituted GEL 5.8 billion, which is an insignificant volume compared to payments made by commercial banks (3%). However, providers play an important role in making small volume (retail) payments. In 2014-2017, there has been an increasing trend in the number of payments by means of electronic money and in 2017 this figure amounted to 41% in quantitative terms and 14% in monetary terms in the payments through providers. In 2017, non-resident owners were listed in 16 payment service providers, including Russian, Ukrainian, Polish, USA, Israeli residents.

The services of payment service providers are usually used remotely (via pay boxes or internet), which increases the likelihood of risks. The funds into both, a bank account and an electronic wallet can be deposited via pay boxes. Online casino account can also be replenished (See Subchapter 7.3). Through providers are performed international transactions as well. In 2018, the share of transfers to non-resident banks and providers constituted approximately 2% of the total turnover of providers (GEL 175 million). Operations related to the conversion of electronic money into cash (repayment of electronic money in cash or via transferring to the own account) amounted to approximately 4% of providers' total turnover (GEL 364 million) as of 2018.

---

<sup>226</sup> Statistical data excludes assets owned by leasing companies, this information is not available.

For some time, customers were provided by crypto assets-related service, which was significantly increasing the risk of the sector. According to the legislative changes introduced in the summer of 2018, a comprehensive list of the types of activities of payment service providers has been defined and thus they can no longer perform crypto assets exchange operations/custodian services (See Subchapter 7.2).

The NBG provides comprehensive risk-based supervision of providers. Several years ago, during the on-site inspections of two providers, it was revealed a discrepancy in service schemes submitted to the NBG with actual activities. In particular, providers did not provide payment services domestically, and their bank accounts were used by interconnected non-resident companies, presumably to divide international transactions and to disguise the origin of funds. The inspection also revealed that some of these companies had direct contact with providers. As a result, registrations have been revoked to the providers by the NBG, and investigative bodies and relevant commercial banks have been notified of these facts.

Since 2017, the NBG has tightened its supervisory approach to providers. In particular, market entry conditions were tightened. Prior to the registration, providers are required to demonstrate their electronic systems and present a planned payment service scheme and company development strategy. The NBG has also developed a rule for the determination of monetary penalties and expanded prudential remote supervision. In order to study the implementation of service schemes submitted by providers to the NBG, the NBG Payments Department carried out on-site inspections, in which the Money Laundering Inspection and Supervision Department was involved, where necessary.

Summary – The payment service providers sector is growing. Most of the services are provided by remote channels. Internet payments make it difficult to determine the geographic area of the transaction. However, in recent years, supervisory approaches have been significantly tightened, leading to a reduction of the sector's inherent risks and the improvement of compliance control systems. Given these circumstances, the risk of money laundering related to the activities of payment service providers was assessed as **Medium** and the risk of terrorist financing as **Medium-Low**.

### **8.3. Currency exchange offices**

Significant number of currency exchange offices (hereinafter referred to as “offices”) operate throughout the country, however, transactions carried out by the mentioned offices, operating in the regions are insignificant. The volume of turnover of the currency exchange offices is growing and in 2017 it constituted GEL 41 529 142 thousand. In 2017, offices purchased GEL 3.8 billion, while in 2018 this figure dropped and constituted GEL 2.1 billion. The activities of currency exchange offices are limited to cash exchange operations only. They do not carry out money transfer operations or transactions related to checks and other money market instruments. Thus, the likelihood of risks of the sector is relatively low, despite the fact that transactions are made in cash.

Past experience of on-site inspections by the NBG indicates that in several instances there has been an attempt to disguise the actual party to the transaction (e.g. a resident of high-risk jurisdiction). However, there have been cases of arbitrary partitioning of operations. The purpose of these actions was to circumvent the burden of the registration of identification data and storing documents. In all such cases, the NBG undertook appropriate supervisory measures towards the offices.

The compliance control systems introduced in the offices are characterized by some disadvantages, mainly in terms of accounting / systematization of information and study of the origin of monetary

funds. This is largely due to the lack of qualification and resources. In order to enhance the culture of compliance of offices, the NBG provided trainings, developed guidelines, reduced the cycle of inspections, introduced remote supervision, and increased the amount of monetary penalties.

Summary - Offices are exchanging large amounts of cash, and their compliance control systems are relatively less developed. However, supervision of offices by the NBG has substantially increased in recent years. Moreover, offices do not carry out cash transfer operations and transactions related to money market instruments. Given these circumstances, the risk of money laundering related to the activities of offices was assessed as **Medium-Low** and the risk of terrorist financing as **Low**.

#### **8.4 Microfinance organizations**

Among non-bank financial institutions microfinance organizations are characterized by the development and growth tendency. They mainly carry out lending operations (in 2017 the loan portfolio amounted to GEL1.04 billion). Microfinance organizations are also actively involved in attracting resources and converting currency. It is noteworthy that as of the data of 2017, about 19% of money transfer transactions in the country were carried out through microfinance organizations. The service is mainly delivered face-to-face, although there is a growing trend of remote customer service development (for example, the provision of small loans online).

As of 2017, the share of non-resident beneficial owners in the equity of microfinance organizations amounts to 31.1%. Legislation was amended at the end of 2017 which significantly tightened market entry requirements for the determination of compliance of administrators, respective owners of significant share (10%) and beneficial owners, as well as for the determination of their property / monetary funds and company equity origin. In order to prevent the participation of criminals in the ownership and control structure of microfinance organizations, the legislation considers the obligation of submission of a certificate of conviction by administrators, respective owners of significant shares and beneficial owners to the NBG<sup>227</sup>.

As of June 30, 2018, the number of clients of microfinance organizations exceeded one million. About 98% of clients are (mainly) natural persons. In 2016-2018, approximately 14% of total transactions are carried out by non-resident clients. Microfinance organizations services mainly include loan issuance and currency conversion. While non-resident clients mainly carry out conversion and remittance operations. Most of the international transactions performed through remittance system are related to jurisdictions in which Georgian migrant workers are represented (e.g. Russia, Italy, Greece, USA, Israel). Most international transactions are transfer operations. Extensive screening of clients using remittance services is performed in commercial databases.

In recent years, compliance control systems for microfinance organizations have improved significantly. The NBG communicates closely with the sector and promotes implementation of effective internal control policies and procedures by individual organizations. In addition, through new supervisory activities, manuals, workshops and trainings, the NBG assists microfinance organizations to develop internal control mechanisms needed to better assess and manage risks.

---

<sup>227</sup> These changes affected non-bank financial institutions subject to NBG supervision.

Summary - The activities of microfinance organizations mainly consist of issuing small loans to resident clients. A certain number of clients also carry out international money transfers. In recent years, the sector's compliance culture has substantially improved as a result of the NBG's comprehensive risk-based supervision. Given these circumstances, the risk of money laundering related to the activities of microfinance organizations was assessed as **Medium-Low** and the risk of terrorist financing as **Low**.

### **8.5 Brokerage companies**

As of 2017, total assets of brokerage companies amounted to GEL 124.6 million, which significantly exceeds the indicator of the previous years (GEL 45.98 million in 2016 and GEL 68 million in 2015). The growth of brokerage companies' activities was influenced by the activation of the loan securities market. In 2017, the clients' portfolio (cash and securities) constituted 26.6% of the total assets of brokerage companies and amounted to GEL 33.2 million, which is twice more compared to the similar data for the previous year. Moreover, in 2017, the value of brokerage and non-brokerage transactions of brokerage companies amounted to GEL 76 million.

The two largest brokerage companies operating in the country are subsidiaries of commercial banks. As of June 30, 2018, the number of clients of brokerage companies was 3.5 thousand. 19% of clients are non-resident (mainly) natural persons, among which residents of Israel, Germany, the United Kingdom, Ukraine, the USA, the Russian Federation, Cyprus were dominating by the number of persons. In the first half of 2018, compared to previous years, the volume of transactions executed by brokerage companies in favor of clients or by their orders has increased dramatically. 26% of transactions are performed by non-resident clients. High-income individuals are also among the clients.

Simultaneously to the growth of the sector, the volume of transactions executed through international brokers also increases. Among such intermediaries are steadily dominating resident companies of the US and Cyprus. Transactions involving several intermediaries simultaneously are subject to increased risk as it is difficult to track transactions. It is noteworthy that the NBG has developed a risk management guide for correspondent relationships, which applies to both correspondent banking relationships and similar relationships between other financial institutions and includes securities-related transactions.

In order to protect investors interests and to comply with the new challenges of the market legislative changes were introduced to regulate foreign exchange platform trading. In particular, it is now obligatory to acquire a license for such operations. As of June 30, 2019, only two brokerage company performed foreign exchange operations and their total assets amounted to GEL 2.9 million

Summary - The activities of brokerage companies are increasing. Cross border movement of the assets are possible and the volume of transactions carried out by non-resident clients are high. However, two largest brokerage companies operating in the country are subsidiaries of commercial banks and hence a compliance control system of the group apply to them as well. Herewith, The NBG provides comprehensive risk-based supervision of brokerage company. Given these circumstances, the risk of money laundering related to the activities of brokerage company was assessed as **Medium-Low** and the risk of terrorist financing as **Low**.

## 8.6 Securities registrars

In 2014, securities registrars (hereinafter referred to as “Registrars”) had maintained securities registry for 818 companies. This figure was increased to 912 companies by the year 2018. As of June 30, 2018, the number of registered shareholders (registered owners of the shares of an issuer) was 228 thousand. The issuers of the securities are resident legal entities, whereas, only 0.16% of registered shareholders are non-residents. Among the non-resident entities (mainly physical persons) in numbers are dominating residents of Russian Federation, Germany, Israel, the Netherlands, and the United States of America. Amongst the clients of the Registrars, are companies with relatively complicated ownership and control structure (45 in total). It is rather difficult to verify the identity of the beneficial owner of such companies and hence represents a risk-factor. The sector poses a risk of forming fictitious transactions related to the sale of shares. It is noteworthy, that the largest Registrar is a subsidiary of a commercial bank and thus, uses the compliance control system of the group.

Summary - The sector is small in size and do not conduct financial transactions. Issuers of the shares are residents and the number of registered non-resident shareholders is insignificant, only the securities intermediary can be registered as a nominal owner of the shares, who are also regulated/supervised. The sector is assessed using a comprehensive risk based supervision. Given these circumstances, the risk of money laundering related to the activities of microfinance organizations was assessed as **Medium-Low** and the risk of terrorist financing as **Low**.

## 8.7 Non-Bank Depository Institutions - Credit unions

Non-Bank Depository Institutions (hereinafter referred to as “credit unions”) is a member owned financial cooperative. Credit unions operate mainly in the regions. And their activities are limited to providing its members with the credits and receiving deposits from them. As of 2017, the loan portfolio of non-bank depository institutions amounted to GEL 5.7million and deposits received by them to GEL 6.9 million. By 2018, number of credit unions operating in the country has decreased to 2 (two) such entities. This could be a consequence of changes in law, according to which only the individuals living in the same self-governing administrative unit can join and become member of the credit union. Sectors’ compliance culture is low. However, money laundering risk is low due to small size of the sector and supervision by the National Bank of Georgia.

Summary - Sector is small and its clients are only physical persons (practically all are residents) Hence, credit unions can only perform limited transactions (such as receiving deposits from its members and of issuing loans to them). Given these circumstances, the risk of money laundering and terrorist financing in the credit unions was assessed as **Low**.

## 8.8 Insurance sector

There are currently 17 insurance companies operating on the insurance market in Georgia. In 2018, their assets amounted to GEL 743 million (1.8% of GDP). In the same year, insurance companies had written a premium of GEL 542 million, a nearly 23% increase compared to the previous year<sup>228</sup>. More

---

<sup>228</sup> Data of Insurance State Supervision Service of Georgia.

than 70% of the written insurance premiums came from medical, road vehicle insurance and property insurance<sup>229</sup>. The share of the mentioned types of insurance in the total volume of insurance compensation was almost 90%<sup>230</sup>. Three types of licenses are issued for insurance activities - insurance (non-life insurance), life insurance and reinsurance. Out of 17 insurance companies, 16 also have a life insurance license<sup>231</sup>. There are also 3 pension schemes on the market<sup>232</sup>. In 2018, pension contributions amounted to GEL 6.7 million and the total pension funds amounted to GEL 27.6 million.

| <b>Written insurance premium</b>                      |             |             |
|---|-------------|-------------|
| (mln. GEL) <sup>233</sup>                             |             |             |
| <b>Insurance type</b>                                 | <b>2017</b> | <b>2018</b> |
| Medical insurance                                     | 197.29      | 217.01      |
| Road vehicle insurance (other than railway transport) | 74.44       | 85.77       |
| Property insurance                                    | 72.12       | 85.00       |
| Road vehicle owners third party liability insurance   | 11.47       | 42.93       |
| Life insurance  | 24.70       | 37.43       |

There are no life insurance products with investment components in Georgia. Term life insurance currently developed on the market involves the issuance of insurance coverage to the heir in the event of the death of the insured. Only pension insurance can be regarded as a product of increased initial risk, as withdrawal of pension savings is allowed, without penalty, without limitation. However, most of the participants of the pension scheme are involved by the employer, and leaving the scheme is linked with leaving the workplace. However, pension insurance cannot be pledged nor it is a subject to alienation. The sale of insurance products is carried out mainly through direct sale. Some products (e.g. travel insurance) at limited premiums (up to GEL 3,000) are sold via internet. Insurance brokers

---

<sup>229</sup> *Ibid.*

<sup>230</sup> *Ibid.*

<sup>231</sup> The insurance company is automatically granted (if the minimum capital requirement is met) the right to carry out reinsurance activities in the type of insurance for which the license is issued.

<sup>232</sup> 2 Pension schemes have been established by insurance companies, and 1 occupational pension scheme has been established by a state owned company "Sakaeronavigatsia".

<sup>233</sup> Data of Insurance State Supervision Service of Georgia.

have recently become reporting entities<sup>234</sup>. Therefore, insurance companies, when taking preventive measures, were not able to rely on brokers as third parties for a long time.

Clients of insurance companies are mainly resident natural persons and legal persons. About a third of corporate clients have a relatively complex ownership/control structure<sup>235</sup>. A small number of clients are from high-risk jurisdictions. Insurance companies broadly define the notion of politically exposed persons. In 2018, 30 clients and 62 beneficial owners were given the status of politically exposed persons. However, most of them were middle-level staff members of embassies of other countries<sup>236</sup>. The analysis of international transactions of insurance companies demonstrates that the return of an insurance premium to a bank account opened in another country has never happened. Moreover, in order to attract or reimburse insurance premiums, international transfers are mainly carried out with the participation of jurisdictions that have effective AML/CFT systems.

The Insurance state supervision service (hereinafter referred to as the “service”) is the supervisory authority of insurance companies and pension scheme founders. The service carries out the risk-based supervision remotely and via on-site inspections. In particular, since 2016, insurance companies submit special reporting forms to the service every six months that include information on the structure of their clientele, types of insurance products, geography of transactions and other risk-factors. Based on the information received, the service assigns the risk level to each insurance company and carries out appropriate supervisory measures. The holder of a significant share of the insurance company, a member of the Supervisory Board and a director cannot be a person convicted of an economic or serious crime. The Service shall be notified in advance of the alienation of a significant share (10%), and without its consent, the alienation of shares is void.

The violations identified during the inspection of the insurance companies included inadequate client verification, failure to record all required documents/information and threshold transaction reports sent to FMS with delay<sup>237</sup>. According to the observation of the service, insurance companies find it challenging to identify beneficial owners of clients registered in offshore zones. The service mostly makes recommendations concerning the elimination of violations, but also imposes monetary penalties for repeated violations. With the growth of the insurance sector, the increase in the amount of monetary penalties will be needed. The number of reports sent by the insurance companies about suspicious transactions is small. They have never triggered an investigation. The underlying reason is the lack of risk-bearing insurance products on the market. The service also identified a number of cases where the so-called “defensive reporting” occurred and inadequately justified suspicious transaction reports were sent to the FMS.

---

<sup>234</sup> According to AML/CFT law.

<sup>235</sup> The insurance state supervision service considers the ownership/control structure of a legal entity as relatively complex, if determining its beneficial owner requires the examination of two or more legal persons.

<sup>236</sup> There is an obligation to implement enhanced customer due diligence measures in relation to politically exposed individuals from 2019.

<sup>237</sup> Insurance companies send to FMS threshold reports of cash transactions and on various vulnerable insurance products (e.g. retirement insurance).

Summary - The size of insurance market in Georgia is small. Insurance companies have not offered investment type products of life insurance to date. Their clients are mostly residents and the number of high risk clients is very small. There is also full-fledged risk-based supervision of the insurance sector. No facts of misusing insurance products for money laundering were identified. Given these circumstances, the risk of money laundering and financing of terrorism in the insurance sector was assessed as **Low**.

### **8.9 Leasing services**

The leasing market in Georgia is relatively small but steadily growing. The changes introduced in the legislation in 2011 have given significant impetus to the development of the leasing industry. Leasing was separated from the tenancy agreement and acquired the necessary elements for a tripartite relationship. As of 2018, the leasing market portfolio constituted approximately GEL350 million<sup>238</sup>. Almost half of leasing services come on the construction, service provision and medical sectors. Leasing is a flexible financing instrument (e.g. no collateral required) and allows for asset ownership without reducing working capital. Therefore, small and medium business subjects consider a leasing as an alternative to traditional funding sources.

The stated purpose of more than one hundred companies registered in Georgia is to provide leasing services<sup>239</sup>. However, several leasing companies hold the largest part of the market. The largest companies operating in the market are subsidiaries of commercial banks. The most common form of leasing service is financial leasing (80% of the market)<sup>240</sup> but leaseback and operational leasing are also offered to the clients. Most of the clients are resident legal entities. The subject of leasing can be immovable or movable property. However, it is easy to enter the leasing market and the regulation of leasing services is limited to setting interest rates, commission fees and the margin of penalties<sup>241</sup>. Leasing companies are accountable persons, but they are not supervised. Nevertheless, leasing is low risk bearing. In case of subsidiaries of commercial banks, the group-level compliance control system ensures some compatibility with anti-money laundering and terrorism financing legislation. Within the framework of credit risk assessment, leasing companies also study their clients quite well. As a result, leasing companies send reports to the FMS about suspicious transactions (see subsection 2.5).

Summary - Leasing is a growing industry. It is easy to enter the market in Georgia and leasing companies are not supervised. However, leasing vulnerabilities are low, and the largest companies are subsidiaries of commercial banks and are subject to the group-level compliance control system. Given

---

<sup>238</sup> The Review made by Georgian Leasing Company on the industry in 2019.

<sup>239</sup> For the tax purposes, a leasing company is an enterprise when not less than 70% of its income derives from the leasing of property.

<sup>240</sup> In financial leasing, after the expiration of the term of the agreement and after the payment of the value of the leasing object, the ownership on the leasing object is transferred to the lessee.

<sup>241</sup> Decree №18/04 of the President of the NBG “On approving the rule of calculating the annual effective interest rate, commission fee, financial expense, penalty and/or any other form of financial sanction for the purposes of Article 576 of Civil Code of Georgia”.

these circumstances, the risk of money laundering and terrorism financing in the field of leasing services was assessed as **medium-low**, the risk of terrorism financing as **low**.

## Chapter IX

### Non-Financial Services

#### 9.1 Gambling business

The gambling business is a rapidly growing industry and it has emerged as an important sector of the economy of the country in recent years. In 2016, the total revenues of the gambling business amounted to almost GEL5 billion (14.7% of GDP), which is a 130% increase compared to 2014<sup>242</sup>. Such growth is due to various factors. Gambling is banned or restricted in the countries of the region<sup>243</sup>, and their citizens can enter Georgia without a visa. In some parts of Georgia gambling business operators have certain concession<sup>244</sup> aimed at promoting investment in tourism<sup>245</sup> and regional development<sup>246</sup>. Herewith, with the increase in internet penetration, the online gambling business has grown significantly. Casino permit allows business entities to arrange games of chance both - the land based and online. Currently, there are 20 land-based and 6 online casinos. Most of the land-based casinos operate outside Tbilisi, near the border regions.

Customers of land-based casinos, especially near the border regions, are mainly citizens of neighboring countries. For example, in 2018 the number of visitors to the 10 casinos operating in Batumi amounted to 1.1 million individuals, 81% of whom were non-residents<sup>247</sup>. Some of the land-based casinos also organizes special "gaming tours" and hosts players from different countries (e.g. Israel, China, India). Compliance control systems in land-based casinos are weak and notifications about suspicious transactions are not sent to the FMS. Land-based casinos are vulnerable to use of monetary funds obtained by criminal means. The overwhelming majority of transactions are carried out in cash, while high-risk clients are not defined and their source of cash is not identified. All land-based casinos also offer clients currency exchange services. Gaming tokens, with high probability of profit (e.g. Baccarat) and so-called "P2P" (e.g. poker) games can be used to give a legitimate form to illegal income. Transactions are monitored only to prevent fraud in the casino. However, a certificate of winning is mostly not issued, which reduces the level of vulnerability. Land-based casinos are less attractive in terms of keeping or moving illegal income. Winning money is not transferred to the client's bank account<sup>248</sup>. Only one land-based casino offers clients cash storage services<sup>249</sup>.

The absolute majority of online casino clients are residents of Georgia who are offered a variety of games of chance. The main source of vulnerability of online casinos over the years were poorly verified customers and anonymous depositing of cash into their accounts through pay boxes. Misuse of accounts was also widespread. For example, monetary funds could be kept on the accounts or transferred to other clients without playing. As a result, several cases of transferring funds obtained from the cybercrime activity to the

---

<sup>242</sup> Data of Revenue Service

<sup>243</sup> Gambling is banned in Turkey, Azerbaijan and Ukraine, while in Russia, Armenia and Kazakhstan it is allowed only in certain areas.

<sup>244</sup> Casinos in Kazbegi, Tskaltubo, Signagi, Bakuriani and Gudauri are exempt from annual fees.

<sup>245</sup> In case of building 80 apartment hotel in Kobuleti, Khelvachauri, Anaklia or Ganmukhuri or 100 apartment hotel in Batumi, the casino is exempt from the annual fee.

<sup>246</sup> Revenues received from fees payed by gambling businesses are almost one third of the budget of some cities and municipalities (e.g. Kazbegi, Batumi, Zugdidi).

<sup>247</sup> Mostly from Turkey.

<sup>248</sup> Information from the survey of Revenue Service of Georgia.

<sup>249</sup> *Ibid.*

accounts held in online casinos, were revealed. However, under the new anti-money laundering and terrorism financing legislation<sup>250</sup>, only a properly verified client can open an online casino account. Furthermore, payment service providers that operate pay boxes were assigned to verify the persons depositing money into an online casino account through pay boxes. With the efforts of the FMS and the Revenue Service, online casinos started detecting suspicious transactions (see subsection 2.5)<sup>251</sup>. Currently, their compliance control systems are much more developed and special algorithms are used to detect and prevent misuse of accounts.

The share of other operators in the gambling business in the entire industry is relatively small. Their customers are mostly Georgian residents. In slot machines saloons and betting terminals, which are not run by casinos, compliance control systems are almost nonexistent. Gaming machines provide an opportunity to play anonymously using large amounts of cash. Herewith, the player can, withdraw cash funds deposited by him/her in the form of prize without playing. Some salons also issue tickets that can be used for gaming or encashment by the third parties. In the betting terminal bets with high probability of winning or controversial bets can be made. These products are vulnerable to disguising sources of illicit income and giving them a legitimate form.

The Revenue Service oversees the gambling business operators. However, they are inspected within the framework of permit conditions and are generally limited to the existence of an internal compliance control policy and the submission of threshold based reports to the FMS. Limited eligibility criteria apply also to casinos. In particular, the director or owner of the casino cannot be (became) a person convicted of an economic crime or other serious crime. Beneficiary owners of casinos are not identified, their reputation is not checked and the source of the wealth is not identified. Therefore, gambling business operators are vulnerable to establishing control over them by criminals. In 2014-2018, 45 cases of arranging gambling business without a permit were revealed, for which 86 persons were prosecuted<sup>252</sup>. Services offered by foreign online casinos in Georgia is not monitored.

Summary - the gambling business is an important sector of the economy. Land-based casinos are particularly vulnerable to spending money obtained by criminal means, because their compliance control systems are weak. Significant measures have recently been taken to limit anonymity and inappropriate use of accounts in online casinos. However, ineffective oversight of the gambling business and weak eligibility criteria remain as a serious challenge. Given these circumstances, the risk of money laundering through gambling activities was assessed as **Medium-High** and the risk of terrorism financing as **low**.

## 9.2 Real estate market

The real estate market in Georgia is growing. Real estate property registration transactions increase by an average of 20-25% per year<sup>253</sup>. However, the turnover of real estate activities of business entities has

---

<sup>250</sup> Law of Georgia “On facilitating the prevention of money laundering and terrorism financing” and the “Regulation on information accompanying transfer of funds” approved by the order No. 253/04 of the President of the NBG.

<sup>251</sup> In 2019, the FMS developed guidelines for detecting suspicious transactions for ground-based and online casinos.

<sup>252</sup> Data of Investigation Service of Ministry of Finance of Georgia.

<sup>253</sup> Data of The National Agency of Public Registry.

doubled in the recent 5 years, amounting to GEL1.2 billion in 2018<sup>254</sup>. Similarly, the turnover<sup>255</sup> of the construction of residential and other types of buildings doubled in 2014-2018. The large part of property registration transactions and residential/commercial property falls on Tbilisi. The demand of citizens of other countries on flats in Tbilisi is also big<sup>256</sup>. Residential property prices in Tbilisi are also increasing rapidly, though there has been a slight decline in rental prices.<sup>257</sup> A steady growth in the real estate market in Georgia is expected. More than 10% of foreign direct investments in 2018 comes on real estate transactions, leases and services<sup>258</sup>.

The National Agency of Public Registry (hereinafter referred to as the "Public Registry") registers property rights on real estate in Georgia. Real estate can also be acquired and sold through a notary. Registration is carried out within 4 working days, though in exchange for GEL 200 it may be completed on the same day. Intermediary activities in the field of real estate are not regulated. The exact number of real estate agents on the market is unknown because they are not registered. The absolute majority of agents are small business entities, and their services are limited to buyer-seller relations and organizing property inspections. Several comparatively large companies operate in the market, which provide broader consulting and brokerage service to clients<sup>259</sup>. However, agents almost are not involved in the settlement process, as they do not have access to the risk insurance tools of settlement of accounts when selling property and transfer of property right. Only commercial banks and notaries are allowed to open deposit (escrow) accounts. From 2019 lawyers and law firms may open a nominal ownership account in a commercial bank that may be used for such purposes (see subsection 9.4). The agents are not involved in the preparation of the documentation required for the transfer of real estate.

Buying real estate is a widespread method of integrating illegal income into the formal economy. The high price of real estate allows for laundering of a large amount of money in just one transaction. In several money laundering cases facts of acquiring real estate with the funds obtained through criminal ways was identified. However, in the recent practice of the FMS and investigative bodies, such facts are rare. Residential homes are more vulnerable to illegal income investing than commercial real estate. The owners of houses often change and it's easy to resell them. Nonetheless, commercial space can also be used as a place for fictitious businesses involved in money laundering or to obtain significant profits through a long-term lease (so-called "double laundering"). In Georgia, real estate can be sold through cash payments, which allows for price manipulation and provides an opportunity to disguise the source of cash. However, real estate is often purchased through mortgage loans. That is why, most of the number of such transactions will pass through the compliance control systems of the commercial banks. For example, in the 4th quarter of 2018, more than 50% of the cost of houses purchased in Tbilisi was financed using mortgages<sup>260</sup>.

---

<sup>254</sup> Data of Geostat. Activities related to the Real Estate consists of purchase, sale, rent and management.

<sup>255</sup> In 2018, the turnover of such construction amounted to GEL 3.6 billion.

<sup>256</sup> In past 5 years, the share of foreign residential real-estate property buyers amounted 7% according to the 2019 TBC Capital "Analysis on Real estate Sector".

<sup>257</sup> *Ibid.*

<sup>258</sup> Data of Geostat.

<sup>259</sup> In 2014, Colliers International, the one of the largest real estate management international company started to operate in Georgia.

<sup>260</sup> See footnote 233.

The majority of the countries of the region have a high level of tax avoidance, corruption and high number of illicit financial flows, which is a risk factor. Foreigners who purchase \$ 300,000 worth of real estate can apply for an investment residence permit in Georgia from 2019<sup>261</sup>. However, citizenship of Georgia is not granted in return for a large investment (so-called “Golden Passport”). In addition, the names of real estate owners in Georgia are available to everyone<sup>262</sup>. The Public Registry also sends FMS reports on suspicious transactions in real estate buy/sell agreements.

Summary - demand and prices for real estate in Georgia are steadily increasing. Real estate can be purchased in cash and by bypassing the financial system. The real estate market also attracts foreign investments. However, most of real estate buy and sell transactions are conducted through commercial banks, which reduces the overall level of vulnerability. The role of the real estate agents in real estate payment operations is low and therefore their vulnerability is also low. The identities of real estate owners are public, but beneficial owners are not always known when the property is owned by legal entities. Given these circumstances, the risk of money laundering in the real estate market was assessed as **medium** and financing of terrorism was assessed as **low**.

### 9.3 Trading in precious metals & stones

Georgia has a stable market for precious metals, stones and their products. The key players in the market are extracting and exporting companies, trading houses and jewelry/antiques stores. The commodity exchange is not functioning. At the end of 2016, gold reserves in Georgia were 60,000 kilograms and copper reserves were 143 tons<sup>263</sup>. The precious metals extracting business is export-oriented. In 2014-2018, USD 323 million worth of raw and semi-processed gold was exported<sup>264</sup>. Imports mainly constitute products made of precious metals. Their value is significantly below export volume.

There are about 1,500 small business entities operating in shopping malls that sell local jewelry and stock up on precious scrap metal. Such trading houses operate in several major cities. In addition, there are dozens of jewelry and antiques stores in the country. Jewelry stores are the fastest growing sub-industry. Nevertheless, the overall market size is quite small. According to recent studies, the annual turnover in the trade of precious metals, stones and their products is approximately GEL100 million<sup>265</sup>. In 2017, there were also 875 organizations operating in Georgia<sup>266</sup>, which issued pawn loans of GEL 405 million to 600,000 borrowers<sup>267</sup>. The NBG sells gold investment coins and issues gold certificates, which are interest-free securities and are transferred to the buyers of gold bars. In 2014-2018, the NBG sold GEL 5.7 million worth of such gold coins and bars.<sup>268</sup>

---

<sup>261</sup> One of the grounds for obtaining a short-term residence permit is to purchase at least \$ 100,000 worth of real estate. About 6,000 short-term residence permits were issued in 2014-2018, though mainly for family reunification.

<sup>262</sup> The information is available on the Public Registry website: <https://www.napr.gov.ge/udzravi>

<sup>263</sup> Data of Geostat

<sup>264</sup> *Ibid.*

<sup>265</sup> Research conducted by the Service Agency of the Ministry of Finance of Georgia in 2014.

<sup>266</sup> Except of regulated financial institutions.

<sup>267</sup> Data of Geostat.

<sup>268</sup> Data of NBG

In 2005, activities related to precious metals, stones and their products were deregulated. The state quality control system no longer exists. There are special testing facilities in trading houses that inspect metals and stones and mark pieces of jewelry. However, the activities of such facilities do not meet international standards. Since 2004, traders in precious metals, stones and their products have become obliged entities but they are not registered or monitored. Settlement of accounts is carried out mostly in cash. The most popular are low price pieces of jewelry. The average cost of pieces of jewelry purchased by non-residents is relatively high and varies from GEL 1,000 to GEL 2,000<sup>269</sup>. In 2019, anti-money laundering and terrorism financing laws applied to lenders<sup>270</sup>. As a result, the absolute majority of the pawnbrokers have become obliged entities and their activities are overseen by the NBG.

The purchase of precious metals and stones is a convenient way of converting criminal money into portable and expensive assets, which disguises its source of origin. In Georgia such metals or stones can be purchased anonymously, unless the seller is a NBG or a financial institution. There is also a danger of the sale of scrap metal of illegal origin, as business entities do not take customer due diligence measures. Furthermore, hiding valuables and transporting them across borders is easy. Therefore, there are periodical attempts to import smuggled goods into the country. In 2014-2018, there were 1,201 cases of movement of precious metals and stones across the border in violation of the Declaration Rule<sup>271</sup>. However, no cases of money laundering have been reported in money laundering cases.

The purchase of precious metals and stones is a convenient way of converting criminal money into portable and expensive assets, which disguises its source of origin. In Georgia such metals or stones can be purchased anonymously, unless the seller is NBG or a financial institution. There is also a threat of sale of scrap metal of illegal origin, as business entities do not take preventive measures. However, hiding valuables and transporting them across borders is easy. Therefore, there are often attempts to import smuggled goods into the country. In 2014-2018, there were 1,201 cases of movement of precious metals and stones across the border in violation of the Declaration Rule<sup>271</sup>. However, no cases purchase of jewelry with illicit income have been reported in money laundering cases.

| Undeclared jewelry identified abroad <sup>272</sup> |          |           |           |          |           |
|---|----------|-----------|-----------|----------|-----------|
| Year  | 2014     | 2015      | 2016      | 2017     | 2018      |
| Unit  | 122.0    | 722.0     | 679.0     | 1,134.8  | 39.0      |
| Gramm   | 49,856.3 | 217,527.8 | 163,575.4 | 76,497.9 | 262,840.1 |
| Carat   | --       | --        | --        | 482.3    | --        |

<sup>269</sup> See footnote 242.

<sup>270</sup> Entities that issue loans to more than 20 individuals simultaneously.

<sup>271</sup> Data of Revenue Service of Georgia.

<sup>272</sup> *Ibid.*

Summary – the sphere of trading in precious metals, stones and their products in Georgia is characterized by relatively low turnover. The absolute majority of transactions are also small in volume, and the smuggling of jewelry across the border is effectively prevented. However, the purchase of precious metal products is carried out in cash and anonymously, with no oversight of business entities. Given these circumstances, the risk of money laundering and terrorism financing in the field of trading in precious metals and stones was assessed as **medium-low** and terrorism financing risk as **low**.

#### 9.4 Legal Service

There are 4,696 practicing lawyers and 323 law firms in Georgia<sup>273</sup>. Those willing to provide legal service should join the Bar Association. In order to enter the profession of lawyer is to obtain a higher legal education degree, pass a lawyer's qualification exam and complete a one-year professional adaptation program<sup>274, 279</sup>. A lawyer cannot be a person convicted of a serious or particularly serious crime. In addition, law may be practiced through general, civil or criminal specialization<sup>275, 280</sup>. The most common form of legal service of an independent practice by a natural person. Law firms are often registered as limited liability companies or joint liability companies. The Bar Association maintains a register of law firms.

Legal service implies representation and legal aid, drafting of legal documents and other legal assistance. Lawyers provide corporate services and, on behalf of clients, participate in various property-related and financial transactions. Some lawyers offer clients the service to setting up legal persons, opening of bank accounts or purchase of real estate based on power of attorney. However such services are rare due to the absence of trust-like relationships (See subsection 5.4). The form of the payment of lawyer's fees is not specified. Therefore, paying a lawyer's fee in cash is allowed. Since 2015, lawyers have been subject to AML/CFT legislation, and in 2019, law firms have also become obliged entities<sup>276</sup>.

International practice demonstrates that criminals try to abuse the services of lawyers, mainly because of their special knowledge, access to financial instruments and the principle of professional secrecy. A lawyer may be asked to create complex corporate structures, which is a widespread method of disguising the origin of criminal funds and integrating them into the formal economy. A lawyer's bank account can also be used to depositing, storing and moving criminal funds. The Code of Professional Ethics of Lawyers requires maintaining of the client's funds separately from those of the lawyer. However, since 2019, lawyers have the right to open pooled accounts in banks. These pooled accounts are rarely used, but may enhance the role of lawyers in property-related transactions (See Subsection 8.2). The Bar Association is currently working on the development of special rules for depositing and managing clients' funds on those accounts. Since 2015, only 2 suspicious transaction reports have been submitted by lawyers to FMS. This may indicate that the need for greater clarity concerning the obligation to identify and report suspicious transactions via observing professional secrecy.

---

<sup>274</sup> The Bar Professional Adaptation Program includes both theoretical training and practical internships.

<sup>275</sup> There are currently about 2,250 generally specialized, 1,450 civil and 1,000 criminal lawyers.

<sup>276</sup> Preventive measures should be taken by the lawyer/law firm if the client provides services related to the buying and selling of real estate or legal person, managing funds or a bank account, establishing legal person or a trust, etc.

The Bar Association oversees the legal profession. The Ethics Commission is set up in the Association, that decides on the issue of lawyers' disciplinary liability<sup>277</sup>. In particular, in the event of violation of the Code of Professional Ethics, a lawyer may be warned, deprived of his/her right to practice law for a term of up to 3 years, or be suspended from membership of the Bar Association<sup>278</sup>. The lawyer will be subject to disciplinary liability in case of failure to notify the FMS of a suspicious transaction unless this would contradict the professional secrecy requirement. Lawyers are not required to submit such notification, if it contradicts with the principle of their professional secrecy. However, there is no mechanism in place to monitor compliance with this obligation. There is a training center at the Bar Association which provides continuous professional education and qualification to lawyers. In 2018, the center implemented a special training course on the requirements of the AML/CFT legislation. In recent years, with the efforts of the Bar Association and other professional associations, lawyers' awareness on issues of prevention, detection and suppression of ML/TF crime significantly increased<sup>279</sup>.

Summary - Lawyers can participate in property-related and financial transactions. However, legal aid dominates in the profession and trust-like relationships have not been identified. A lawyer can receive the fee in cash. There is no mechanism to monitor the compliance of lawyers with AML/CFT requirements. On the other hand, there have been no cases of the abuse of legal services by criminals, which confirms high level of professional ethics. Setting special rules for accepting and managing client funds on pooled accounts is underway. The awareness of lawyers on issues related to the fight against ML/TF crime is gradually increasing. Given these circumstances, the risk of money laundering in the legal services sector was assessed as **Medium-Low** and terrorism financing as **Low**.

## 9.5 Notary services

Georgia is a country with Latin notary system. The notary exercises public-law powers and there is a presumption of legality and authenticity with regard to notarial documents. 269 notaries and 10 notary offices<sup>280</sup> are currently operating in Georgia<sup>281</sup>. A prerequisite for appointment a notary is higher legal education, passing a notary qualification exam and internship at the Training Center of the Notary Chamber<sup>282</sup>. A person convicted of an intentional crime may not be appointed as a notary. Furthermore, a person may not be appointed as a notary even in case of cancelled criminal record, if the person was convicted for an offence related to notarial activities. The Minister of Justice of Georgia annually determines the maximum number of notaries and territorial jurisdiction.

---

<sup>277</sup> The basis for considering a lawyer's disciplinary liability is the complaint of his/her client or another person, as well as the appeal of the litigant or the chairperson of the Bar Association itself, the Executive Board or a member of the Ethics Commission.

<sup>278</sup> In 2014-2018 the Ethics Commission identified 114 violations. Warnings were applied as disciplinary sanctions 44 times and 2 times the deprivation of the right to work for a certain period of time.

<sup>279</sup> In 2015 the Association of Law Firms of Georgia (ALFG) developed guidelines for lawyers on preventive measures for money laundering.

<sup>280</sup> A notary office is set up by an acting notary. Several notaries may set up a joint notarial office, though each notary shall perform a notarial act on his/her behalf and is personally responsible for his/her work

<sup>281</sup> According to the Notary Chamber data

<sup>282</sup> Notary self-regulatory authority.

Notarial powers include confirmation of transactions and notarization of documents. However, since 2007, it is no longer mandatory to notarize transactions related to real estate. Likewise, legal entities themselves can produce legal documents themselves and they do not apply to notaries often for drafting/notarization of founding documents. Online notary services<sup>283</sup> have been introduced since 2010 and they are becoming popular<sup>284</sup>. The minutes of the meeting of the founding or governing bodies of legal entities can be notarized online. If any partner cannot to attend the meeting, the notary can be contacted via Skype or other Internet application. After verifying the person<sup>285</sup>, the notary shall draw up and verify the minutes of the meeting. Only residents may use this service. Monetary funds, securities and other valuables may be handed over to the notary for storage (depositing). The funds are deposited into the notary's deposit account. At the time of depositing, a protocol shall be drawn up stating the reason for the deposit, the quantity/type of property transferred to the notary and the identification data of the transmitter. Funds may be deposited in cash or by transfer. A deposit is often used when the debtor wants to discharge the loan, but the lender delays receiving it. At this time, the debtor can fulfill the obligation by depositing funds and avoid possible negative consequences (e.g. fine). Deposits are also used as an instrument for insuring the risk of payment and transfer of title in case of buying and selling property. In 2015-2018 about 700 persons used depositing.<sup>286</sup>

Notarial activities are supervised by the Ministry of Justice of Georgia and supervision is carried out through ongoing and extraordinary audits. All notaries are subject to inspection at least once every 3 years. FMS request can also serve as a basis for extraordinary inspection of notaries. The commission established by the order of the Minister of Justice of Georgia, among other things, checks the compliance of the activities of the notaries with the AML/CFT legislation. Violation of this legislation is a medium disciplinary misconduct for which the notary may be warned or reprimanded. Repeated failure to send to the FMS suspicious transaction reports or threshold reports is a particularly serious disciplinary misconduct, which leads to the dismissal of a notary. Application of customer due diligence measures by a notary are facilitated by their similarity with the rules governing notarial actions. Determination of the identity and authority of participants of notarial actions is a common practice. The UNSCR listed persons are integrated in the electronic notary registry<sup>287</sup>, and persons participating in the notarial actions are matched against the UNSCR lists. However, the challenge for notaries is to identify foreign politically exposed persons as they do not have access to international commercial databases. Notaries also face difficulties in identifying the beneficial owners of legal persons registered in “offshore zones”.

Summary - Certification of property transactions and founding documents of legal entities is not the exclusive authority of notaries. The notarial deposit account is rarely used in property sales transactions. At the same time, proper supervision of the professional activities of notaries is carried

---

<sup>283</sup> Applications, consents, powers of attorney or transactions can be verified by internet.

<sup>284</sup> In 2010 about 7 thousand notarial acts were performed by internet, and in 2018 more than 60 thousand.

<sup>285</sup> The identity of a person is verified in the database of the State Service Development Agency.

<sup>286</sup> According to the Notary Chamber data

<sup>287</sup> All notarial acts of a notary are registered in the electronic notarial registry. Automated notifications are sent to the FMS through it as well.

out. Thus, notaries' compatibility with AML/CFT legislation is one of the highest in the non-financial sector. Given these circumstances, the risks of money laundering and terrorism financing in the field of notarial services were assessed as **Low**.

## 8.6 Accounting & Auditing

Persons registered in the Registry of Accounting, Reporting and Audit Supervision Service (hereinafter "the Service") have the right to provide audit services in Georgia. There are currently 262 audit firms and 458 auditors (including 110 individual auditors) registered. An auditor may become a certified accountant who is a member of a professional association<sup>288</sup> and, under the supervision of the auditor, has a three-year experience of auditing financial statements. However, the auditor cannot be a person who violated the Code of Ethics of professional accountants (IESBA) or was convicted of a serious or particularly serious crime. A legal person, in which an auditor<sup>289</sup> or other audit firm<sup>290</sup> owns more than 50% of the voting rights, may be registered as an audit firm. Most of the members of its governing body must also be composed of auditors.

Accounting is a completely self-regulated profession, and the service does not maintain a register of accountants. However, the register of certified accountants is kept by the relevant professional organization, while the Service sets out the rules for certifying and continuous education of accountants. As of 2018, about 1,100 individuals have had the accounting services indicated as one of their activities in the register of taxpayers of the Revenue Service<sup>291</sup>. In addition, in 2015, up to 20,000 individuals are employed as accountants, tax specialists, auditors or financial managers in various fields<sup>292</sup>. These individuals are not required to join any professional organization and there is little information available on their activities.

In 2018, the total turnover in the field of audit services amounted to GEL116 million, which is 18% increase compared to the previous year. This increase was mainly driven by the audit reform in the country. Starting in 2017, public interest entities<sup>293</sup> and first category enterprises<sup>294</sup> are required to produce and audit financial statements based on IFRS<sup>295</sup>. Almost 99% of turnover is on audit firms, whose activities, apart from auditing financial reports include accounting, tax and business consulting services. Criminals may misuse auditors' special knowledge to evade taxes or disguise the source of illicit income. At the same time, the audit service gives more legitimacy to the client's business and facilitates access to the financial system. However, in 2018, only 2 audit firms have received a revenue from the preparation and implementation of

---

<sup>288</sup> There are 3 professional associations of accountants and auditors in Georgia. The Georgian Federation of Professional Accountants and Auditors (GFPAA) is the largest among them and it has been a full member of the International Federation of Accountants (IFAC) since 2000.

<sup>289</sup> Natural person listed in the Registry of the service or/and individual member(s) of IFAC member organization in the EU or/ and OECD member countries;

<sup>290</sup> Firm listed in the Registry of the service or/ and an Audit Firm registered in the Auditors' Registry of the EU or/ and OECD member countries

<sup>291</sup> Data of the Revenue Service.

<sup>292</sup> World Bank 2015 Report on Standards and Codes for Accounting and Auditing.

<sup>293</sup> Business entities, commercial banks and other financial institutions trading in regulated markets.

<sup>294</sup> Business entities which meets at least two criteria out of the following three: with total assets of exceeding GEL 50 million, income exceeding GEL 100 million and number of employees exceeding 250.

<sup>295</sup> International Financial Reporting Standards.

property-related and financial transactions as defined by FATF standards.<sup>296</sup>The auditors do not have the right to open a pooled bank account and until now, no cases of management of clients' funds by them have been identified.

The Service regulates the auditing services, translates into Georgian and introduces international standards<sup>297</sup>. The Service also recognizes the quality of certification and continuous education programs of professional associations and educational institutions. In addition, the Service checks the compliance of the activities of auditors and audit firms' with International Standards on Auditing and Quality Control (ISA) and International Standards of Quality Control (ISQC). These standards include, among other things, examining the integrity of the client and identifying signs of fraud in the financial statements. This contributes to a relatively higher level of compliance with AML/CFT legislation especially among members<sup>298</sup> of international networks. The Service annually obtains information about the activities and revenues of all auditors and audit firms, and the entities to be monitored for quality control systems are determined according to the risk-based approach. In 2018, the Service started quality control system monitoring of 15 audit firms<sup>299</sup> and identified 177 cases of non-compliance with international standards. Most of them concerned the process of audit planning and obtaining audit evidence. One audit firm has been removed from the register as a sanction.

Summary - vulnerability of auditors and audit firms is low as they rarely participate in property-related and financial transactions. They are subject to appropriate supervision. On the other hand, it is easy to enter the accounting profession and there is no oversight of the activities of accountants. Nonetheless, audit firms that are members of international networks dominate the audit services and their compliance with AML/CFT legislation is quite high. Given these circumstances, the risks of money laundering and terrorism financing in the field of accounting and auditing services was assessed as **Low**.

---

<sup>296</sup> Data provided by the service

<sup>297</sup> In 2018 International Financial Reporting Standards (IFRS), International Accounting Standards (IAS), International Financial Reporting Interpretations Council (IFRIC) and interpretations adopted by the Standing Committee on Interpretations (SIC) of the same year were translated into Georgian and introduced into practice.

<sup>298</sup> The top 10 highest-performing audit firms in Georgia are members of a large international network, accounting for nearly 80% of total turnover in the audit service sector.

<sup>299</sup> 13 full monitoring and 2 thematic monitoring.