COMMITTEE OF EXPERTS ON
THE EVALUATION OF ANTI-MONEY
LAUNDERING MEASURES AND
THE FINANCING OF TERRORISM
(MONEYVAL)

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4th ROUND MUTUAL EVALUATION OF GEORGIA

EXIT FOLLOW-UP REPORT SUBMITTED TO MONEYVAL

WRITTEN ANALYSIS ON PROGRESS IN RESPECT OF THE CORE AND KEY RECOMMENDATIONS

8 DECEMBER 2015

Georgia is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 49th plenary meeting (8 - 11 December 2015, Strasbourg). For further information on the examination and adoption of this report, please refer to the Meeting Report of the 49th plenary at http://www.coe.int/moneyval.

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List of acronyms used

AML/CFT	Anti-Money Laundering/Countering Financing of Terrorism
BCP	Border Control Point
CC	Criminal Code
CDD	Customer Due Diligence
CETS	Council of Europe Treaty Series
CFT	Combating the Financing of Terrorism
COE	Council of Europe
CTR	Cash Transaction Report
DNFBP	Designated Non-Financial Businesses and Professions
DPMS	Dealers in precious Metals and Stones
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FMS	Financial Monitoring Service of Georgia
FT	Financing of Terrorism
IT	Information Technology
KYC	Know Your Customer
LEA	Law Enforcement Agency
MER	Mutual evaluation report
MIA	Ministry of Internal Affaires
ML	Money Laundering
MLA	Mutual Legal Assistance
MOF	Ministry of Finance
MOJ	Ministry of Justice
MOU	Memorandum of Understanding
MVT	Money Value Transfer
NAPR	National Agency of Public Registry
NBG	National Bank of Georgia
NC	Non-compliant
NPO	Non-Profit Organisation
PC	Partially compliant
PEP	Politically Exposed Person
PO	Prosecutor's Office
SRO	Self-Regulatory Organisation
STR	Suspicious Transaction Report
TCSP	Trust and Company Service Provider
UBO	Ultimate Beneficial Ownership
UN	United Nations

Mutual evaluation of Georgia: 4th follow-up report

Application to move from regular follow-up to biannual updates

Note by the Secretariat

I. Introduction

1. The purpose of this paper is to introduce Georgia's forth follow-up report to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the 4th round mutual evaluation report (MER) on selected FATF Recommendations.

2. Georgia considers that it has made sufficient progress to be considered for removal from the regular follow-up process and has applied to be removed from the process.

Background information

3. The on-site visit to Georgia took place from 29 May to 4 June 2011. MONEYVAL adopted the mutual evaluation report (MER) of Georgia under the fourth round of assessment visits at its 39th plenary in July 2012. As a result of the evaluation process of Georgia, 3 FATF Recommendations were evaluated as "compliant", 21 as "largely compliant", 21 as "partially compliant", three as "non-compliant" and one was "not applicable".

7 Core and key Recommendation rated PC
Recommendation 5 (Customer due diligence)
Recommendation 23 (Regulation, supervision and monitoring)
Recommendation 26 (The FIU)
Special Recommendation I (Implement UN instruments)
Special Recommendation II (Criminalise terrorist financing)
Special Recommendation III (Freeze and confiscate terrorist assets)
Special Recommendation V (International cooperation)
14 other Recommendations rated PC
Recommendation 7 (Correspondent banking)
Recommendation 8 (New technologies & non face-to-face business)
Recommendation 9 (Third parties and introducers)
Recommendation 11 (Unusual transactions)
Recommendation 15 (Internal controls, compliance and audit)
Recommendation 16 (DNFBP – R.13-15 and 21)
Recommendation 21 (Special attention for higher risk countries)
Recommendation 25 (Guidelines and feedback)
Recommendation 30 (Resources, integrity and training)

Recommendation 31 (National co-operation)
Recommendation 33 (Legal persons – beneficial owners)
Special Recommendation VI (Money or value transfer services)
Special Recommendation VII (Wire transfer rules)
Special Recommendation VIII (Non-profit organizations)
3 other Recommendation Rated NC
Recommendation 12 (DNFBP – R.5,6,8-11)
Recommendation 24 (DNFBP – Regulation, supervision and monitoring)
Special Recommendation IX (Cash Couriers)

4. Following the adoption of the 4th Round MER, Georgia was placed in regular follow-up and requested to report back to the plenary after two years. The first progress report was adopted at MONEYVAL's 45th plenary in September 2014. On that occasion, the plenary requested Georgia to provide an interim follow-up report at the 47th plenary in April 2015, since significant progress had only been achieved with respect to one of the core and key 2003 FATF Recommendations (SR.II).

5. At the 47th Plenary, the Committee agreed that progress had been made to address some of the deficiencies identified with regard to several core and key recommendations rated PC or NC in the 4th round (Rec. 5, Rec. 23 and Rec. 26). However, the authorities were encouraged to address remaining deficiencies underlying SR.V, to adopt the draft amendments as soon as possible in order to address the technical deficiencies under SR.III and seek removal from the regular follow-up process in September 2015.

6. At the 48th Plenary, in view of the result of the discussions on the report, the Committee agreed that Georgia has taken positive steps to remedy many of the identified deficiencies. However, given the current threats faced by the international community in relation to financing of terrorism, especially in the context of ISIL, the absence of appropriate measures to freeze terrorist assets under Special Recommendation III continues to raise concern.

7. Following the Plenary decision, Georgia was requested to adopt the draft amendments to the Administrative Procedure Code without any further delay. It was also proposed that Georgia should seek to exit the regular follow-up process in December 2015.

8. Georgia has provided the Secretariat with a forth follow-up report on its progress made in relation to Special Recommendation III. Georgia considers that it has taken sufficient steps to deal with the deficiencies identified under Special Recommendation III and has made satisfactory progress to be considered for removal from the regular follow-up process.

9. The Secretariat has updated the previous analysis[1] of the progress made by Georgia for the seven key and core Recommendations rated PC and 17 other Recommendations rated PC/NC, to take into account the recent developments on SR.III.

10. **Section II** sets out the Secretariat's detailed analysis of the progress which Georgia has made in relation to the core Recommendations rated PC (R.5 and SR.II).

[1] The previous Secretariat's analysis was conducted in the framework of Georgian application for removal from the follow-up procedure and was presented to the Plenary in September 2015.

11. **Section III** sets out the Secretariat's detailed analysis of the progress which Georgia has made in relation to the key Recommendations rated PC (R.23, 26, SR.I, SR.III and SR.V).

12. **Section III** sets out the Secretariat's detailed analysis of the progress which Georgia has made in relation to all other Recommendations rated NC/PC (R.7, R.8, R.9, R.11, R.15, R.16, R.21, R.24, R.25, R.30, R.31, R.33, SR.VI, SR.VII and SR.VIII).

Overview of Georgia's Progress

Action Plan and National Risk Assessment

13. Georgia began implementing important reforms immediately after the adoption of the 2012 MER report. The AML/CFT Strategy and Action Plan were adopted by the Government of Georgia on 18 March 2014 in order to strengthen the AML/CFT legal and institutional framework generally, and to remedy the shortcomings identified by MONEYVAL, in particular. The Inter-Agency Council Developing and Coordinating the Implementation of AML/CFT Strategy and Action Plan was put in charge of coordinating and monitoring the implementation of the Strategy and Action Plan.

14. The abovementioned Inter-Agency Council has recently started working on Georgia's first national ML/FT risk assessment. The process aims to identify and assess the general, sectoral and thematic ML/FT risks for the purpose of developing effective risk-based policies and appropriately allocating available resources.

Legislative developments

15. The information below provides a summary of some of the most significant measures implemented by Georgia since the adoption of the fourth round assessment report:

- The AML/CFT Law was amended in 2013, 2014 and 2015 to:
    - Empower the FMS to temporarily suspend suspicious transactions;
    - Designate electronic money providers, lawyers and qualified credit institutions as reporting entities;
    - Require reporting entities to understand the ownership and control structure of their clients;
    - Require reporting entities to understand the purpose and intended nature of the business relationship;
    - Regulate the application of the enhanced CDD measures through the application of a risk-based approach;
    - Permit the application of simplified CDD measures only when the ML/FT risk is low;
    - Extend the prohibition on anonymous accounts to DNFBPs;
    - Make provisions on the tipping-off prohibition, legitimate disclosure of confidential information and the use of third parties/intermediaries fully consistent with the FATF Recommendations;
    - Extend the AML/CFT requirements to the export/import of physical currency and bearer negotiable instruments through cargo containers and mail.
- The Criminal Code of Georgia was amended on 2 March 2012 to cover the terrorism financing offences carried out without terrorist intent as provided by the International Convention for the Suppression of Terrorist Bombings;

- The Criminal Code of Georgia was amended on 27 November 2013 to extend the terms "terrorist" and "terrorist organization" to cover persons participating in other related offences (taking hostage, posing danger to navigation of an Aircraft, etc.);
- The Criminal Code of Georgia was amended on 4 April 2014 to expand the scope of TF offence to also include the acts of providing services or resources to a terrorist or terrorist organization and harbouring or sheltering terrorists;
- The Civil Procedure Code was amended on 13 November 2013 to modify the civil confiscation mechanism of illicit and undocumented property also to include the TF offences;
- The Law of Georgia on Prosecution Service was amended on 24 June 2013 to strengthen the capacities and institutional independence of the prosecutor's office;
- The Law of Georgia on International Cooperation in Criminal Matters was amended on 30 May 2013 to set clear timeframes for handling extradition requests;
- The Law of Georgia on Organizing Lotteries, Gambling and Other Commercial Games was amended on 17 July 2015 to prohibit individuals convicted of economic and other grave or especially grave criminal offences from acting as founders or managers of gaming establishments;
- The Order of the Minister of Finance of Georgia on the "Approval of the Instruction on Movement and Customs Clearance of Goods within the Customs Territory of Georgia" was amended on 21 August 2015 to require provision of information about the origin and intended use of cash, checks and other securities over GEL 30,000 (EUR 11,000) transported across the Georgian border;
- Since the adoption of the 2012 MER report, various pieces of secondary legislation (Decrees, Manuals and Regulations) have been issued by the National Bank of Georgia (NBG) and the FMS on the preventive side to improve regulation, supervision and monitoring of FIs and DNFBPs, as well as to incorporate a set of amendments to the AML/CFT Law of 24 December 2014.

16. A number of other equally important measures were recently taken by the Georgian authorities. The Secretariat of the Governmental Commission on Implementation of UNSCRs in close cooperation with relevant state agencies, including Chief Prosecutor's Office and Financial Monitoring Service of Georgia, elaborated draft amendments to the Administrative Procedure Code of Georgia (APC), in order to ensure that:
    - the funds or other assets subject to freezing under S/RES/1267(1999) and S/RES/1373(2001) are frozen without delay;
    - courts are not empowered to deliberate whether the motion on freezing of assets of designated persons is grounded or not;
    - Courts can only lift freezing orders in accordance with the amendments introduced to UNSCRs or when the property was frozen by mistake;
    - Adequate procedure is in place for the courts to grant access to frozen assets for basic or extraordinary expenses as provided under UNSCRs.
17. The said amendments entered into force on 11 November 2015.
18. A list of additional AML/CFT legislation, regulations, decrees and guidance adopted and in force as well as greater detail on the changes introduced by NBG and FMS are set out on pages 2 to 7 of the report submitted by the Georgian authorities.

Training and awareness-raising

19. The authorities reported that, further to the recommendations made by MONEYVAL, and on the basis of the tasks set out in the Action Plan, several training seminars, as well as other outreach, were held and further are planned for the relevant service providers and for the employees of domestic competent authorities.

Main conclusions and recommendations to the plenary on progress made since the on-site visit in May-June 2011

Core Recommendations

20. With regard to Recommendation 5, key amendments to the legal acts (the AML/CFT Law and secondary legislation) were introduced by Georgia since the adoption of the 4th round MER, which have addressed the majority of the deficiencies of Recommendation 5. Although certain technical deficiencies in legislation still remain, Recommendation 5 is now at a level equivalent to largely compliant.

21. With regard to Special Recommendation II, following the recommendations of the 4th round MER, the Criminal Code of Georgia (CCG) was amended on March 15, 2012. The amendments appear to broadly address the technical deficiencies identified in the 4th round MER.

Key Recommendations

22. With regard to Recommendation 23, a number of steps have been taken to address the deficiencies identified in the 4th round MER. In particular, electronic money providers were designated as reporting entities under the AML/CFT law and the NBG was designated as their supervisor for AML/CFT purposes. Inspection cycles for currency exchange bureaus and money remittance organisations were shortened following amendments to the NBG's AML/CFT policy.

23. Concerning Recommendation 26, the Georgian authorities have taken further steps to address the identified shortcomings and the bullet-points under the recommended Action Plan. In particular, the FMS Guidance on reporting has been recently updated to provide more comprehensive and clear instructions on the manner of reporting and reporting forms. With regard to effectiveness, there was a definite improvement in the level of requests for additional/follow-up information from non-bank financial institutions as well as in the number of cases disseminated by the FMS to the law enforcement agencies in 2013-2014.

24. With regard to Special Recommendations I, in order to address the shortcomings in TF criminalisation, a number of important amendments were introduced to the Criminal Code of Georgia (CCG) in 2012, 2013 and 2014. The FT offence is now in line with the FATF Standards. The shortcomings in respect of implementation of UNSCR 1267 and 1373 have also been addressed with the adoption of new amendments to the Administrative Procedure Code (APC) of Georgia.

25. Concerning Special Recommendation III, as indicated above, a set of important amendments to the APC was adopted and brought into force in November 2015 in order to remedy the identified technical deficiencies. The legal framework for applying targeted financial sanctions pursuant to UNSCRs 1267 and UNSCR 1373 is now in line with the FATF Standards.

26. With regard to Special Recommendation V, the authorities significantly improved co-operation with foreign FIUs in the last several years, which is demonstrated by the increased number of international information requests and spontaneously exchanged information, including on TF issues. The Law of Georgia on International Cooperation in Criminal Matters was amended on 30 May 2013 to revise the extradition procedures by setting clear admissibility timeframes.

Conclusion

27. Since the on-site visit in May-June 2011, Georgia has made significant progress in addressing many of the identified deficiencies. The most serious concern raised during the last plenary on the lack of progress in relation to SR.III, which prevented Georgia from exiting the regular follow-up process, has been successfully addressed with the adoption of the new legislation on targeted financial sanctions.

28. At the 49th Plenary, in view of the result of the discussions on the report, the Committee agreed that Georgia has taken sufficient steps to be removed from the regular follow-up process.

29. Following the Plenary decision and in accordance with the rule 13 (paragraph 16 (c)) of the Rules of Procedure, Georgia was requested to submit a biennial update in December 2017.

II. Review of the measures taken in relation to the Core Recommendations rated PC

30. This section sets out the Secretariat's detailed analysis of the progress which Georgia has made in relation to the Core Recommendations rated PC.

Recommendation 5 – Customer Due Diligence (rating PC)

Deficiencies

- *Electronic money institutions not covered;*
- *No regulation developed for leasing companies (FMS decrees);*
- *Numbered accounts neither regulated nor prohibited;*
- *Existence of a minimum threshold for customer identification and verification;*
- *No requirement to terminate the business relationship where the financial institution has commenced the business relationship and is unable to comply with CDD requirements;*
- *No specific prohibition to apply simplified CDD or regulation developed when it applies;*
- *No specific prohibition to apply simplified CDD in cases of suspicion of ML/FT or high-risk scenarios;*
- *Exception in the time of verification of customer's identity not regulated;*
- *No requirement to apply CDD measures to existing customers on the basis of materiality and risk, and to conduct CDD on such relationship at appropriate times.*

Recommended actions

- *Regulate under the AML/CFT Law factoring activities, companies issuing meaning of payments such as credit and debit cards, and electronic money institutions.*
- *Issue regulations (FMS decrees) for leasing activities.*
- *Pass legislation on the issuing of bearer instruments (e.g., bearer checks).*
- *Either regulate or prohibit the use of numbered accounts.*
- *Ensure that in the case of numbered accounts, full CDD Report on compliance is applied.*
- *Remove the identification threshold for customers in order to ensure all customers are identified and verified when establishing business relationships.*
- *Ensure that representatives of the legal entities are identified and CDD measures applied when these entities engage in business with money remittance and money exchange services providers.*
- *Ensure that full CDD measures are equally applied to all bank financial groups' customers including those from the representative's offices.*
- *Ensure that the legal status of foreign legal entities is adequately verified.*
- *Introduce a requirement in the AML/CFT law for FIs to understand the ownership and control structure of the customer in line with the UBO guidelines.*
- *Introduce a requirement in the AML/CFT Law to terminate the business relationship where the financial institution has commenced the business relationship and is unable to comply with CDD requirements described in criteria c.5.3. to c. 5.5 of the common assessment methodology.*
- *Amend the guidelines to make clearer distinction between riskier financial products, services or customers and what is the operative that should be detected as a "red flag' and as a consequence analysed closely.*
- *Amend the AML/CFT Law explicitly stating when simplified measures may be applied. Such measures should only be allowed for countries that effectively apply FATF recommendations.*
- *Amend the AML/CFT Law to prohibit applying simplified CDD measures when there is a suspicion of ML/FT or in cases of high risks.*
- *Ensure that FIs look back at all existing customers and apply CDD procedures according to the new AML/CFT Law focused on the more important business lines and clients, and risks.*

- *With respect to trusts, ensure that trustee clients and the settlers and persons who exercise the ultimate effective control of the trust and beneficiaries are identified.*
- *Ensure that all providers of financial services are identified and CDD applied when operating with banks.*
- *Ensure that FIs identify and verify and have an understanding of the ownership and control structure of the customer in all circumstances regardless of amount of transaction or ownership control.*
- *Ensure that the new provisions of the AML/CFT law with regard to the identification and verification of the beneficial owner are applied and that all monitoring entities, specially:*
    - *Ensure that FIs determine whether the customer is acting on behalf of another person; and*
    - *Ensure that FIs incorporate those persons who exercise ultimate effective control over a legal person or arrangement.*
- *Ensure effective implementation of the measures on information of purpose and nature of business.*
- *Ensure that full CDD measures are applied to all existing customers.*
- *Regulate the cases where FIs may complete the verification of the identity of the customers and beneficial owner after the establishment of the relationship.*
- *Include the prohibition of anonymous accounts in all FMS regulations, such as the ones for insurance or securities companies.*
- *Clarify to FIs the applicability for CDD with respect to business relations and occasional transactions.*
- *Review the legal framework to ensure that legal person's representatives are always identified no matter which type of financial entity provides the service.*
- *Create systems in place to recognize foreign trust doing business in Georgia.*
- *Grant free access to the data in the Civil Registry.*
- *Assist FIs to extend CDD measures on a risk-sensitive basis.*
- *Guide FIs to elaborate risk profiles on customers and products customized to Georgian economy and financial system characteristics.*

Implementation

- *Limited scope of implementation of ongoing due diligence measures.*
- *Concerns about the identification and verification of legal persons due to the deficiencies identified in Recommendation 33 and NAPR.*
- *Poor compliance with the obligation to understand the ownership and control structure of the customer in all circumstances regardless of the amount of transaction or ownership control.*
- *Banks applying simplified CDD in some cases of opening current accounts, including with countries not compliant with FATF standards.*
- *Poor implementation of enhanced due-diligence requirements to risky customers.*
- *Very poor implementation of measures applied to identify legal arrangements.*
- *Poor implementation of the measures on information of purpose and nature of business.*
- *Poor compliance with the provision established for the timing of verification of the legal person's identity.*
- *Concerns on the CDD applied on brokerage and other intermediaries 'companies' customers operating through banks with omnibus accounts.*

- *Impossible to assess implementation of the new AML/CFT framework (as amended on December 20, 2011), especially related to:*
- *requirement to determine whether the customer is acting on behalf of another person;*
- *requirement to incorporate those persons who exercise ultimate effective control over a legal person or arrangement;*
- *ongoing due diligence;*
- *timing on verification after starting the business relationship;*
- *identification and verification of CDD procedures on a risk-sensitive basis;*
- *application of the new requirement to the existing customers.*
- *Concerns on the adequacy of CDD measures when it is performed in banks' offices of representation.*
- *No identification carried out when legal entity representatives operate with money remittance companies.*

Measures adopted and implemented

Deficiency No.1 – *Electronic money institutions not covered.*

31. The AML/CFT Law was amended on 24 December 2014 to designate payment service providers, including electronic money providers, as reporting entities and designate the NBG as their supervisor for AML/CFT purposes. Thus, the provisions of the AML/CFT Law concerning the CDD, record-keeping, reporting of suspicious transactions , internal controls and other preventive measures now apply to electronic money institutions.

Deficiency No.2 – *No regulation developed for leasing companies (FMS decrees).*

32. The Regulation on Receiving, Systemising and Processing the Information by Leasing Companies and Forwarding to the Financial monitoring Service of Georgia was approved by the FMS on 5 September 2013. The FMS Regulation elaborates on the provisions of the AML/CFT Law regarding the CDD and record-keeping measures, as well as suspicious transaction reports, internal controls and other requirements.

Deficiency No.3 – *Numbered accounts neither regulated nor prohibited.*

33. The NBG adopted amendments to the Instruction on Opening Accounts and Making Foreign Currency Operations by Commercial Banks on 12 September 2014 to prohibit the opening and maintaining of numbered accounts by commercial banks. In addition, Article 2 of the amendments required the commercial banks, which were maintaining numbered accounts before the adoption of the amendments, to close down such accounts before 31 December 2014.

Deficiency No.4 – *Existence of a minimum threshold for customer identification and verification.*

34. Although the AML/CFT Law does not expressly require financial institutions to identify and verify their clients below the threshold[2], according to the Georgian authorities this deficiency is mitigated by the fact that sector-specific laws for financial institutions (such as the NBG Instruction on Opening Accounts by Commercial Banks) require the application of CDD measures irrespective of any threshold.

[2] The AML/CFT Law (Article 6) requires from the reporting entities to identify and verify their clients when the transaction is suspicious or:
- The amount of funds involved in a transaction exceeds 3,000 GEL (1,200 EUR);
- The amount of funds involved in a wire transfer exceeds 1,500 GEL (600 EUR).

Deficiency No.5 – *No requirement to terminate the business relationship where the financial institution has commenced the business relationship and is unable to comply with CDD requirements.*

35. The AML/CFT Law (Article 5.7) requires reporting entities to identify potential clients and refuse to provide any service if identification is impossible. However, there is no requirement in the AML/CFT Law to terminate the business relationship where the financial institution has commenced the business relationship and is unable to comply with CDD requirements. The deficiency appears to remain in this respect.

Deficiency No.6 – *No specific prohibition to apply simplified CDD or regulation developed when it applies;*

36. See Deficiency No. 7 below.

Deficiency No.7 – *No specific prohibition to apply simplified CDD in cases of suspicion of ML/FT or high-risk scenarios.*

37. The AML/CFT Law was amended on 24 December 2014 to regulate the use of simplified CDD by reporting entities. The amendments permit reporting entities to apply simplified CDD only where the ML/FT risk is low. The amendments also clarify that the use of simplified CDD is prohibited when the ML/FT risk is high or where there is a suspicion of ML/FT.

38. Following the amendments introduced to the AML/CFT Law, the FMS made changes to the relevant regulations of the reporting entities in order to further clarify the conditions for and set the limits to using the simplified identification and verification procedure.

39. Furthermore, commercial banks are prohibited from applying simplified CDD measures when opening current accounts as a result of amendments to the NBG Instruction on Opening Accounts by Commercial Banks, which came into force on 20 July 2012. Article 9 of the instruction, which permitted commercial banks to apply simplified CDD measures in relationships with clients having accounts in OECD countries or in other commercial banks operating in Georgia, was removed.

Deficiency No.8 – *Exception in the time of verification of customer's identity not regulated.*

40. According to FMS Regulation on Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the FMS of Georgia, verification of the identity of customers and beneficial owners can be completed after the establishment of the business relationships when the ML/FT risk is low.

Deficiency No.9 – *No requirement to apply CDD measures to existing customers on the basis of materiality and risk, and to conduct CDD on such relationship at appropriate times.*

41. As a result of the amendments to the AML/CFT Law of 24 December 2014 (Article 15.5^2), reporting entities are required to apply CDD requirements, including the recently introduced provision, such as the obligation to obtain information about the ownership and control structure of the legal entities (Article 6.10^1), and understand the purpose and intended nature of the business relationship (Article 6.10^2) – to the existing clients based on materiality and risk, and at appropriate times before 31 December 2015.

42. Moreover, on 26 June 2014, the Deputy Governor of the NBG issued a notice (№2-06/1866-14) to bring this new requirement to the attention of FIs. The NBG has been examining the implementation of this obligation on a risk-sensitive basis through on-site inspections.

Implementation point No. 1 – *Limited scope of implementation of ongoing due diligence measures.*

43. It is difficult to assess any progress concerning the effective implementation of on-going due diligence measures to a large extent from a desk-based review. However, according to the

information provided throughout the report, the NBG has been thoroughly examining the implementation of recently introduced requirements to the AML/CFT Law and secondary legislation which resulted in a number of sanctions being imposed on those FIs that failed to implement CDD requirements.

Implementation point No. 2 – *Concerns about the identification and verification of legal persons due to the deficiencies identified in Recommendation 33 and NAPR.*

44. The concerns still remain as no information was provided with regard to progress on Recommendation 33.

Implementation point No. 3 – *Poor compliance with the obligation to understand the ownership and control structure of the customer in all circumstances regardless of the amount of transaction or ownership control.*

45. See Recommended action 10 below.

Implementation point No. 4 – *Banks applying simplified CDD in some cases of opening current accounts, including with countries not compliant with FATF standards.*

46. See Deficiency 6 and 7 above.

Implementation point No. 5 – *Poor implementation of enhanced due-diligence requirements to risky customers.*

47. The AML/CFT Law was amended on 24 December 2014 to regulate the use of the enhanced CDD measures (Article 6.13). The amendments require reporting entities to implement the CDD measures on a risk-sensitive basis. In particular, the enhanced client identification and verification procedure must be applied considering various risk criteria/factors.

48. Following the amendments introduced to the AML/CFT Law, the FMS made changes to the relevant regulations of the reporting entities in order to specify the enhanced CDD measures and set the minimum requirements that must be implemented with respect to high-risk clients. The regulations also require the reporting entities to define relevant high-risk criteria/factors, and identify the high-risk clients based on these criteria.

Implementation point No. 6 – *Very poor implementation of measures applied to identify legal arrangements.*

49. The AML/CFT Law requires all reporting entities to identify customers and verify their identity (Article 6). Customers include natural persons and legal entities, as well as legal arrangements that use the services of reporting entities (Subparagraphs "q^{1}" and "y" of Article 2). FMS regulations elaborate on the type of data and documents that must be obtained by reporting entities to identify and verify legal arrangements.

50. In addition, the NBG adopted amendments to the Instruction on Opening Accounts by Commercial Banks on 12 September 2014 that require commercial banks to request the duly legalised or notarised copies of foreign documents or copies of such documents attested by an apostil when opening a bank account (Article 10.1^{3})

51. The NBG also adopted the relevant regulations to make sure that the commercial banks' risk based approach, as well as their KYC policies prioritise the application of special procedures to verify the authenticity and accuracy of the documents and information necessary for the client's identification. In particular, the Guidance on the Risk Based Approach to Combating Illicit Income Legalization and Terrorism Financing was amended on 9 September 2014 to require the FIs to pay special attention to non-resident legal entities when opening accounts or providing any other services. These amendments should assist commercial banks in verifying the authenticity and accuracy of documents provided by non-resident legal entities.

52. The NBG adopted the new Banks' Onsite Inspection Methodical Manual Concerning the Prevention of Illicit Income Legalization on 21 April 2015. It requires commercial banks to request and obtain from non-resident legal persons the documents necessary for the identification of legal arrangements in the form of duly verified or legalized copies. The new manual also introduced targeted inspections of commercial banks based on the ML/FT risk level that will ensure the compliance with the new regulations. The identification and verification of clients with particular features (Article 6.4) and the KYC policies of commercial banks, including the implementation of special procedures to verify the authenticity and accuracy of documents and information necessary for client identification (Paragraphs 18 and 19 of Article 12), are now designated as one of the key areas of such targeted inspections.

53. In 2014, the NBG inspected six commercial banks and identified violations concerning the verification of documents presented by non-resident legal persons in four of them. The NBG issued recommendations to the commercial banks concerned to make sure that the documents of non-resident legal persons are duly verified. The NBG imposes sanctions on those banks that fail to implement its recommendations.

Implementation point No. 7 – *Poor implementation of the measures on information of purpose and nature of business.*

54. See Recommended action 20 below.

Implementation point No. 8 – *Poor compliance with the provision established for the timing of verification of the legal person's identity.*

55. No information has been provided with this regard.

Implementation point No. 9 – *Concerns on the CDD applied on brokerage and other intermediaries 'companies' customers operating through banks with omnibus accounts.*

56. No information was provided by the authorities in relation to this implementation point.

Implementation point No. 10 – *Impossible to assess implementation of the new AML/CFT framework (as amended on December 20, 2011), especially related to:*

- *requirement to determine whether the customer is acting on behalf of another person;*
- *requirement to incorporate those persons who exercise ultimate effective control over a legal person or arrangement;*
- *ongoing due diligence;*
- *timing on verification after starting the business relationship;*
- *identification and verification of CDD procedures on a risk-sensitive basis;*
- *application of the new requirement to the existing customers.*

57. It is difficult to assess any progress concerning the effective implementation of the new AML/CFT framework to a large extent from a desk-based review. However, according to the information provided, the NBG has been thoroughly examining the implementation of recently introduced requirements to the AML/CFT Law and secondary legislation which resulted in a number of sanctions being imposed on those FIs that failed to implement CDD requirements.

58. It was reported that in 2014, the NBG fined 71 currency exchange bureaus for the failure to determine the purpose and grounds of transactions and for violation of the identification requirements.

59. Furthermore, in 2014 the NBG inspected six commercial banks and identified violations concerning the verification of documents presented by non-resident legal persons in four of them. The NBG issued recommendations to the commercial banks concerned to make sure that the documents of non-resident legal persons were duly verified. The NBG also identified violations concerning the verification of beneficial owners in six commercial banks in 2014. The commercial banks concerned were given recommendations to improve the identification and verification procedure of beneficial owners and implement additional measures using the risk-based approach.

60. Moreover registration of 12 currency exchange bureaus has been revoked by the NBG in 2015 for grave violations of client identification procedure, including the requirement to understand the ownership and control structure of legal entities. In addition, it was reported that 2 money remittance institutions and several currency exchanges bureaus were fined by the NBG in 2015. Registration of 3 currency exchange bureaus was revoked in 2013 for the continued failure to determine the purpose and grounds of transactions.

Implementation point No. 11 – *Concerns on the adequacy of CDD measures when it is performed in banks' offices of representation.*

61. See Recommended action 8 below.

Implementation point No. 12 – *No identification carried out when legal entity representatives operate with money remittance companies.*

62. See Recommended action 7 below.

Recommended action No. 1 – *Regulate under the AML/CFT Law factoring activities, companies issuing meaning of payments such as credit and debit cards, and electronic money institutions.*

63. As stated under Deficiency 1, payment service providers, including electronic money providers have been designated as reporting entities under the amended AML/CFT Law. With respect to companies issuing meaning of payments, the authorities reported that payment means can only be issued by payment service providers, commercial banks or microfinance organizations under the Georgian legislation. All of them are reporting entities under the AML/CFT Law.

Recommended action No. 2 – *Issue regulations (FMS decrees) for leasing activities.*

64. See Deficiency 2 above.

Recommended action No. 3 – *Pass legislation on the issuing of bearer instruments (e.g., bearer checks).*

65. No information has been provided by the authorities in this respect.

Recommended action No. 4 – *Either regulate or prohibit the use of numbered accounts;*

Recommended action No. 5 – *Ensure that in the case of numbered accounts, full CDD Report on compliance is applied.*

66. See Deficiency 3 above.

Recommended action No. 6 – *Remove the identification threshold for customers in order to ensure all customers are identified and verified when establishing business relationships.*

67. See Deficiency 4 above.

Recommended action No. 7 – *Ensure that representatives of the legal entities are identified and CDD measures applied when these entities engage in business with money remittance and money exchange services providers.*

68. The FMS Regulation on Receiving, Systemizing and Processing the Information by Currency Exchange Bureaus and Forwarding to the Financial Monitoring Service of Georgia (Subparagraph "b.a" of Article 5.12) requires currency exchange bureaus to obtain the identification data on the person representing the legal entity in a transaction.

69. The NBG Decree on Registration and Regulation of Currency Exchange Bureaus was amended on 26 September 2013 (Article 5.2.c) to require the currency exchange bureaus to obtain and record the information about legal entities and their representatives in an electronic database, and keep the copies of receipts containing the same data for AML/CFT supervision purposes.

70. The NBG also adopted amendments to Article 8.1 of the Exchange Bureau's and Money Remittance Service Provider's Onsite Inspection Methodic Manual Concerning the Prevention of Illicit Income Legalization on 9 September 2014 to require both the currency exchange bureaus and money remitters, before establishing the business relationship, to determine whether the client is representing a legal entity. The amendments to the Manual also impose the obligation on currency exchange bureaus and money remittance organisations to adopt the necessary procedure for determining whether the client is representing a legal entity.

71. The authorities reported that according to the regulations issued both by the FMS and the NBG the currency exchange bureaus are expected to determine whether their clients are acting as representatives of legal entities or not. In 2014, the NBG fined 71 currency exchange bureaus for the failure to determine the purpose and grounds of transactions and for violation of the identification requirements.

Recommended action No. 8 – *Ensure that full CDD measures are equally applied to all bank financial groups' customers including those from the representative's offices.*

72. Georgian commercial banks do not have branches in foreign jurisdictions. Nonetheless, in accordance with Article 10^1.2 of the Law on of Georgia on Commercial Banks, when the host country does not require the bank's subsidiary to fulfil the FATF Recommendations, or has weak AML/CFT systems in place, the commercial bank shall:

    - Assume the obligation in writing that its subsidiary will follow the AML/CFT requirements under Georgian legislation and the FATF Recommendations;
    - Inform the NBG if the subsidiary's host country restricts or prohibits the application of the AML/CFT measures provided by the Georgian legislation and the FATF Recommendations.

73. In the course of on-site inspections, the NBG requests commercial banks to provide their group AML/CFT policy documents, including those related to foreign branches, in order to assess the overall AML/CFT policy of a bank financial group and determine whether it complies with Georgia's AML/CFT legislation.

74. Furthermore, the NBG introduced amendments to the Guidance on the Risk Based Approach to Combating Illicit Income Legalization and Terrorism Financing on 9 September 2014 to require the FIs to make sure that their subsidiaries and branches registered abroad identify and verify the clients in accordance with the Georgian AML/CFT legislation.

75. The NBG also adopted the new Banks' Onsite Inspection Methodic Manual Concerning the Prevention of Illicit Income Legalization on 21 April 2015 to ensure that the NGB inspectors examine whether the subsidiaries and branches of the commercial banks properly follow this rule.

Recommended action No. 9 – *Ensure that the legal status of foreign legal entities is adequately verified.*

76. The NBG adopted amendments to the Instruction on Opening Accounts by Commercial Banks on 12 September 2014. The amendments require the commercial banks to obtain duly legalised, of

foreign documents necessary for opening bank accounts, which are attested by apostil or notarised.

77. The NBG also adopted the new Banks' Onsite Inspection Methodical Manual Concerning the Prevention of Illicit Income Legalization on 21 April 2015. The manual provides for targeted inspections considering the ML/FT risk level in a particular commercial bank. The implementation of the procedure to verify the authenticity and accuracy of documents provided by non-resident legal persons is one of key subjects of such targeted inspections.

78. In 2014 the NBG inspected six commercial banks and identified violations concerning the verification of documents presented by non-resident legal persons in four of them. The NBG issued recommendations to the commercial banks concerned to make sure that the documents of non-resident legal persons were duly verified. The NBG imposes sanctions on those banks that fail to implement its recommendations.

79. It remains unclear however, whether the same requirements are provided for other FIs.

Recommended action No. 10 – *Introduce a requirement in the AML/CFT law for FIs to understand the ownership and control structure of the customer in line with the UBO guidelines*.

80. The AML/CFT Law (Article 6, Paragraph 10^1) was amended on 24 December 2014 to ensure that all reporting entities understand the ownership and control structure of their clients. Following the amendment of the AML/CFT Law, the FMS regulations for reporting entities on receiving, systemizing, processing and forwarding the information to the FMS were amended accordingly to include the new provision on understanding the ownership and control structure of legal entities.

81. In addition, under the amendments introduced to the NBG Guidance on the Risk Based Approach to Combating Illicit Income Legalization and Terrorism Financing (Article 6.3) on 9 September 2014, the FIs are required to include the procedure for identification and verification of the clients' ownership and control structure in their own KYC policies.

82. The same requirement was also reflected in the amendments adopted by the NBG to the Exchange Bureau's and Money Remittance Service Provider's Onsite Inspection Methodic Manual Concerning the Prevention of Illicit Income Legalization on 9 September 2014.

83. The NBG thoroughly examines the implementation of this requirement by currency exchange bureaus and money remittance organisations. In particular, registration of 12 currency exchange bureaus has been revoked by the NBG in 2015 for grave violations of client identification procedure, including the requirement to understand the ownership and control structure of legal entities.

84. Furthermore, the NBG adopted the new Banks' Onsite Inspection Methodic Manual Concerning the Prevention of Illicit Income Legalization on 21 April 2015. The manual authorises the NBG to undertake targeted inspections considering the ML/FT risk level in a particular commercial bank. KYC policies are one of the key objectives of such targeted inspections.

85. The new Onsite Inspection Manual also contains specific requirements (Article 11.4) for the NBG inspectors to examine how effectively banks understand the ownership and control structure of their clients.

86. The NBG Guideline on the Identification and Verification of the Client's Ultimate Beneficial Owner (UBO) also requires FIs to understand the ownership and control structure of legal entities.

Recommended action No. 11 – *Introduce a requirement in the AML/CFT Law to terminate the business relationship where the financial institution has commenced the business relationship and is unable to*

comply with CDD requirements described in criteria c.5.3. to c. 5.5 of the common assessment methodology.

87. See Deficiency 5 above.

Recommended action No. 12 – *Amend the guidelines to make a clearer distinction between riskier financial products, services or customers and what is the operative that should be detected as a "red flag' and as a consequence analysed closely.*

88. The NBG amended the Guidance on the Risk Based Approach to Combating Illicit Income Legalization and Terrorism Financing on 9 September 2014. The amendments to Article 4 (c.1) set forth more detailed guidelines on the risks associated with clients and provide for the comprehensive list of risky clients (PEPs, entities registered in the watch zone or organizing casinos and other commercial games, etc.) that must be thoroughly assessed and subjected to enhanced CDD measures.

89. A list of high risk products in the Guidance was also set out (Article 4.b.2) which includes non-personalised prepaid cards, transactions through "escrow accounts", nominee accounts, etc. This list is not exhaustive and FIs may designate other risky clients, activities and products based on various risk factors. Furthermore, the category of the geographic risk was amended to include those countries with weak AML/CFT controls or those subject to sanctions or similar measures by relevant international organisations (e.g. UN Security Council).

Recommended action No. 13 – *Amend the AML/CFT Law explicitly stating when simplified measures may be applied. Such measures should only be allowed for countries that effectively apply FATF recommendations.*

Recommended action No. 14 – *Amend the AML/CFT Law to prohibit applying simplified CDD measures when there is a suspicion of ML/FT or in cases of high risks.*

90. See Deficiency 6 and 7 above.

Recommended action No. 15 – *Ensure that FIs look back at all existing customers and apply CDD procedures according to the new AML/CFT Law focused on the more important business lines and clients, and risks.*

91. See Deficiency 9 above.

Recommended action No. 16 – *With respect to trusts, ensure that trustee clients and the settlers and persons who exercise the ultimate effective control of the trust and beneficiaries are identified.*

92. The NBG Guidance on the Risk Based Approach to Combating Illicit Income Legalization and Terrorism Financing was amended on 9 September 2014. The amendments provide the comprehensive list of risky clients that must be thoroughly studied and subjected to the enhanced CDD measures. Thus, under Article 4 (c.1) FIs are required to pay special attention to "clients providing trust services or registered by the trust agent".

Recommended action No. 17 – *Ensure that all providers of financial services are identified and CDD applied when operating with banks.*

93. The problem identified in the 2012 fourth round assessment report concerned the owners of currency exchanged bureaus who acted as individuals in their dealings with the commercial banks.

94. According to the Georgian authorities, in 2014, the NBG conducted onsite inspections in six commercial banks and found that the banks did not face problems in identifying the individuals representing currency exchange bureaus. The commercial banks rely on the registry of currency exchange bureaus (available online), which is maintained and regularly updated by the NBG, and

includes the information about all currency exchange bureaus operating in Georgia, including the identification data of their owners. The banks have also been able to identify such clients based on the turnover and nature of transactions performed.

95. Furthermore, the NBG developed the Money Laundering Matrix, which is aimed at strengthening the NBG's offsite (risk-based) supervisory function. The Matrix includes the information about the clients (legal entities) providing non-regulated financial services (e.g. issuing loans). This data assists the NBG in determining and thus, paying closer attention, in the course of onsite inspections, to the concentration of non-regulated financial services in a particular commercial bank.

Recommended action No. 18 – *Ensure that FIs identify and verify and have an understanding of the ownership and control structure of the customer in all circumstances regardless of amount of transaction or ownership control.*

96. See Recommended action 10 above.

Recommended action No. 19 – *Ensure that the new provisions of the AML/CFT law with regard to the identification and verification of the beneficial owner are applied and that all monitoring entities, specially:*

- *Ensure that FIs determine whether the customer is acting on behalf of another person;*
- *Ensure that FIs incorporate those persons who exercise ultimate effective control over a legal person or arrangement.*

97. According to the authorities, the NBG pays special attention to the application of identification and verification procedures by commercial banks based on the AML/CFT Law and the NBG Guideline on the Identification and Verification of Clients' Ultimate Beneficial Owner (UBO). In 2014, the NBG inspected six commercial banks and identified violations concerning the verification of beneficial owners. The commercial banks concerned were given recommendations to improve the identification and verification procedure of beneficial owners and implement additional measures using the risk-based approach. The NBG imposes sanctions on those banks that fail to implement its recommendations.

98. The AML/CFT Law was amended on 24 December 2014 to ensure that all reporting entities understand the ownership and control structure of their clients. In particular, the following Paragraph 10^1 was added to Article 6 of the AML/CFT Law:

> *"10^1. The reporting entity shall be required to obtain the information about the nature of business activity, ownership and control structure of the legal entity (including the organizational formation (arrangement) not registered as the legal entity) when undertaking the identification and verification procedure."*

99. Following the amendment of the AML/CFT Law, the FMS regulations for reporting entities on receiving, systemizing, processing and forwarding the information to the FMS were amended accordingly to include the new provision on understanding the ownership and control structure of legal entities.

100. In addition, under the amendments introduced to the NBG Guidance on the Risk Based Approach to Combating Illicit Income Legalization and Terrorism Financing on 9 September 2014, the FIs are required to include the procedure for identification and verification of the clients' ownership and control structure in their own KYC policies.

101. The NBG Guideline on the Identification and Verification of the Client's Ultimate Beneficial Owner (UBO) also provides for the requirement of FIs to understand the ownership and control structure of legal entities. Specifically, Article 3.1 of the guideline reads as follows:

"The financial institution shall carry out effective measures to identify the beneficial owner of the legal entity, including to:

- *Obtain and analyze information about the organizational structure, ownership and control scheme of the legal entity."*

Recommended action No. 20 – *Ensure effective implementation of the measures on information of purpose and nature of business.*

102. The AML/CFT Law was amended on 24 December 2014 to ensure that the reporting entities obtain information about the purpose and intended nature of the business relationship. In particular, the following Paragraph 10^2 was added to Article 6 of the AML/CFT Law:

"10^2. The reporting entity shall be required to implement appropriate measures for obtaining the information about the purpose and intended nature of the business relationship."

103. Following the amendment of the AML/CFT Law, the FMS regulations, NBG Guidance and Onsite Inspection Methodic Manual on AML/CFT were amended respectively to include the requirement on obtaining information about the purpose and intended nature of the business relationship.

104. The NBG also adopted the new Banks' Onsite Inspection Methodic Manual Concerning the Prevention of Illicit Income Legalization on 21 April 2015. The new onsite inspection manual contains specific requirements for the NBG inspectors to examine how effectively banks understand the purpose and intended nature of the business relationship (Article 11.4). Furthermore, the new manual requires the NBG inspectors to examine whether commercial banks apply the enhanced CDD measures with respect to clients posing high ML/FT risk, including by obtaining additional information about the purpose and intended nature of the business relationship.

105. In 2014, the NBG conducted inspections in six commercial banks and identified a number of violations concerning the implementation of the requirement to identify the purpose and intended nature of the business relationship. The commercial banks concerned were given recommendations and warned that sanctions would follow should they fail to implement the recommendations.

106. The NBG has also been examining the implementation of this requirement by other FIs, including currency exchange bureaus and money remittance institutions. In particular, 2 money remittance institutions and several currency exchanges bureaus were fined by the NBG in 2015. Registration of 3 currency exchange bureaus was revoked in 2013 for the continued failure to determine the purpose and grounds of transactions.

Recommended action No. 21 – *Ensure that full CDD measures are applied to all existing customers.*

107. See Deficiency 9 above.

Recommended action No. 22 – *Regulate the cases where FIs may complete the verification of the identity of the customers and beneficial owner after the establishment of the relationship.*

108. See Deficiencies 6, 7 and 8 above.

Recommended action No. 23 – *Include the prohibition of anonymous accounts in all FMS regulations, such as the ones for insurance or securities companies.*

109. The AML/CFT Law was amended on 24 December 2014 to extend the prohibition on the anonymous accounts from the FIs to all reporting entities. In particular, Article 6.9 of the AML/CFT Law was amended to read as follows:

"The reporting entities shall be prohibited to open and/or maintain anonymous accounts or accounts in fictitious names."

110. Following the amendments introduced to the AML/CFT Law, the FMS included the prohibition on anonymous accounts in its regulations on receiving, systemizing, processing and forwarding information to the FMS for all reporting entities, including the insurance and securities companies.

Recommended action No. 24 – *Clarify to FIs the applicability for CDD with respect to business relations and occasional transactions.*

111. The information on the applicability for CDD *with respect to business relations and occasional transactions provided in Article 6 of* the NBG Instruction on Opening Accounts by Commercial Banks and Article 6 of the AML Law. According to the provisions of these articles individuals and legal entities seeking to establish a business relationship with a commercial bank, can only do so by opening an account, which is necessary for undertaking any bank transaction (except for occasional operations such as paying utility bills).

112. In a similar manner, under the Rule on Performing Notarial Acts, the notaries are required to undertake equally strong identification procedure as demanded by the AML/CFT Law, when establishing the business relationship and before certifying any transaction or carrying out other notarial acts.

113. Furthermore, the entities organizing gambling or other commercial games are required to identify each participant of such games under the Law of Georgia on Lotteries, Gambling and Other Commercial Games.

114. The remaining reporting entities perform transactions (provide services) based on the contractual relationship only, which includes the identification and verification of the clients, and obtaining the necessary identification data (documents).

Recommended action No. 25 – *Review the legal framework to ensure that legal person's representatives are always identified no matter which type of financial entity provides the service.*

115. The legal framework (see Recommended action 7) now requires that representatives of currency exchange bureaus and money remittance services, which are legal persons, are always identified. In fact, all financial institutions are required by both the AML/CFT Law (Art. 6.1) and relevant FMS or NBG regulations to identify legal person's representatives.

Recommended action No. 26 – *Create systems in place to recognize foreign trust doing business in Georgia.*

116. The NBG Guidance on the Risk Based Approach to Combating Illicit Income Legalization and Terrorism Financing was amended on 9 September 2014. The amendments provide the comprehensive list of risky clients that must be thoroughly studied and subjected to the enhanced CDD measures. Thus, under Article 4 (c.1) FIs are required to pay special attention to "clients providing trust services or registered by the trust agent".

Recommended action No. 27 – *Grant free access to the data in the Civil Registry.*

117. No information has been provided by the authorities in this regard.

Recommended action No. 28 – *Assist FIs to extend CDD measures on a risk-sensitive basis.*

118. See Recommended action 12 above.

Recommended action No. 29 – *Guide FIs to elaborate risk profiles on customers and products customized to Georgian economy and financial system characteristics.*

119. See Recommended action 12 above.

Effectiveness

120. It is difficult to assess any progress concerning the effective implementation of R. 5 to any large extent from a desk-based review. However, according to the information provided, the NBG has been thoroughly examining the implementation of recently introduced requirements of the AML/CFT Law and secondary legislation which resulted in a number of sanctions being imposed on those FIs that failed to implement CDD requirements.

Overall conclusion

121. It is very welcome that clear progress has been achieved by the Georgian authorities in addressing the numerous deficiencies identified under Recommendation 5. The majority of the action points have been dealt with as a result of the introduction of some key amendments to the legal acts including the AML/CFT Law.

Special Recommendation II - Criminalise terrorist financing (rating PC)

Deficiencies

- *The requirement for an act to "infringe upon public safety etc." to qualify as a terrorist act unduly narrows the scope of the terrorism offense.*
- *Scope of "terrorist acts" is too narrow. Not all offenses defined in the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation are criminalized under Georgian law and are thus not within the scope of Article 331/1. The financing of offenses under the International Convention for the Suppression of Terrorist Bombings is covered only where it can be established that such acts are carried out with terrorist intent.*
- *The definitions of the terms "terrorist" and "terrorist organization" are too narrow as they do not extend to all "terrorist acts" as defined under the FATF standard.*

Recommended actions

- *Amend Article 323 to remove the requirement that an act "infringes upon public safety, etc."*
- *Criminalize all offenses defined in the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and include them within the scope of Article 331/1.*
- *Ensure that offenses under the International Convention for the Suppression of Terrorist Bombings fall within the scope of Article 331/1 also in cases where no terroristic intent can be proven.*
- *Define the terms "terrorist" and "terrorist organization" in line with the FATF standard by covering within the scope of "terrorist activity" all terrorist acts as defined under the FATF standard.*

Measures adopted and implemented

Deficiency No.1 – *The requirement for an act to "infringe upon public safety etc." to qualify as a terrorist act unduly narrows the scope of the terrorism offense.*

122. The additional element concerning the "infringement upon public safety, strategic, political and economic state interests" was removed from Article 323 (Terrorist act), Article 324 (Technological Terrorism) and Article 324^1 (Cyber Terrorism).

Deficiency No.2 – *Scope of "terrorist acts" is too narrow. Not all offenses defined in the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation are criminalized under Georgian law and are thus not within the scope of Article 331/1. The financing of offenses under the International Convention for the Suppression of Terrorist Bombings is covered only where it can be established that such acts are carried out with terrorist intent.*

123. Article 227^3 (Posing a Danger to Navigation of an Aircraft) was amended to criminalise the offence under the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

124. Article 229 (Explosion) was amended for the purpose of covering financing of terrorism offenses under the International Convention for the Suppression of Terrorist Bombings when such acts are carried out without terrorist intent (the same acts committed with terrorist intent are covered by Article 323).

125. Articles 227^3 and 229 were added to the list of terrorist acts provided in Article 331^1 (Terrorism Financing).

Deficiency No.3 – *The definitions of the terms "terrorist" and "terrorist organization" are too narrow as they do not extend to all "terrorist acts" as defined under the FATF standard.*

126. On 27 November 2013 the terrorism financing offence under the CCG (Article 331^1) was amended to extend the terms "terrorist" and "terrorist organization" to persons participating in the offences provided for by Article 144 (Taking a Hostage), Article 227 (Illegal Seizure of Flying Object or Water Vessel or Movable Railway Corpus), Article 227^1 (Creation of a Threat to a Vessel's Navigation), Article 227^2 (Illegal Appropriation, Destruction or Damaging of Stationary Platform), Article 227^3 (Posing a Danger to Navigation of an Aircraft), Article 229 (Explosion), Article 230 (Illegal Handling of Nuclear Material or Device, Radioactive Waste or Radioactive Substance), Article 231 (Seizure of Nuclear Material, Radioactive Substance or Other Source of Ionizing Exposure), Article 231^1 (Threat of Illegal Appropriation of Nuclear Substances) and Article 231^2 (Threat to Seize or Use Nuclear Substance Illegally).

127. The latest amendments to the terrorism financing offence under the CCG (Article 331^1) introduced on 4 April 2014, expanded the scope of TF offence to include the acts of providing services or resources to terrorists or terrorist organisations, and harbouring or sheltering terrorists.

Recommended action No. 1 – *Amend Article 323 to remove the requirement that an act "infringes upon public safety, etc."*

128. See Deficiency 1 above.

Recommended action No. 2 – *Criminalize all offenses defined in the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and include them within the scope of Article 331/1.*

129. See Deficiency 2 above.

Recommended action No. 3 – *Ensure that offenses under the International Convention for the Suppression of Terrorist Bombings fall within the scope of Article 331/1 also in cases where no terroristic intent can be proven.*

130. See Deficiency 2 above.

Recommended action No. 4 – *Define the terms "terrorist" and "terrorist organization" in line with the FATF standard by covering within the scope of "terrorist activity" all terrorist acts as defined under the FATF standard.*

131. See Deficiency 3 above.

Effectiveness

132. There were no investigations, prosecutions or convictions in Georgia for the terrorism financing crime until 2015. Two investigations on TF were initiated by Georgia in the first half of 2015, which are still underway.

Overall conclusion

133. The Georgian authorities have taken steps to address the deficiencies related to SR.II in the 4th round MONEYVAL report. The adopted amendments to the Criminal Code appear to have brought Georgian legislation in line with Special Recommendation II. It is therefore concluded that this Recommendation is now at a level equivalent to largely compliant.

III. Review of the measures taken in relation to the Key Recommendations rated PC

134. This section sets out the Secretariat's detailed analysis of the progress, which Georgia has made in relation to the Key Recommendations rated PC.

Recommendation 23 – Regulation, supervision and monitoring (rating PC)

Deficiencies

- *The supervisory cycle is relatively long for some institutions such as currency exchange bureaus and money remittance operators, even though their risk profile warrants a more intensive approach.*
- *Electronic money institutions are not subject to AML/CFT supervision.*
- *The effective implementation of significant reforms introduced in February 2012 (such as fit and proper tests for several categories of financial institutions; establishing a systematic AML offsite function, and developing a supervisory plan for on-site inspections) could not be tested.*
- *Reform in the fit and proper tests will not apply retrospectively to the existing 1485 currency exchange bureaus and money remitters.*

Recommended actions

- *Initiate the practical implementation of the significant reforms introduced in February 2012 as soon as resources are available. These reforms included the introduction of fit and proper tests for several categories of financial institutions; establishing an AML off-site function; and developing a supervisory plan for on-site inspections.*
- *Consider re-orientating its on-site inspection approach with the objective of ensuring that financial institutions have proper risk management processes to ensure compliance with AML laws and regulations and to control and mitigate ML and TF risks from the activities of the financial institutions rather than focusing its on-site inspection to detect violations which call for a monetary fine.*
- *Impose AML/CFT requirement against electronic money institutions.*

Measures adopted and implemented

Deficiency No.1 – *The supervisory cycle is relatively long for some institutions such as currency exchange bureaus and money remittance operators, even though their risk profile warrants a more intensive approach.*

135. The NBG amended the Policy of the NBG on Facilitating the Prevention of ML/TF on 9 September 2014 to shorten the inspection cycles for currency exchange bureaus - from 5 to 3

years – and for money remittance organizations - from 4 to 3 years. Moreover, the NBG plans to extend the risk-based supervision to non-banking FIs. Thus, the inspection cycle may be further shortened based on the risk level in the activity of a particular currency exchange bureau or money remittance provider.

Deficiency No.2 – *Electronic money institutions are not subject to AML/CFT supervision.*

136. The AML/CFT Law was amended on 24 December 2014 to designate electronic money providers as reporting entities and the NBG as their supervisor for AML/CFT purposes.

Deficiency No.3 – *The effective implementation of significant reforms introduced in February 2012 (such as fit and proper tests for several categories of financial institutions; establishing a systematic AML offsite function, and developing a supervisory plan for on-site inspections) could not be tested.*

137. On the effective implementation of the reforms introduced in February 2012[3] the authorities reported that fit and proper criteria for owners of significant share (10%), and payment service providers, including e-money institutions were amended in the same year.

138. It was also reported that the NBG developed the risk-based supervisory framework for commercial banks that will also extend to non-banking FIs. In particular, the offsite risk-based supervision aims to assess the ML/FT risks and the adequacy of internal controls in each particular bank, and determine the appropriate supervisory measures. The risk level of the commercial bank will be determined in accordance with the rating system that is stipulated in the recently adopted Manual of Offsite Supervision of Money Laundering and Terrorism Financing Risk in Commercial Banks.

139. The NBG also developed the Money Laundering Matrix, which aims to strengthen the NBG's offsite (risk-based) supervisory function. In particular, by completing the Matrix, commercial banks will provide the NBG with detailed information about their products, customers, correspondent banking relationships and AML/CFT controls, and assign risk levels to each of these elements.

140. The Risk Assessment Form serves as an internal instrument of the NBG to assess the data obtained through the Matrix and allocate the risk levels for each assessment component. The overall risk level of the commercial bank is determined based on the average risk level of all the assessment components. Thus, the Matrix, along with the Risk Assessment Form, allows the NBG to both determine the overall risk involved in the activity of the commercial bank, as well as to single out and thereby pay special attention (during offsite and onsite inspections) to specific areas carrying the high ML/FT risk.

141. The NBG adopted the new Banks' Onsite Inspection Methodic Manual Concerning the Prevention of Illicit Income Legalization on 21 April 2015. The new onsite inspection manual also emphasizes the importance of the Matrix. Article 4.1 stipulates that the Matrix is one of the core parts of the on-site inspection plan. The information obtained through the Matrix must be carefully studied and taken into account when preparing for the on-site inspections in order to focus on risky areas of the bank's activity (customers, products) and appropriately allocate the available resources.

142. Furthermore, the Manual provides for the comprehensive, targeted and additional inspections of the commercial banks, which must be based on the data obtained through the offsite supervision.

[3] Such as fit and proper tests for several categories of financial institutions; establishing a systematic AML off-site function, and developing a supervisory plan for on-site inspections.

Deficiency No.4 – *Reform in the fit and proper tests will not apply retrospectively to the existing 1485 currency exchange bureaus and money remitters.*

143. The NBG developed draft amendments to Regulations on Currency Exchange Bureaus and Money Remittance Providers to require all existing currency exchange bureaus and money remittance providers (including those established before 26 September 2013 and 7 February 2012 respectively) to meet the fit & proper requirements by providing the criminal record certificates by 30 December 2015.

Recommended action No. 1 – *Initiate the practical implementation of the significant reforms introduced in February 2012 as soon as resources are available. These reforms included the introduction of fit and proper tests for several categories of financial institutions; establishing an AML off-site function; and developing a supervisory plan for on-site inspections.*

144. See Deficiency 3 above.

Recommended action No. 2 – *Consider re-orientating its on-site inspection approach with the objective of ensuring that financial institutions have proper risk management processes to ensure compliance with AML laws and regulations and to control and mitigate ML and TF risks from the activities of the financial institutions rather than focusing its on-site inspection to detect violations which call for a monetary fine.*

145. See Deficiency 3 above.

Recommended action No. 3 – *Impose AML/CFT requirements against electronic money institutions.*

146. See Deficiency 2 above.

Effectiveness

147. The inspection cycles have been shortened for currency exchange bureaus and money remittance operators and the new Money Laundering Matrix was developed to strengthen the NBG's offsite (risk-based) supervisory function. However it is difficult to adequately assess improvements in effectiveness from a desk-based review.

Overall conclusion

148. Taking into consideration the measures that have been adopted and implemented to address the deficiencies under Recommendation 23 it can be concluded that from this desk review compliance with recommendation 23 is now at a level equivalent to largely compliant.

Recommendation 26 – the FIU (rating PC)

Deficiencies

- *Only one annual report is available online (published in January 2012), and it does not include ML/FT typologies and trends.*

Implementation

- *Lack of guidance on the manner of reporting including with respect to reporting forms which are complicated and confusing to reporting entities.*
- *No requests for additional/follow-up information have been addressed to nonbank financial institutions and DNFBPs.*

Effectiveness

- *Lack of effectiveness in the receipt of STRs regarding potential terrorist financing and ML/FT STRs from several sectors (i.e. bureau de change). Effectiveness has not been established regarding some new reporting entities (e.g., leasing companies and accountants).*
- *Lack of use of the FMS powers to access some law enforcement information (i.e., investigation, prosecution, and trial records).*
- *Poor quality of analysis of STRs and other information mostly due to lack of analytical tools and weak quality of reporting.*
- *Low level of dissemination to PO and MIA (between 5 to 15 cases a year).*
- *Increase in the workload without a corresponding increase in the budget. The limited financial resources and decrease in human resources (around 40 percent since 2007) combined with increased level of reporting affect the effectiveness of the core functions of the FMS, mainly the analysis and dissemination of reports.*

Recommended actions

- *Amend the AML/CFT Law to require the real estate agents, lawyers, TCSPs, and electronic money institutions to report suspicious transactions that will enhance the receipt function of the FMS and allow it to request additional information from these sectors.*
- *Publish periodic annual reports with comprehensive statistics, typologies, and trends of money laundering and terrorist financing as well as information regarding its activities.*
- *Provide reporting entities with comprehensive guidance on the manner of reporting including clear reporting forms.*
- *Ensure that FMS asks nonbank financial institutions and DNFBPs for additional information when the information is correlated to another received information.*
- *Ensure that FMS have access to other law enforcement information like the investigation, prosecution, and trial records held by the MOJ. Open sources should also be used frequently.*
- *Ensure that FMS strengthens the quality of its STRs and other information analysis, in particular, by undertaking more in-depth operational and strategic analysis that could lead to improving the quality and quantity of disseminated reports. This could be achieved by, among other things (i) introducing an automated filtering system in order to allow pre-screening of information flow and generation of red flags and treating STRs differently from other received information; (ii) integrating the FMS database with the databases the FMS can access to allow matching information and identifying patterns; (iii) introducing analytical software to visualize complex schemes, and (iv) increasing the number of analysts.*

Measures adopted and implemented

Deficiency No.1 – *Only one annual report is available online (published in January 2012), and it does not include ML/FT typologies and trends.*

149. The FMS's annual activity reports are currently available online in both Georgian and English. The reports include statistics of the reports (STRs & CTRs) received from the reporting entities and the cases disseminated to the law enforcement authorities for further investigation. The reports also provide the results of the strategic analysis conducted by the FMS analysts, including the typology of most frequently used ML/FT techniques and other major trends in the field.

Implementation point No.1 – *Lack of guidance on the manner of reporting including with respect to reporting forms which are complicated and confusing to reporting entities.*

150. The FMS guidance on the reporting procedure (User Manual on Rules and Procedure of Completing Reporting Forms) is available on the FMS's web-site for each reporting entity. The

notaries and the National Agency for Public Registry (NAPR) have their own reporting instructions, since they maintain separate reporting systems that are linked to the FMS web-portal. The User Manuals:

- Regulate the registration of the reporting entities on the FMS's web-portal;
- Provide instructions on the completion of each field in the electronic reporting form;
- Specify the procedure for submitting reports and receiving feedback from the FMS.

151. The User Manual is a comprehensive, 40-page document that explains in detail the procedure for compiling and submitting each type of report (STRs & CTRs) by the reporting entities. The FMS has been regularly updating the User Manuals considering the needs of different reporting entities and changes made to the electronic reporting system, as well as for statistical purposes. In particular, the section on suspicious transactions was recently overhauled in each of the User Manuals to categorise STRs based on different grounds of suspicion. The reporting entities were also given the possibility to link their reports with the information submitted in the past. In addition, the section on receiving feedback from the FMS was updated to make sure that the reporting entities are informed about the status of their reports.

Implementation point No.2 – *No requests for additional/follow-up information have been addressed to nonbank financial institutions and DNFBPs.*

152. According to the authorities, the number of requests to obtain additional information sent to non-bank FIs has been steadily growing over the last few years. The FMS sent 8 requests for information to non-bank FIs in the first six months of 2015 compared to 7 requests throughout 2014 and only 2 requests in 2013. No requests however have been sent to DNFBPs.

Effectiveness issue No.1 – *Lack of effectiveness in the receipt of STRs regarding potential terrorist financing and ML/FT STRs from several sectors (i.e. bureau de change). Effectiveness has not been established regarding some new reporting entities (e.g., leasing companies and accountants).*

153. According to the statistics provided by the authorities (see statistical table on STRs provided in the report submitted by the Georgian authorities) the number of submitted STRs regarding potential TF remains very low. No or very low number of STRs has been provided during the last three years from several sectors such as insurance sector, currency exchange, casinos, lawyers, payment services.

Effectiveness issue No.2 – *Lack of use of the FMS powers to access some law enforcement information (i.e., investigation, prosecution, and trial records).*

154. According to the Georgian authorities, the FMS has access to various law enforcement and other information/databases pursuant to the Georgian legislation and the cooperation agreements signed with LEAs (such as the Memorandum of Understanding on Raising the Effectiveness of Inter-Agency Cooperation in the Law Enforcement Field between the Ministries of Finance, Internal Affairs, and Justice, the Chief Prosecutor's Office and the FMS).

155. The FMS has direct access to the law enforcement and other relevant information through the databases run by the Ministry of internal Affairs (MIA) and the Ministry of Finance (MOF), including:

- Criminal records database (MIA), which contains information on ML/FT related convictions and individuals detained, prosecuted, wanted or on probationary treatment for ML/FT-related crimes, as well as firearms registration, missing individuals and vehicles.
- Police database (MIA), which includes the identification data on Georgian citizens, passports and photos, as well as the data on vehicle registration and border crossing.

- Tax database (MOF), which includes the financial records on companies and individual entrepreneurs, declared taxes, revenues, import/export and other activities.

156. With respect to the access to trial records (referred to in the 5th bullet-point of the rating box) the authorities clarified that the FMS is authorised to request and obtain the relevant information from the LEAs under the AML/CFT Law (Article 10.4.e) concerning specific cases. However, the FMS has no need to access the internal case management system of the Prosecutor's Office.

157. It was also reported that the FMS uses a wide variety of publicly available (open) sources for obtaining the necessary intelligence.

Effectiveness issue No. 3 – *Poor quality of analysis of STRs and other information mostly due to lack of analytical tools and weak quality of reporting*

158. The authorities reported that the FMS is regularly upgrading its software and analytical tools in order to improve the quality of its analysis. The software employed by the FMS analysts provides the possibility of matching information and identifying patterns. In particular, the software allows for making matches between persons involved in STRs and CTRs, and other groups of persons, including public officials who filed financial disclosures, employees of currency exchange bureaus, individuals or companies involved in previous cases, the so called "control list" that consists of physical and legal persons from the ongoing cases, etc.

159. According to the authorities, the software also filters the information received from the reporting entities and the FMS analysts are immediately informed whenever STRs or CTRs match one of its red-flags. The improving analytical tools have assisted the FMS to increase the quality of its operational analysis, which resulted in an increased number of the cases disseminated to LEAs.

Effectiveness issue No. 4 – *Low level of dissemination to PO and MIA (between 5 to 15 cases a year).*

160. According to the statistics provided, the number of ML/FT related cases identified by the FMS and disseminated to the LEAs has increased significantly in the last several years. In particular, 83 cases were sent to the respective agencies of the Chief Prosecutor's Office and the Ministry Internal Affairs in 2014 compared to only 12 cases in 2012 and 15 cases in 2011. In the first six months of 2015, the FMS had already disseminated 40 cases to the LEAs.

	FIU Cases in the reference year			**Investigations**		**Related judicial proceedings in reference year – Number of cases**						**Related judicial proceedings in reference year – number of persons**					
						Prosecution (based on FIU disseminated cases)			**Convictions (final)**			**Prosecution (based on FIU disseminated cases)**			**Convictions (final)**		
	Under analysis at year end	**Archived in reference year**	**Reports disseminated for investigation**	**ML/ Other criminal offences**	**FT**	**ML**	**FT**	**Other criminal offences**	**ML**	**FT**	**Other criminal offences**	**ML**	**FT**	**Other criminal offences**	**ML**	**FT**	**Other criminal offences**
2013	102		55	20	-	-	-	11 (Fraud)	-	-	5 (Fraud)	-	-	13 (Fraud)	-	-	10 (Fraud)

2014	104		83	37	-	2		5			11	2		14			18
2015 (six months)	77		40	28[4]	2	1		4	1		4	1		4	1		6
Note	*Additional 16 reports in 2013 and 26 reports in the 1st half of 2014 were attached to the other ongoing criminal cases, owing to the particular relevance to those cases. As a result of the activities carried out on the basis of the provided information number of individuals became subject to the criminal prosecution.*																

161. According to the authorities, this increase occurred due to the improvement of the software (see the previous effectiveness issue) and the increased quality of STRs received by the FMS. The latter was made possible through the intensive awareness-raising work (consultative meetings, training-seminars, publication of typologies, etc.) undertaken by the FMS and the supervisory bodies in order to make sure that the AML/CFT requirements are properly understood and implemented by reporting entities.

Effectiveness issue No. 4 – *Increase in the workload without a corresponding increase in the budget. The limited financial resources and decrease in human resources (around 40 percent since 2007) combined with increased level of reporting affect the effectiveness of the core functions of the FMS, mainly the analysis and dissemination of reports.*

162. The Georgian authorities reported that the decrease in human resources (around 40%) in the FMS in 2007 occurred due to the transfer of its regulatory powers to another public agency - the Financial Supervision Service. In particular, the FMS was exercising the regulatory authority for securities registrars' and insurance companies before 2008. The employees of the FMS who had been in charge of the regulatory functions moved to the Financial Supervision Service, when the change occurred. Thus, in the opinion of the authorities, the decrease in the number of employees was commensurate with the decline in the overall responsibilities of the FMS and did not impact its effectiveness (see the previous section).

163. As for the annual budget of the FMS, it was reported that this has been steadily increasing over the years. This allowed the FMS to hire new employees (two employees hired in 2014) and to keep salaries high. In particular, the monthly salary of the FMS's analyst - 2,300 GEL (920 EUR) - is almost three times higher than the average monthly pay in Georgia - 850 GEL (340 EUR) - and more than 50% higher than the average monthly salary in the financial sector - 1,500 GEL (600 EUR), which provides the highest paid jobs in the private sector of the economy of Georgia.

Recommended action No. 1 – *Amend the AML/CFT Law to require the real estate agents, lawyers, TCSPs, and electronic money institutions to report suspicious transactions that will enhance the receipt function of the FMS and allow it to request additional information from these sectors.*

164. The AML/CFT Law was amended in 2013 and 2014 to designate lawyers and payment service providers, including electronic money providers as the reporting entities for AML/CFT purposes. With respect to trusts, the Moneyval 2012 assessment report recognized that the FATF Recommendation 34 is not applicable to Georgia. In addition, Georgia has not signed the Hague

[4] 12 investigations were launched on the alleged facts of ML and 16 investigations - in relation to other offences

Convention on the Law Applicable to Trusts and the MONEYVAL evaluators did not find any evidence of trusts being created or operating in Georgia.

165. As for real estate agents, the authorities reported that the National Agency of Public Registry (NAPR) of Georgia is exclusively in charge of registering transactions concerning the real estate, including buying and selling of property, under the Law on the Public Registry. Thus, every real estate transaction in Georgia goes through the NAPR approval process. The NAPR is designated as the reporting entity, and required to identify and verify both purchasers and vendors of the property (as well as their representatives, proxies and third parties), and apply all other relevant CDD measures under the AML/CFT Law. The FMS Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry and Forwarding to the Financial Monitoring Service of Georgia elaborates on the requirements of the AML/CFT Law.

Recommended action No. 2 – *Publish periodic annual reports with comprehensive statistics, typologies, and trends of money laundering and terrorist financing as well as information regarding its activities.*

166. See Deficiency 1 above.

Recommended action No. 3 – *Provide reporting entities with comprehensive guidance on the manner of reporting including clear reporting forms.*

167. See Implementation point 1 above.

Recommended action No. 4 – *Ensure that FMS asks non-bank financial institutions and DNFBPs for additional information when the information is correlated to another received information.*

168. According to the authorities, the FMS's software and access to various databases, including credit records of individuals and companies, allows the FMS to obtain the necessary data that may be correlated with the information submitted by the reporting entities. Nonetheless, under Article 10.4 of the AML/CFT Law, the FMS has the power to request and obtain additional information and documents, including the confidential information, on any transaction and its parties from the reporting entities.

169. Also see Implementation point 2 above.

Recommended action No. 4 – *Ensure that FMS have access to other law enforcement information like the investigation, prosecution, and trial records held by the MOJ. Open sources should also be used frequently.*

170. See Effectiveness issue 2 above.

Recommended action No. 4 – *Ensure that FMS strengthens the quality of its STRs and other information analysis, in particular, by undertaking more in-depth operational and strategic analysis that could lead to improving the quality and quantity of disseminated reports. This could be achieved by, among other things (i) introducing an automated filtering system in order to allow pre-screening of information flow and generation of red flags and treating STRs differently from other received information; (ii) integrating the FMS database with the databases the FMS can access to allow matching information and identifying patterns; (iii) introducing analytical software to visualize complex schemes, and (iv) increasing the number of analysts.*

171. Refer to Effectiveness issues 3 and 4 above.

Effectiveness

172. There has been an increase in disseminations which indicates that law enforcement agencies should be making greater use of the FMS.

173. More activity and typology reports have been published on the FIU website which provide the results of the strategic analysis and information on frequently used ML/FT techniques and other major trends in the field. In addition, the number of requests to obtain additional information sent to non-bank FIs has been steadily growing over the last few years.

174. The number of STRs submitted to the FIU by several non-banking sectors remains low.

Overall conclusion

175. From a desk review it can be concluded that the deficiencies underlying Recommendation 26 have been largely addressed and compliance with Rec. 26 is now at a level equivalent to largely compliant.

Special Recommendation I – Implement UN instruments (rating PC)

Deficiencies

- *Georgia has ratified and implemented many but not all provisions of the CFT Convention as outlined in the various sections of this report. In particular, shortcomings remain with respect to the FT offense.*
- *Some shortcomings remain in respect of the implementation of UNSCR 1267 and 1373.*

Measures adopted and implemented

Deficiency No.1 – *Georgia has ratified and implemented many but not all provisions of the CFT Convention as outlined in the various sections of this report. In particular, shortcomings remain with respect to the FT offense.*

176. The deficiency has been addressed. See comments on Special Recommendation II above.

Deficiency No.2 – *Some shortcomings remain in respect of the implementation of UNSCR 1267 and 1373.*

177. The deficiency has been addressed. See comments on Special Recommendation III below.

Effectiveness

178. There were no investigations or convictions for TF in Georgia until 2015. Authorities reported that two investigations of TF cases were initiated in 2015. No assets have been frozen based on UNSCR lists.

Overall conclusion

179. As described under SR.II and SR.III, significant progress has been achieved since the 4th round MER.

Special Recommendation III – Freeze and confiscate terrorist assets (rating PC)

Deficiencies

- *The language of Article 21/31 of the Administrative Procedure Code allows for the courts to review the merits of each case in the context of designations under UNSCR 1267.*
- *Freezing measures under UNSCR 1267 and 1373 may not be applied "without delay."*
- *Court's power to lift a freezing order is not admissible under UNSCR 1267.*
- *Unclear whether there are adequate processes in place to grant access to frozen funds for necessary or extraordinary expenses in line with the requirements under UNSCR 1452.*

Implementation

- *Guidance to monitoring entities is not sufficiently detailed.*
- *There is no monitoring of monitoring entities' compliance with freezing orders.*
- *The new mechanism has been introduced only very recently and its effectiveness can therefore not be established.*

Recommended actions

- *Amend Article 21/31 of the Administrative Procedures Code in order to clarify that an application for a freezing order must be considered "grounded" by the courts whenever a person is designated by the UN Sanctions Committee under UNSCR 1267.*
- *Ensure that freezing measures under UNSCR 1267 and 1373 are applied "without delay" including where such measures are requested by a foreign authority, and consider whether the 15-day period granted under Article 21/32 of the Administrative Procedures Code to issue a freezing order is too permissive. "Without delay" should be interpreted to mean within a matter of hours from the designation of the person.*
- *Remove the court's power to review a freezing order in relation to UN-designated persons, groups, or entities.*
- *Ensure that there are adequate processes in place to grant access to frozen funds for necessary or extraordinary expenses in line with the requirements under UNSCR 1452.*
- *Issue more detailed guidance to monitoring entities on how to implement their obligations under freezing orders.*
- *Ensure that monitoring entity's compliance with the obligations under freezing orders is appropriately monitored.*

Measures adopted and implemented

Deficiency No.1 – *The language of Article 21/31 of the Administrative Procedure Code allows for the courts to review the merits of each case in the context of designations under UNSCR 1267.*

180. In order to rectify this deficiency, draft amendments to the Administrative Procedure Code of Georgia (APC) were adopted, which entered into force on 11 November 2015.

181. According to the new amendments, judges of the Tbilisi City Court (the Court) are not empowered to deliberate whether the motion on freezing of assets of designated persons is grounded or not, as the amended APC predefines that all such motions are grounded. Thus, if a person is designated by the UN Sanctions Committee, judges of the Court are required to automatically issue the relevant freezing order.

182. Moreover, according to the authorities, in all 36 motions submitted by the Governmental Commission to the Court to freeze property of persons designated under UNSCR 1267, the Court found all applications grounded and did not ask for additional information concerning the persons subject to the freezing mechanism. The judicial practice therefore demonstrates that the APC is interpreted in the manner that fulfils the obligations under UNSCR 1267.

Deficiency No.2 – *Freezing measures under UNSCR 1267 and 1373 may not be applied "without delay."*

183. In order to rectify this deficiency draft amendments to the Administrative Procedure Code of Georgia (APC) were adopted, which entered into force on 11 November 2015.

184. The new amendments to the APC oblige the Court to consider the motion of the Governmental Commission on Implementation of UNSCRs on freezing the assets of designated individuals immediately (paragraph 1 of Article 21[32] of APC).

185. According to the authorities, the obligation to immediately consider the motion of the Governmental Commission is based on the relevant Court's practice. Namely, in relation to all 36 motions on freezing the property of persons designated under UNSCR 1267 submitted by the Governmental Commission to the Court since February 2012, the Court issued the freezing orders on the very same day of consideration of each of the respective motion.

186. The new amendments to the APC also obligate the Court to consider the motions of the Commission on freezing of assets under UNSCR 1373 immediately although, as was rightly pointed out by the authorities, unlike designations made by the UN Sanctions Committee, in case of motions under UNSCR 1373, the Court has to verify the grounds of the motion. For this reason, a maximum 15 day period has been retained in the APC to allow judges of the Court to consider a motion in order to be satisfied that "reasonable grounds" exists.

187. Nevertheless, the said obligation further ensures that motions made under UNSCR 1373 by the Court are considered immediately.

Deficiency No.3 – *Court's power to lift a freezing order is not admissible under UNSCR 1267.*

188. In order to rectify this deficiency draft amendments to the Administrative Procedure Code of Georgia (APC) were adopted, which entered into force on 11 November 2015.

189. Article 21[34] of the APC now clearly stipulates that the court can only lift a freezing order if as a result of an amendment to the UN Security Council Resolutions, the person is delisted, or when the frozen property of the persons does not correspond to the person referred in the UN Security Council Resolutions.

Deficiency No.4 – *Unclear whether there are adequate processes in place to grant access to frozen funds for necessary or extraordinary expenses in line with the requirements under UNSCR 1452.*

190. In order to rectify this deficiency draft amendments to the Administrative Procedure Code of Georgia (APC) were adopted, which entered into force on 11 November 2015.

191. Article 21[34] of the APC now also provides adequate procedures for granting access to frozen assets. Specifically, the court is authorised to grant the UN designated persons access to frozen assets in order to pay for basic (food, medical treatment, taxes, legal counseling, etc.) and extraordinary expenses based on the application of the UNSCR Commission. The application can only be submitted to the court after notifying the UN Security Council Sanctions Committee. Granting access to extraordinary expenses requires approval from the Committee.

192. In addition, the Secretariat of the UNSCR Commission drafted relevant amendments to the Decree on the Establishment of Governmental Commission on Implementation of UNSCRs to make sure that every interested person is entitled to ask the Commission for access to frozen assets for necessary or extraordinary expenses as provided for by the procedure under UNSCRs.

Implementation point No.1 – *Guidance to monitoring entities is not sufficiently detailed.*

193. The authorities reported that the procedure of listing and delisting individuals and legal entities supporting terrorism is provided in the Guidance of the UNSCR Commission to the reporting entities and is available on the Commission's website. In addition, the sector-specific guidance notes are published by relevant AML/CFT supervisory bodies to elaborate on the steps that the reporting entities must undertake in order to implement the freezing court orders adopted in accordance with the UN Security Council Resolutions. For instance, the Guidance of the National Bank of Georgia (NBG) on the Risk Based Approach to Combating Illicit Income

Legalization and Terrorism Financing is designed to assist the financial institutions in taking concrete measures against terrorism financing risks.

Implementation point No.2 – *There is no monitoring of monitoring entities' compliance with freezing orders.*

194. According to the authorities, individuals and legal entities subject to freezing court orders are entered into the national systematized electronic database by the National Bureau of Enforcement (NBE). The relevant AML/CFT supervisory bodies are notified electronically by the NBE about each entry into the database in order to examine the implementation of the freezing requirement by the reporting entities.

195. The authorities also stated that the NBG, for instance, conducts both onsite inspections and offsite supervision based on its own methodic manuals that instruct inspectors to check whether the financial institutions have appropriate internal controls and software in place to ensure that property or funds of individuals and legal entities supporting terrorism are identified and all relevant transactions are blocked. Moreover, the NBG undertakes the screening of the client base and relevant transactions of financial institutions to prevent the abuse of the financial system for the purposes of terrorism financing.

Implementation point No.3 – *The new mechanism has been introduced only very recently and its effectiveness can therefore not be established.*

196. No designations have been made and no funds have been frozen so far.

Recommended action No. 1 – *Amend Article 21/31 of the Administrative Procedures Code in order to clarify that an application for a freezing order must be considered "grounded" by the courts whenever a person is designated by the UN Sanctions Committee under UNSCR 1267.*

197. See Deficiency 1 above.

Recommended action No. 2 – *Ensure that freezing measures under UNSCR 1267 and 1373 are applied "without delay" including where such measures are requested by a foreign authority, and consider whether the 15-day period granted under Article 21/32 of the Administrative Procedures Code to issue a freezing order is too permissive. "Without delay" should be interpreted to mean within a matter of hours from the designation of the person.*

198. See Deficiency 2 above.

Recommended action No. 3 – *Remove the court's power to review a freezing order in relation to UN-designated persons, groups, or entities.*

199. See Deficiency 3 above.

Recommended action No. 4 – *Ensure that there are adequate processes in place to grant access to frozen funds for necessary or extraordinary expenses in line with the requirements under UNSCR 1452.*

200. See Deficiency 4 above.

Recommended action No. 5 – *Issue more detailed guidance to monitoring entities on how to implement their obligations under freezing orders.*

201. See Implementation point 1 above.

Recommended action No. 6 – *Ensure that monitoring entity's compliance with the obligations under freezing orders is appropriately monitored.*

202. See Implementation point 2 above.

Overall conclusion

203. The Georgian authorities have taken necessary steps to address the technical deficiencies identified with regard to SR. III. Important amendments to the APC have been adopted and brought into force which brings SR. III to a level equivalent to largely compliant.

Special Recommendation V – International cooperation (rating PC)

Deficiencies

- *Lack of clear legal basis for the compelled production of records and documents from lawyers.*
- *The legal shortcomings identified with respect to the FT offense may limit Georgia's ability to provide MLA in cases where dual criminality is required.*
- *Shortcomings identified with respect to the FT offense may limit Georgia's ability to extradite a person due to the requirement of dual criminality.*
- *Absence of clear procedures to ensure timely handling of extradition requests.*
- *Lack of clear legal basis that allows compelling production by LEAs of financial transactions detained by lawyers based on international requests.*

Implementation

- *No information requested from foreign supervisors to ensure that fit and proper criteria are met.*
- *The NBG has never exchanged information regarding FT.*
- *There are challenges for cooperation with Russia.*

Effectiveness

- *Despite existing risks related to terrorism financing in Georgia, the absence of spontaneous exchange of information by the FMS and supervisors and the decreasing number of requests from the FMS to foreign counterparts, raise doubts on the overall effectiveness of the regime.*

Recommended actions

- *Review the scope of legal privilege to ensure that LEAs' powers to trace proceeds and instrumentalities of crime are not negatively affected, including where such measures are requested by a foreign state.*
- *Define the FT offense fully in line with the FATF standard to ensure that Georgia's ability to provide MLA is not limited in cases where dual criminality is required.*
- *Consider establishing an asset forfeiture fund.*
- *Consider mechanisms that would allow the provisions of MLA to all countries, including all countries in the region.*
- *Define the FT offense fully in line with the FATF standard to ensure that Georgia's ability to extradite a person is not limited due to the requirement of dual criminality.*
- *Set out mechanisms and procedures to ensure timely handling of extradition requests.*
- *Authorities provide a clear legal basis that allows compelling production by LEAs of financial transactions detained by lawyers based on international requests.*
- *FMS be more proactive in requesting information from foreign counterparts.*
- *NBG uses MOUs to determine compliance with fit and proper criteria.*

- *FMS and NBG share information spontaneously with counterparts.*
- *FMS negotiates agreements with FIUs and financial supervisors located in off-shore jurisdictions, most commonly found in financial investigations.*
- *Maintain comprehensive statistics on international cooperation.*
- *Contacting foreign counterparts to inform them that financial activity undertaken in Abkhazia and Tskhinvali Region/South Ossetia are not subject to supervision or monitoring by Georgian authorities.*

Measures adopted and implemented

Deficiency No.1 – *Lack of clear legal basis for the compelled production of records and documents from lawyers.*

204. The authorities reported that the Chief Prosecutor Office of Georgia (CPO) reviewed its practice and found that in exercising their powers to trace proceeds and instrumentalities of crime the investigators have never encountered any problems due to the professional privilege enjoyed by representatives of the legal profession. Therefore, the authorities conclude that need to take legislative measures to revise the scope of the legal professional privilege, does not exist.

205. This statement was supported by the additional information provided by Georgia. In April 2015 the Office of the Chief Prosecutor of Georgia requested information from the all Prosecutor's offices regarding the practical cases when it was not possible to interrogate lawyers or conduct search and seizure in their premises due to the legal privilege. According to the provided information no practical obstacles had been encountered regarding search and seizure. As to the interrogations, 7 cases were reported when lawyers refused to give testimony on account of the legal privilege. The above-mentioned 7 cases were analyzed by the office of the Chief Prosecutor of Georgia in May 2015. According to the results of the analyses it was established that neither of the above-mentioned interrogations aimed to obtain information regarding the proceeds and instrumentalities of crime as well as neither of the said cases indicated on the abuse of the legal privilege.

Deficiency No.2 – *The legal shortcomings identified with respect to the FT offense may limit Georgia's ability to provide MLA in cases where dual criminality is required.*

206. This deficiency appears to be addressed following the amendments to the Criminal Code as described under SR. II above.

Deficiency No.3 – *Shortcomings identified with respect to the FT offense may limit Georgia's ability to extradite a person due to the requirement of dual criminality.*

207. This deficiency appears to be addressed following the amendments to the Criminal Code as described under SR. II above.

Deficiency No.4 – *Absence of clear procedures to ensure timely handling of extradition requests.*

208. The Law of Georgia on International Cooperation in Criminal Matters was amended on 30 May 2013 to revise the extradition procedures by setting clear admissibility timeframes. In particular, the amendments require the prosecutors, after receiving the extradition materials, to address the court within a reasonable period of time - time to translate materials and request additional information if needed - for the admissibility of the extradition. The court is then obliged to discuss the matter within 7 days. The court's decision on the admissibility can be appealed within 7 days in the Supreme Court of Georgia, which in turn would examine the appeal within the next 5 days. The Minister of Justice will reject the extradition request if the court finds it inadmissible.

209. The Minister of Justice may also reject the extradition request based on human rights obligations of Georgia and humanitarian grounds or if the extradition contradicts the sovereignty, security and other important state interests of Georgia.

Deficiency No.5 – *Lack of clear legal basis that allows compelling production by LEAs of financial transactions detained by lawyers based on international requests.*

210. See Deficiency 1 above.

Implementation point No.1 – *No information requested from foreign supervisors to ensure that fit and proper criteria are met.*

211. The authorities reported that in 2013-2014, the NBG provided the National Banks of Kyrgyz Republic, "the Former Yugoslav Republic of Macedonia" and Romania information concerning the fitness and propriety on bank managers and shareholders. The NBG is in the process of collecting similar information based on a request by the National Bank of Moldova received in 2015. In addition, the NBG has been active in submitting requests for information to corresponding agencies of other countries. In 2014, such requests were sent to BaFin (Germany), FCA (UK), FINMA (Switzerland) and the National Bank of Kazakhstan.

Implementation point No.2 – *The NBG has never exchanged information regarding FT.*

212. According to the authorities, the NBG is authorised, if so requested, to share AML/CFT related information with its counterparts based on existing memorandums of understanding (MoUs). The MoUs regulate the procedure of exchanging supervisory information, including on AML/CFT issues. Since 2012, the NBG signed two MoUs with the National Bank of Moldova and the Central Bank of Qatar. Similar agreements are being developed with the National Bank of Ukraine and the Banking Commission of France.

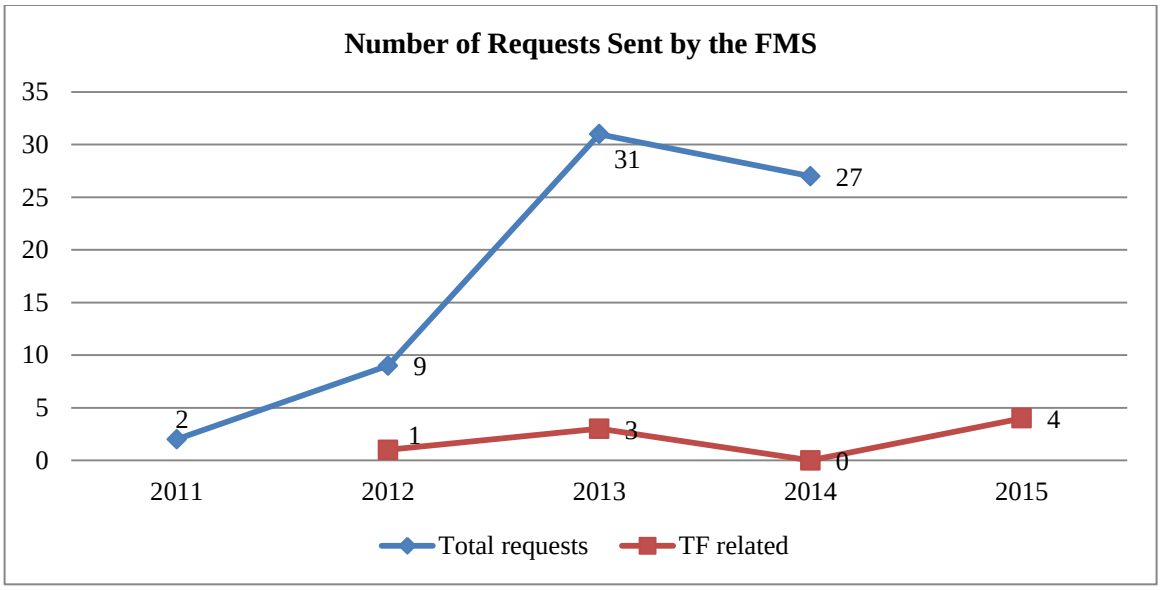
213. No exchange of information between NBG and foreign supervisors regarding FT has been reported so far by the Georgian authorities.

Implementation point No.3 – *There are challenges for cooperation with Russia.*

214. The authorities reported that Georgia provides mutual legal assistance to all countries without exception, including Russia. However, no supporting information on cooperation with Russia has been provided.

Effectiveness issue No.1 – *Despite existing risks related to terrorism financing in Georgia, the absence of spontaneous exchange of information by the FMS and supervisors and the decreasing number of requests from the FMS to foreign counterparts, raise doubts on the overall effectiveness of the regime.*

215. The authorities reported that the FMS has improved its cooperation with the corresponding foreign agencies in the last several years. In particular, the FMS sent 27 requests for information to the FIUs of other countries in 2014. This is a significant increase from 9 requests in 2012 and only 2 requests in 2011. In the first six months of 2015, the FMS forwarded 17 requests. Moreover, the FMS spontaneously exchanged the information with foreign FIUs on 6 occasions in 2014.



216. In addition, the FMS continued the process of signing co-operation agreements with other Egmont Group member FIUs for the purpose of facilitating bilateral cooperation through the exchange of confidential and other relevant information. Since the adoption of the 4th round MER, memorandums of cooperation and information exchange have been signed with the FIUs of Denmark, Netherlands, Greece, Lithuania, Argentina, Malta, Portugal, Hungary and Turkmenistan. As of 20 July 2015, the FMS had the memorandums concluded with the FIUs of 39 countries, including Lichtenstein, Panama, Cyprus, Andorra and Malta.

217. The number of requests sent by the FMS of Georgia for information related to TF issues has also slightly increased over the last several years.

Recommended action No.1 – *Review the scope of legal privilege to ensure that LEAs' powers to trace proceeds and instrumentalities of crime are not negatively affected, including where such measures are requested by a foreign state.*

218. See Deficiency 1 above.

Recommended action No.2 – *Define the FT offense fully in line with the FATF standard to ensure that Georgia's ability to provide MLA is not limited in cases where dual criminality is required.*

219. This recommended action appears to have been addressed following the amendments to the Criminal Code as described under SR. II above.

Recommended action No.3 – *Consider establishing an asset forfeiture fund.*

220. No information has been provided by the authorities in this regard.

Recommended action No.4 – *Consider mechanisms that would allow the provisions of MLA to all countries, including all countries in the region.*

221. See Implementation point 3 above.

Recommended action No.5 – *Define the FT offense fully in line with the FATF standard to ensure that Georgia's ability to extradite a person is not limited due to the requirement of dual criminality.*

222. This recommended action appears to have been addressed following the amendments to the Criminal Code as described under SR. II above.

Recommended action No.6 – *Set out mechanisms and procedures to ensure timely handling of extradition requests.*

223. See Deficiency 4 above.

Recommended action No.7 – *Authorities provide a clear legal basis that allows compelling production by LEAs of financial transactions detained by lawyers based on international requests.*

224. See Deficiency 1 above.

Recommended action No.8 – *FMS be more proactive in requesting information from foreign counterparts.*

225. See Effectiveness issue 1 above.

Recommended action No.9 – *NBG uses MOUs to determine compliance with fit and proper criteria.*

226. See Implementation point 1 above.

Recommended action No.10 – *FMS and NBG share information spontaneously with counterparts.*

227. See Implementation points 1, 2 and Effectiveness issue 1 above.

Recommended action No.11 – *FMS negotiates agreements with FIUs and financial supervisors located in off-shore jurisdictions, most commonly found in financial investigations.*

228. As was indicated above, as of 20 July 2015, the FMS has memorandums concluded with the FIUs of 39 countries, including Lichtenstein, Panama, Cyprus, Andorra and Malta.

Recommended action No.12 – *Maintain comprehensive statistics on international cooperation.*

229. From a desk-based review, it appears that Georgia maintains sufficient statistics on international cooperation.

Recommended action No.13 – *Contacting foreign counterparts to inform them that financial activity undertaken in Abkhazia and Tskhinvali Region/South Ossetia are not subject to supervision or monitoring by Georgian authorities.*

230. No information has been provided by the authorities in this regard.

Effectiveness

231. The number of FMS requests has increased significantly over the last several years. Since the adoption of the fourth round assessment report in 2012 a number of MOUs have been signed with foreign FIUs. The NBG has accelerated its international cooperation on AML/CFT issues including the exchange of information on compliance with fit and proper criteria.

Overall conclusion

232. Steps have been taken by the Georgian authorities in order to address the 4th round MER recommendations.

233. However, some recommendations have still not been completely addressed or still pending as described above. Nonetheless, taking into consideration the progress achieved on a number of recommendations and steps taken to intensify international cooperation, it can be concluded that compliance with Special Recommendation V is now at a level equivalent to largely compliant.

IV. Review of the measures taken in relation to other Recommendations rated PC/NC

Recommendation 7 – Correspondent banking (rating PC)

Deficiencies

- No requirement to document the respective AML responsibilities of each institution.

Implementation

- *Poor implementation for a correspondent relationship to be approved by a senior manager.*
- *Poor assessment that the respondent institution's AML/CFT controls are adequate and effective.*
- *No information about whether the institution has been subject to an ML/FT investigation, prior the establishment of the correspondent relationship.*
- *In the case of a respondent bank involved in a ML/FT investigation no actions taken by the correspondent institution.*
- *Concerns whether banks ascertain ML/FT risks in correspondent relationships.*

Recommended actions

- *Require that financial institutions that engage in correspondent banking activities document the respective responsibilities of each institution.*
- *Ensure that correspondent relationships are approved by senior management.*
- *Ensure that financial institutions periodically monitor their correspondent banking relationships with respect to AML/CFT issues and assess the possible reputational risks arising from those relationships.*
- *Clarify that, when determining the reputation of a respondent institution, financial institutions should also determine from publicly available information if the respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action.*

Measures adopted and implemented

234. The Regulation of the FMS on Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring was amended on 17 June 2014 to include legal provisions governing correspondent banking relationships which are fully consistent with the FATF Recommendations. In particular, under the amendments, the responsibilities of each financial institution must be clearly defined when entering into a correspondent banking relationship. The amendments also require commercial banks to determine whether the respondent financial institution has been subject to a money laundering or terrorist financing investigation or regulatory action prior to establishing the correspondent relationship. Thus, Article 8 of the FMS regulation was amended to read as follows:

> *"1. Banks shall be required, in relation to cross-border correspondent banking and other similar relationships, in addition to applying requirements under Article 6 of the AML/CFT Law, to gather sufficient information about the nature of the respondent institution's business, and determine from publicly available sources the reputation of the institution, and the quality, adequacy and efficiency of supervision, including whether it is considered as the reporting entity for AML/CFT purposes. Banks shall also be required to determine whether the respondent institution has been subject to money laundering or terrorist financing investigation or regulatory action.*
>
> *2. Banks shall be required to request information about the AML/CFT controls applied by the respondent institution and assess their quality.*
>
> *3. Banks shall be prohibited from entering into a correspondent banking relationship without obtaining approval from the board of directors (supervising director).*

4. Banks shall be prohibited from entering into a correspondent banking relationship with shell banks. Banks shall be required, before entering into, or continuing, a correspondent banking relationship, to apply reasonable measures in order to satisfy themselves that the respondent institution:

a. Does not belong to the category of shell banks;

b. Has no relationship with a shell bank, including by permitting its accounts to be used by shell banks.

5. The respective responsibilities of each institution shall be clearly defined when entering into a correspondent banking relationship."

235. The NBG adopted the Guideline for Commercial Banks on Risks Associated with Correspondent Relationships on 17 June 2014, which incorporates the requirements provided for by the FMS Regulation. The guideline elaborates on the risks associated with correspondent banking relationships, potential risk factors and mitigating measures. The guideline sets minimum standards and requires commercial banks to develop their own bank-specific risk models for identifying and managing risks.

236. In accordance with the NBG guideline:

- *When establishing the correspondent banking relationship, consent must always be given by members of the board of directors;*
- *When making sure that the AML/CFT policy and internal controls of the respondent institution are adequate and effective, commercial banks must obtain all relevant information and documents, including through the questionnaire developed by the NBG, and analyse and assess the data provided;*
- *In determining the risk of establishing the correspondent banking relationship, commercial banks must assess the quality, adequacy and efficiency of supervision applied to the respondent institution and/or its parent company, and whether it was subject to ML/FT investigation or regulatory action and what sanctions (criminal or administrative) were imposed. Enhanced CDD measures must be applied if such an investigation or action did take place;*
- *In assessing the risk of establishing the correspondent banking relationship, commercial banks must examine the reputation of the respondent institution, and review reports of competent international organizations on the respondent institution's host country, including the AML/CFT regulation of the correspondent banking relationship.*

237. The NBG guideline also stipulates that commercial banks must examine the risks directly associated with the respondent institution, as well as geographic risks. The latter include the risks associated with the host country (location or place of registration) and the type of relationship established between the respondent institution and its parent company. Risks directly associated with the respondent institution include its organisational structure, types of clients, products and services, as well as particular areas of business activity.

238. The NBG guideline lists the factors increasing the risks of correspondent banking relationships that must be carefully considered by commercial banks: respondent institution controlled or influenced by PEPs; respondent institution registered in an offshore jurisdiction; respondent institution's host country included in the watch zone and/or is subject to sanctions or similar measures by competent international organisations (e.g. UN Security Council).

239. The NGB also adopted the new Banks' Onsite Inspection Methodic Manual Concerning the Prevention of Illicit Income Legalization on 21 April 2015. The manual requires the NBG

inspectors to examine compliance by commercial banks with the relevant regulations on establishing correspondent banking relationship (Articles 8, 16 and 23). In particular, whether:

- *Consent of the board of directors (curator director) of the commercial bank on establishing correspondent banking relationship exists;*
- *Responsibilities of each respondent institution are clearly defined and documented;*
- *Sufficient steps were taken by the commercial bank to determine whether the respondent institution is subject to proper supervision, and its AML/CFT policy and internal controls are adequate, effective and consistent with international standards;*
- *Risks of establishing correspondent banking relationship were dully analysed.*

240. The new manual also provides for targeted inspections by the NBG considering the ML/FT risk level in a commercial bank. Compliance with the regulations of establishing the correspondent banking relationships is one of the key areas of such targeted inspections (Article 6.4).

Overall conclusion

241. The legislative changes would appear to fully address the technical deficiencies identified.

Recommendation 8 – New technologies and non-face to face business (rating PC)

Deficiencies

- *Electronic payment system no covered by the AML/CFT Law, including pay box and electronic money institutions.*

Implementation

- *Nonexistence of special procedures applied by FIs to manage the risk of new technologies and of non-face to face transactions.*
- *Possibility to open a non-face to face account, de facto, in the case of pre-existence of an account in Georgia or in an OECD country.*
- *Concerns about the implementation and the scope of ongoing CDD measures.*
- *Concerns about the possible misuse of some electronic payment systems that are not under NBG supervision.*

Recommended actions

- *Ensure that entities have in place identification and verification procedures and develop enhanced measures to control and mitigate non-face-to-face business relationships and the use of new technology risks for all FIs.*
- *Ensure that entities apply adequate ongoing CDD to non-face-to-face customers.*
- *Clarify and issue guidelines on the use of non-face-to-face channels.*
- *Ensure that AML/CFT provisions cover the operations regulated in the Instruction on Opening of an Account and Making Foreign Currency Operations which allows under certain circumstances to open a current account without physical presence and send the documentation by postal mail.*
- *Ensure that AML/CFT provisions cover all electronic payment systems, including electronic payment points and electronic money institutions.*

Measures adopted and implemented

242. With regard to electronic money institutions see comments on R.5 and SR.VI.

243. The 1st and 5th bullet-points in the rating box of R.8 have been addressed. The 5th bullet-point in the recommended action plan is addressed.

244. With regard to the opening of a non-face-to-face account, the authorities reported that commercial banks are not allowed to apply simplified CDD with respect to opening of current accounts since 20 June 2012 when the relevant amendments were introduced to the NBG Instruction on Opening Accounts by Commercial Banks. In particular, Article 9 of the instruction, which permitted commercial banks to apply simplified CDD in relationships with clients maintaining bank accounts in Georgia or OECD countries, was removed.

245. On 9 January 2013, the NBG instruction was again amended to further strengthen provisions on opening non-face-to-face accounts by commercial banks. Specifically, in accordance with Article 8.1, current accounts can only be opened without face to face identification of clients when:

- *Commercial bank relies on third parties/intermediaries that carry out identification and verification in accordance with the FATF recommendations and are supervised for AML/CFT purposes;*
- *Person in question holds an account in Georgia's other commercial bank and was identified by the bank in accordance with the Georgian legislation;*
- *Commercial bank relies on the National Agency of Public Registry (NAPR) to carry out the identification and verification procedure.*

246. Paragraphs 2 and 3 of Article 8 provide for additional safeguards against potential abuse. Under Paragraph 2, when commercial banks rely on third parties or intermediaries to identify and verify their clients, the first transaction to a non-face-to-face account must be carried out by the account holder from a bank account opened in a country where the account holder was identified and verified or from an account opened in other Georgian commercial bank. Paragraph 3 stipulates that until all documents required to identify/verity the client are received by commercial banks, only crediting transactions can be performed to a non-face-to-face account. Moreover, if commercial banks do not receive the necessary documents within 30 days from the date of opening of a non-face–t-face account, the account will be closed and the credited sums should transferred back to the originating account.

247. The 3rd and 4th bullet-points in the rating box of R.8 appear to have been addressed. The 3rd and 4th bullet-points in the recommended action plan 3.2 appear to have also been addressed.

248. As for the enhanced CDD measures, the AML/CFT Law of Georgia considers new technologies that favour anonymity as potentially risky services and products. Reporting entities are therefore required to pay particular attention to the risks arising from the use of new technologies, including non-face-to-face services, and to apply adequate CDD procedure to manage/mitigate those risks (Article 6.16):

> *"Reporting entities shall pay special attention to any threats that may arise from new technologies, products and services that might favour anonymity and take all measures to prevent their use in the illicit income legalization and terrorism financing. Reporting entities shall have in place such identification and verification policy and procedure that reduces the risks associated with non-face to face service as provided by the Georgian legislation. This policy and procedures shall be used before the establishment and during the ongoing monitoring of the business relationship."*

249. For a more detailed discussion on the enhanced CDD measures see analysis on R.5.

Overall conclusion

250. Although it is difficult to assess improvements in implementation and effectiveness from a desk-based review, it appears that Recommendation 8 is now at a level of largely compliant.

Recommendation 9 – Third parties and introducers (rating PC)

Deficiencies

- *No requirement to immediately obtain from the third party necessary information related to all elements of the CDD process.*
- *No requirement to grant access to other relevant documents relating to all elements of CDD.*
- *No requirement to grant access to information related to beneficial owner.*
- *No requirement that FIs are satisfied that the third party has measures in place to comply with the CDD requirements.*
- *No requirement that competent authorities take into account information available on whether the countries in which the third party can be based adequately apply the FATF Recommendations.*

Recommended actions

- *Require that financial institutions are satisfied that the third party has measures in place to comply with the CDD requirements set out in R.5 and R.10.*
- *Amend the AML/CFT law to require financial institutions relying on third parties immediately to obtain from the third party the necessary information related to all CDD process.*
- *Require that financial institutions relying on third party immediately to obtain access to other relevant documents relating to CDD.*
- *Require that financial institutions relying on third party to obtain access to information on beneficial owner.*
- *Ensure that competent authorities take into account information available on whether the countries in which the third party can be based adequately apply the FATF Recommendations.*

Measures adopted and implemented

251. The AML/CFT Law was amended on 24 December 2014 to make the provisions governing the reliance on third parties/intermediaries by reporting entities fully consistent with the FATF Recommendations. In particular, Article 6.11 was amended to make sure that reporting entities:

- Immediately obtain from the third party/intermediary information about the identification and verification of the client (beneficial owner), as well as the purpose and nature of the business relationship;
- Undertake necessary measures to ensure that they are able to obtain access to the copies of identification data of the client (beneficial owner) and other relevant material held by the third party/intermediary immediately upon request;
- Rely only on those third parties/intermediaries that carry out identification and verification procedure in accordance with the FATF Recommendations, and are subject to the supervision and regulation as defined under the FATF Recommendations;
- Take into account information available about the ML/FT risks in the host country of the third party/intermediary, when selecting the latter.

Overall conclusion

252. It appears that all bullet-points in the rating box of R.9 and in the recommended action plan have been addressed.

Recommendation 11 – Unusual transactions (rating PC)

Deficiencies

- *Unusual pattern of transactions is not covered under the current definition of unusual transactions.*
- *No clear requirement in the AML Law or FMS Decrees to make unusual transactions available to auditors.*

Effectiveness

- *Obligation to pay special attention to unusual transactions is confusing and leading to reporting which appears to be counter-productive, as it discourages to better understand these transactions.*

Recommended actions

- *Ensure that the legal basis for unusual and watch zone related transaction is clear and comprehensive, more precisely by:*
  - *Amending the definition of unusual transactions to include the unusual patterns of transactions; and*
  - *Extending the watch zone related transactions to all financial institutions defined by the FATF standards to include business relationship and transactions with persons, including companies and financial institutions from countries which do not or insufficiently apply the FATF standards. This requirement should go beyond specific transactions currently determined in the AML Law to include all transactions and business relationship.*
- *Provide FIs with guidelines on the implementation of the requirement to pay special attention to unusual and watch zone related transactions and amend the reporting forms to exclude the unusual and watch zone related transactions from the breakdown list.*

Measures adopted and implemented

253. The AML/CFT Law was amended on 24 December 2014 to include unusual patterns of transactions in the definition of unusual transaction (Subparagraph "h^1" of Article 2):

> *"h^1. Unusual transaction - complex, unusually large transaction (operation) and/or unusual patterns of transactions (operations) that do not have visible economic (commercial) content or lack lawful purpose, and/or are inconsistent with the ordinary business activity of a person involved therein."*

254. In response to the effectiveness issue on monitoring of unusual transactions, the authorities stated that the AML/CFT Law clearly defines what reporting entities are expected to do when they encounter unusual transactions. In particular, Article 5.9 of the AML/CFT Law requires reporting entities to pay special attention to unusual transactions and further elaborates on what specific measures must be taken, including ascertaining the purpose of the transaction and writing down the obtained results. The AML/CFT Law does not require reporting entities to report the unusual transaction, unless they are satisfied that the transaction in question is indeed suspicious. Thus, reporting entities are expected to carefully analyse all relevant circumstances around unusual transactions, including the context and background, before submitting STRs. Similar provisions are included in the FMS regulations for all reporting entities.

Overall conclusion

255. It would appear that one of the deficiencies under R. 11 has been fully addressed and the position of the authorities with regard to the effectiveness issue has been explained. However, the other deficiency and one of the recommended action points are still pending.

Recommendation 12 – DNFBP – R.5,6,8-11 (rating NC)

Deficiencies

- *Customer due diligence measures and record keeping obligations do not apply to lawyers, real estate agents, and trust and company service providers.*
- *Unclear scope of accounting activities that are covered by the legislation.*
- *Absence of definition of "precious metals and precious stones"*
- *No implementing regulations for DPMS.*

Recommendation 5

- *Existence of minimum threshold for customer identification for accountants.*
- *No CDD requirement when establishing a business relationship for sectors other than notaries.*
- *Absence of requirements regarding the identification and verification of legal arrangements.*
- *No obligation for DPMS requiring the verification of the authority of the person purporting to act on behalf of the legal entity or the customer.*
- *No provisions that require accountants and DPMS to understand the ownership and control structure of the legal entity.*
- *No requirement to obtain information on the purpose or intended nature of business relationships other than for notaries and accountants.*
- *No regulations that govern cases where DNFBPs may complete the verification of the identity of customers and beneficial owners after the establishment of the relationship.*
- *No requirement for DPMS to terminate the business relationship and to consider making an STR when the DNFBP has commenced the business relationship and is unable to comply with CDD requirements.*
- *No specific prohibition to apply simplified CDD when there is a suspicion of ML/FT or in cases of high risk and no regulation indicating when simplified measures are appropriate.*
- *No requirement to conduct due diligence on existing relationships on the basis of materiality and risk at appropriate times.*

Recommendation 6

- *Definition of close business relationship does not include legal arrangements.*

Recommendation 9

- *No requirement that DNFBPs relying on a third party immediately obtain information related to all elements of the CDD process.*
- *No requirement that DNFBPs are satisfied that the third party has measures in place to comply with all elements of the CDD requirements.*
- *No requirement for third party to grant access to other relevant documents relating to CDD and beneficial ownership.*

Recommendation 10

- *No ability for other competent authorities other than the respective supervisor to request an extension of the record keeping period.*

Recommendation 11

- *Unusual pattern of transactions is not covered under the current definition of unusual transaction.*
- *No clear requirement in the AML/CFT Law or FMS Decrees to make unusual transactions available to external auditors.*
- *No specific requirement to examine the background of transactions that have no apparent or visible economic or lawful purpose for casinos or DPMS.*

Implementation

- *Beneficial ownership requirements by notaries are not effectively implemented.*
- *CDD measures by casinos are not effectively implemented.*
- *Senior management approval and source of wealth and funds are not obtained when establishing a PEP relationship.*
- *No ongoing due diligence is applied with PEP relationships.*
- *No procedures implemented to mitigate the risks associated with non-face-to- face transactions in internet casinos.*

Effectiveness

- *Poor CDD measures in casinos increase the risk of laundering occurring undetected.*
- *Effectiveness and implementation of the following obligations could not be assessed due to their recent coming into force:*
  - *All obligations applying to accountants.*
  - *Conducting ongoing due diligence of business relationships.*
  - *Implementation of policies and procedures to mitigate the risk of non-face to face transactions.*
  - *Monitoring of risks associated with new technologies.*
  - *Conducting enhanced due diligence of high risk customers, business relationships and transactions.*
  - *Not carrying out transactions or ceasing business relationships if beneficial owner cannot be subject to identification and verification.*

Recommended actions

- *Extend obligations to lawyers, real estate, and company service providers.*
- *Extend triggering activities for accountants to all AML/CFT obligations.*
- *Define precious metals and stones.*
- *Issue implementing regulations (FMS decree) for DPMS.*

Recommendation 5

- *Extend the prohibition to open anonymous accounts to DNFBPs.*
- *Remove client identification threshold for accountants.*
- *Establish CDD requirements when establishing a business relationship for sectors other than notaries.*
- *Extend circumstances when "CDD" is required to all aspects of CDD, not just identification and verification.*
- *Establish a requirement related to the identification and verification of legal arrangements.*
- *Establish a requirement for DPMS to verify the authority of a person purporting to act on behalf of the customer or a legal entity.*
- *Establish definition or develop guidelines on what is considered reasonable measure and reliable source.*

- *Establish provisions that require entities to understand the ownership and control structure of the legal entity for all DNFBP sectors except notaries and casinos.*
- *Establish a requirement to obtain information on the purpose or intended nature of business relationships for all sectors except notaries and accountants.*
- *Establish regulations that govern cases where DNFBPs may complete the verification of the identity of customers and beneficial owners after the establishment of the relationship.*
- *Establish a requirement for DPMS to terminate the business relationship and to consider making an STR when the DNFBP has commenced the business relationship and is unable to comply with CDD requirements described in c.5.3 to c.5.5 of the common assessment methodology.*
- *Establish a requirement to conduct due diligence on existing relationships on the basis of materiality and risk at appropriate times.*
- *Amend the AML/CFT Law to explicitly state when simplified measures may be applied. Such measures should only be allowed for countries that effectively apply FATF Recommendations.*
- *Amend AML/CFT Law to prohibit simplified measures when there is a suspicion of ML/CFT or in cases of high risks.*
- *Ensure that beneficial ownership information is systematically captured and verified by notaries.*
- *Ensure that CDD measures are applied by casinos.*

Recommendation 6

- *Establish requirement for entities to have appropriate risk-management systems to determine whether the customer is a PEP for all sectors except accountants.*
- *Expand definition of close business relationship to cover legal arrangements.*
- *Ensure that senior management approval and source of wealth and funds is obtained when establishing a PEP relationship.*
- *Ensure that DNFBPs apply ongoing due diligence with PEP relationships.*
- *Clarify the definition of "reasonable measures".*
- *Provide guidance on the required "enhanced monitoring" measures to be applied to PEPs.*

Recommendation 8

- *Prescribe CDD methods for the casino sector including the timing of identification and verification as well as acceptable methods of non-face-to-face identification methods for internet casino.*
- *Ensure that internet casinos apply adequate ongoing CDD to non-face-to-face customers.*
- *Issue guidelines on the use of non-face-to-face channels.*

Recommendation 9

- *Require that DNFBPs relying on third party immediately obtain from the third party information related to all elements of the CDD process.*
- *Require that DNFBP relying on a third party immediately obtain access to other relevant documents relating to CDD.*
- *Require that DNFBPs relying on a third party obtain access to information on beneficial owner.*
- *Ensure that competent authorities have an explicit requirement to take into account information available on whether the countries in which the third party can be based adequately apply the FATF Recommendations.*

Recommendation 10

- *Empower other competent authorities other than the respective supervisor to request an extension of the record keeping period.*

Recommendation 11

- *Ensure that the legal basis for unusual and watch zone related transaction is clear and comprehensive, more precisely by:*
- *Amending the definition of unusual translations to include the unusual patterns of transactions; and*
- *Extending the watch zone related transactions to all financial institutions and DNFBPs defined by the FATF standards to include business relationship and transactions with persons, including companies, DNFBPs and financial institutions from countries which do not or insufficiently apply the FATF standards. This requirement should go beyond specific transactions currently determined in the AML/CFT Law to include all transactions and business relationships.*
- *Provide DNFBPs with guidelines on the implementation of the requirement to pay special attention to unusual and watch zone related transactions and amend the reporting forms to exclude the unusual and watch zone related transactions from the breakdown list.*

Measures adopted and implemented

256. The AML/CFT Law was amended to designate lawyers as reporting entities for AML/CFT purposes on 27 November 2013. As for trusts and real estate agents refer to Recommended action 1 under Recommendation 26. The 1st bullet-point in the rating box of R.12 and the 1st bullet-point in the recommended action plan have therefore been addressed.

257. Concerning accountants, the AML/CFT Law designates accountants as reporting entities, and in full compliance with the FATF Recommendations requires them to identify customers, verify their identity and perform other CDD measures without applying any threshold when engaged in the following triggering activities/transactions on behalf or at the request of clients (Paragraph 4^1 of Article 6):

- Buying and selling of real estate;
- Management of funds, securities or other assets;
- Management of bank, savings or securities accounts;
- Organization of contributions for the establishment, operation or management of a legal entity;
- Establishment, operation or management of legal entity or organizational formation;
- Buying and selling of a legal entity (shares).

258. The AML/CFT Law (Article 6) requires reporting entities to identify and verify their clients when the transaction is suspicious or:

- The amount of funds involved in a transaction exceeds 3,000 GEL (1,200 EUR);
- The amount of funds involved in a wire transfer exceeds 1,500 GEL (600 EUR).

This threshold does not apply to lawyers, accountants and the National Agency of Public Registry (NAPR) that must identify and verify their clients regardless of the amount of funds involved in a transaction.

259. Therefore, the 2nd and 5th bullet-points in the rating box of R.12 and the 2nd and 6th bullet-points in the recommended action plan have been addressed.

260. With regard to requirement to apply CDD measures when establishing business relationships, it was reported that all DNFBPs are required to undertake CDD measures when establishing business relationships under the AML/CFT Law. Pursuant to Article 6.14 of the

AML/CFT Law, reporting entities, including DNFBPs, are required to identify clients (beneficial owners) and verify their identity before carrying out transactions or opening accounts and establishing any other type of business relationship. Similar requirements are also reflected in the FMS regulations.

261. Therefore, the 6th bullet-point in the rating box of R.12 and the 7th and 8th bullet-points in the recommended action plan have been addressed.

262. With regard to deficiencies in relation to ownership and control structure, purpose and intended nature of the business relationship, anonymous accounts, simplified CDD measures, enhanced CDD measures, existing clients and legal arrangements, refer to comments on Recommendation 5 above.

263. Concerning PEPs, the AML/CFT Law requires reporting entities to have appropriate risk management systems to identify clients that pose higher ML/FT risk (Article 6.13). Reporting entities, including DNFBPs, are also specifically obliged to identify PEPs and apply enhanced CDD measures, including obtaining approval from senior management for the establishment of a business relationship, and ascertaining the source of funds.

264. It is difficult to properly assess the effectiveness of implementation of recommendations with regard to PEPs. However, it appears that Georgia is technically compliant with the 25th and 26th bullet-points in the rating box of R.12 and the 21st, 23rd, 24th and 26th bullets in the recommended action plan.

265. Concerning deficiencies identified with respect to reliance on third parties/intermediaries, unusual patterns of transactions and monitoring of unusual transactions, see comments on Recommendations 9 and 11 above.

266. As for the deficiency concerning record-keeping, Article 7 of the AML/CFT Law now provides for the extension of the record-keeping period at the request of both supervisory and other competent authorities. This requirement is also reflected in the FMS regulations for reporting entities, including DNFBPs.

267. Therefore, the 19th bullet-point in the rating box of R.12 and the 34th bullet-point in the recommended action plan have been addressed.

Overall conclusion

268. Effectiveness and implementation of the measures adopted could not be assessed due to the desk-based nature of the review. Some recommended actions still remain pending. Nonetheless, taking into consideration the progress achieved on the legislative side by the Georgian authorities with regard to the new provisions introduced in the AML/CFT Law and FMS regulations for reporting entities, it can be concluded that compliance with Recommendation 12 is now at a level equivalent to largely compliant.

Recommendation 15 – Internal controls, compliance and audit (rating PC)

Deficiencies

- *For money remittance operators and currency exchange bureaus, there was no provision to ensure that the AML officer and other appropriate staff have timely access to customer identification data and other CDD information, transaction records, and other relevant information.*
- *There was no provision for money remittance operators and currency exchange bureaus on employee screening procedures.*

- *Lack of requirement for financial institutions to have an adequately resourced and independent audit function to test the compliance with AML/CFT policies, procedures and controls.*
- *For money remittance operators and currency exchange bureaus, lack of specific provision on the scope of AML training to indicate that the training should be provided on an ongoing basis and to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends, and that there is a clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting*.

Implementation

- *Wording on internal controls to cover CFT aspect was recently included and effectiveness cannot be assessed.*

Effectiveness

- *Obligation to pay special attention to unusual transactions is confusing and leading to reporting which appears to be counter-productive, as it discourages to better understand these transactions.*

Recommended actions

- *For money remittance operators and currency exchange bureaus, introduce a provision to ensure that the AML officer and other appropriate staff have timely access to customer identification data and other CDD information, transaction records, and other relevant information.*
- *Introduce a provision for money remittance operators and currency exchange bureaus on employee screening procedures.*
- *Establish a requirement for financial institutions to have an adequately resourced and independent audit function for AML purposes.*
- *For money remittance operators and currency exchange bureaus, expand the provision on AML training to indicate that the training should be provided on an ongoing basis to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends, and that there is a clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting.*
- *Consider the policy decision and appropriateness of current provisions which allow for the owner of currency exchange bureau and money remittance services to also act as the AML officer.*

Measures adopted and implemented

269. With regard to the first bullet-point under Recommendation 15, the authorities reported that the owners of currency exchange bureaus in Georgia either operate alone or employ a limited number of individuals. They usually undertake the responsibilities of AML/CFT officers, and have unrestricted and timely access to all customer identification data and other CDD information. The same relates to money remittance providers.

270. Apart from this explanation, no other measures have been undertaken by the authorities to address the deficiencies under Rec. 15.

Overall conclusion

271. It would appear that all identified deficiencies and recommended action points under Rec. 15 remain outstanding.

Recommendation 16 – DNFBP - R.13 - 15 & 21 (rating PC)

Deficiencies

Recommendation 13 and SRIV

- *ML and FT suspicious transaction reporting and the implementation of internal controls do not apply to lawyers, real estate agents and trust, and company service providers.*

Recommendation 14

- *Protection of information and tipping-off requirements do not extend to temporary or long term establishment situation of staff.*
- *The protection against liability does not apply to both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.*
- *Protection should be available even if individual did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.*

Recommendation 15

- *No screening procedures requirements for the hiring of employees for casinos, accountants and DPMS.*
- *Lack of requirement for DNFBPs to have an adequately resourced and independent audit function.*

Recommendation 21

- *No ability for DNFBPs to apply countermeasures in cases where a country continues to not apply or insufficiently applies the FATF Recommendations.*
- *Requirement to give special attention to business relationships and transactions with persons from some countries is confusing and limited to certain number of transaction over GEL 30,000 (11,200 EUR) and should be enlarged to countries which do not or insufficiently apply FAFT recommendations.*
- *No requirement to make information on transactions with no apparent economic or visible lawful purpose available to auditors.*
- *The requirement of examining the purpose of the transaction for transactions with no apparent economic or visible lawful purpose does not extend to examining its background for casinos and DPMS.*

Implementation

- *Policies and procedures are not developed by DNFBPs.*
- *Training programs targeted to employees are not delivered by DNFBPs.*
- *Audit functions to test compliance with policies and procedures are not established by DNFBPs.*
- *Background and purpose of transaction conducted in countries that insufficiently apply FATF standards are not examined and documented.*
- *Despite the very real threat of terrorism and TF activity in Georgia, no STRs relating to terrorist financing have been received from any DNFBP.*
- *No attempted transactions reported by DNFBPs.*

Effectiveness

- *STR reporting level is not commensurate with the level of risk associated with casino and notary sector (i.e. no reporting of STRs by casinos).*

Recommended actions

- *Extend STR reporting and internal control requirements to lawyers, real estate agents, and TCSPs.*
- *Provide for the possibility to apply countermeasures in cases where a country continues not to apply or to apply insufficiently the FATF Recommendations.*
- *Develop guidance regarding reporting and internal controls for DNFBPs.*

Recommendation 13

- *Implement an outreach program to raise awareness of ML/FT sectorial vulnerabilities and STR monitoring and reporting amongst DNFBPs.*

Recommendation 14

- *Amend Article 12 of the AML/CFT Law to ensure that the protection and tipping-off requirements extend to temporary and long term establishment situation.*
- *Apply both criminal and civil protection for STR reporting.*

Recommendation 15

- *Establish requirement for screening procedures to ensure high standards when hiring employees for DPMS, accountants, and casinos.*

Recommendation 21

- *Update the watch zone list to include countries identified by FATF which do not or insufficiently apply FATF Recommendations.*
- *Provide for the possibility to apply countermeasures in cases where a country continues not to apply or to apply insufficiently the FATF Recommendations.*
- *Establish a requirement to make information on transactions with no apparent economic or visible lawful purpose available to auditors.*

Measures adopted and implemented

272. The AML/CFT Law was amended to designate lawyers as reporting entities for AML/CFT purposes on 27 November 2013. As for TCSPs and real estate agents, refer to Recommended action 1 under Recommendations 26 and 5.

273. Concerning tipping-off, the AML/CFT Law was amended on 24 December 2014 to clarify that the requirements against tipping-off apply to both temporary and long-term employees of the FMS, reporting entities and supervisory authorities (Article 12.1).

274. Furthermore, amendments to the AML/CFT Law also make it clear that both temporary and long-term employees of the FMS, supervisory authorities and law enforcement agencies are required to protect the confidential information (Article 12.3).

275. The AML/CFT Law was amended on 24 December 2014 to clarify that both temporary and long-term employees of the FMS, reporting entities, supervisory bodies and law enforcement agencies enjoy protection from criminal, administrative and civil liability in case of disclosures made for legitimate AML/CFT purposes. Liability can only be imposed if a criminal offence is committed (Article 12.4).

276. Therefore, the 2nd, 3rd and 4th bullet-points in the rating box of R.16 and the 5th and 6th bullet-points in the recommended action plan have been addressed.

277. Concerning deficiencies identified with regard to the application of counter-measures see Recommendation 21 below.

278. Regarding deficiencies identified with respect to monitoring of unusual transactions, refer to comments on Recommendation 11 above.

279. Concerning deficiencies identified with regard to guidance and outreach see comments Recommendation 26 above and Recommendation 25 below.

280. For information on measures adopted in respect of fit and proper criteria refer to comments on Recommendation 24 below.

Overall conclusion

281. The implementation of the measures adopted could not be adequately assessed due to the desk-based nature of the review. Some deficiencies and recommended actions under Rec. 15 and 21 still remain pending.

282. As noted under Recommendation 12 above, the legislative changes would appear to have largely addressed the technical deficiencies identified. However, serious concerns remain that the level of DNFBPs reporting remains very low. There is also a question on the large number of STRs submitted by NAPR compared to other DNFBPs.

The number of STRs submitted

	2013	**2014**	**2015 (I-VI)**
Casino	0	0	0
Entities organizing lotteries and other commercial games	0	0	0
Real estate agents	0	0	0
Dealers in precious metals, precious stones and antiquities	0	0	0
Lawyers	0	0	0
Notaries	**48**	**18**	**1**
Accountants	0	0	0
Auditors	0	0	0
Reports from the National Agency of Public Registry	**3568**	**601**	**209**

Recommendation 21 – Special attention for higher risk countries (rating PC)

Deficiencies

- *Absence of possibility to require domestic financial institutions to apply counter-measures in cases where a country continues not to apply or insufficiently applies the FATF Recommendations.*

Effectiveness

- *The framework is confusing, neither comprehensive nor properly implemented, and it does not target all the relevant jurisdictions.*
- *Requirement to give special attention to business relationships and transactions with persons from some countries is confusing and limited to a certain number of transactions above the threshold of GEL 30,000 (11,200 EUR) and should be enlarged to countries which do not or insufficiently apply the FATF Recommendations.*

- *Absence of effectiveness of the measures in place, notably because of the long list of watch zone countries and limitation to a number of transactions above threshold.*

Recommended actions

- *Update the watch zone list to include countries identified by FATF which do not or insufficiently apply the FATF Recommendations.*
- *Provide for the possibility to apply counter-measures in cases where a country continues to not apply or apply insufficiently the FATF Recommendations.*

Measures adopted and implemented

283. The authorities reported that Georgia's AML/CFT legislation provides for the application of countermeasures when there are grounds to believe that a country lacks effective AML/CFT systems. The list of such countries (watch zone) is developed by the NBG based on the FMS's proposal.

284. In particular, the NBG Governor issued the Decree on Establishing the List of Watch Zone for the Purpose of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization on 24 August 2011, which includes countries designated as having strategic deficiencies and posing a risk to the international financial system in the latest FATF public statements. The decree is available online and serves as a warning to reporting entities that any transaction with physical or legal persons from within or through these countries poses a higher ML/FT risk.

285. The AML/CFT Law and the FMS regulations provide for the systematic reporting of transactions involving countries in the watch zone. Furthermore, since the countries with weak AML/CFT systems pose an increased ML/FT risk, reporting entities are required to carefully examine any transaction originating or otherwise linked to the watch zone countries and if warranted apply enhanced CDD measures under Article 6.13 of the AML/CFT Law. The extracts from the FMS regulations on the application of the counter-measures for FIs and DNFBPs are provided on pages 67 to 73 of the report submitted by the Georgian authorities.

Overall conclusion

286. It appears that Georgia has taken further steps to rectify the deficiencies under Recommendation 21 which is now at a level equivalent to largely complaint.

Recommendation 24 – DNFBP – regulation, supervision and monitoring (rating NC)

Deficiencies

- *No supervision of casinos, accountants, and dealers in precious and stones.*
- *No effective, proportionate and dissuasive sanctions for casinos, dealers in precious metals and stones, and accountants.*
- *Sanctioning regime for notaries is not effective, proportionate or dissuasive.*
- *No mechanisms to prevent criminals and their associates to own or control a casino.*
- *No supervisory powers for accounting sector supervisor.*

Implementation

- *Supervision undertaken by the Ministry of Justice for notaries does not cover all AML/CFT obligations.*

Effectiveness

- *Effectiveness of supervisory measures for accountants could not be assessed.*

Recommended actions

- *Undertake AML/CFT supervision in the casino, accountant and DPMS sectors.*
- *Establish provisions to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino.*
- *Establish supervisory power for an accounting body responsible supervision in the accounting sector, including a funding source for supervisory activities as well as the definition of clear expectations on the number of inspections to be conducted.*
- *Undertake supervision of all AML/CFT requirements in the notaries sector.*

Measures adopted and implemented

287. The Law of Georgia on Accounting and Financial Audit was adopted on 29 June 2012. It consolidated and clarified the legal framework governing the activities of accountants. The law provides for the definition of accountants, establishes professional certification standards and procedure, prescribes the quality control system and code of ethics, and defines the responsibilities of professional organisations (self-regulatory bodies) in the field.

288. Articles 11 and 12 of the Law regulate the activities of accredited professional organisations. Pursuant to Article 4.d of the AML/CFT Law, the officially accredited professional organisations are designated as supervisory authorities for the purpose of monitoring the implementation of AML/CFT requirements by accountants. In particular, the Georgian Federation of Professional Accountants and Auditors (GFPAA) was created and accredited as the professional organisation in accordance with the Law of Georgia on Accounting and Financial Audit, and was also recognised as the supervisory body for AML/CFT purposes. The GFPAA's activities are financed through membership contributions.

289. With regard to supervision of dealers in precious stones and metals, the authorities reported that the AML/CFT Strategy and Action Plan provide for the development of the legislative framework governing the activities related to precious stones and metals. In particular, under the Action Plan, amendments to the relevant legislation must be adopted to ensure the application of the effective state supervision over the dealers in precious metals and stones (DPMS) in accordance with the FATF Recommendations.

290. Furthermore, the AML/CFT Strategy and Action Plan provide for the improvement of sanctions regime for the violation of requirements provided for by Georgia's AML/CFT legislation. Specifically, under the Action Plan, relevant regulations will be adopted by the Ministry of Finance to introduce effective, proportionate and dissuasive sanctions for the failure of DPMS to comply with the requirements of the AML/CFT Law, and regulations and instructions adopted by the FMS.

291. Pursuant to the AML/CFT Strategy and Action Plan, the Ministry of Finance, which is the supervisory authority for DPMS under the AML/CFT Law, has developed the draft law on the State Supervision of Dealers in Precious Metals and Stones, and the relevant secondary legislation. The draft legislation is currently being reviewed by DGI – Human Rights and Rule of Law of the Council of Europe.

292. With regard to casinos, the Law of Georgia on Organizing Lotteries, Gambling and Other Commercial Games was amended on 17 July 2015 to prohibit individuals convicted of economic and other grave or especially grave criminal offences from acting as founders or managers of gaming establishments. The amendments also require persons seeking casino permits to provide the information about the criminal records of founders and would-be managers that will be verified by the Revenue Service of the Ministry of Finance through the criminal records database

of the Ministry of Internal Affairs. Any changes in the management of casinos will also be monitored and the criminal records of new managers will be checked in the same manner.

293. Furthermore, the amendments give the existing casino permit holders one month to make sure that they comply with the new fit and proper requirements.

Overall conclusion

294. A number of deficiencies and recommended actions under Rec. 24 still remain pending, in particular concerning the absence of effective, proportionate or dissuasive sanctions for casinos and notaries. A serious concern remains that the number of on-site supervision conducted in relation to DNFBPs remains very low as well as almost complete absence of sanctions imposed against DNFBPs.

AML/CFT Supervisory on-site visits

	Total number of on-site visits conducted (2013/2014/2015)	**Number of AML/CFT specific on-site visits conducted (2013/2014/2015)**	**Number of AML/CFT combined with general supervision on-site visit carried out (2013/2014/2015)**
Entities organizing lotteries and other commercial games	192/538/271	0	0
Dealers in precious metals, precious stones and antiquities	0	0	0
Notaries	56/90/-	0	56/57/-
Accountants	0	0	0
Auditors	0	0	0
Leasing companies	0	0	0
National Agency of Public Register	4/4/-		4/4/-

Recommendation 25 – Guidelines and feedback (rating PC)

Deficiencies

- *Limited guidelines and feedback are only predominately orientated towards the banking and insurance sector; no account is taken of other reporting entities.*
- *Guidance for notaries is not comprehensive and no guidance has been issued for casinos, accountants and DPMS to assist with their compliance with non-reporting AML/CFT obligations.*
- *There is no effective feedback being offered via the FMS or other competent body to reporting institutions, including general and specific or case-by-case feedback.*

Effectiveness

- *The industry would benefit from more clarity and guidance from NBG on actual implementation of preventive measures, especially on identification of beneficial ownership.*

Recommended actions

- *Clarify the different types of reporting, i.e. suspicious and threshold.*

- *Assist the FIs in understanding the requirement on monitoring or paying special attention to unusual transactions and those related to watch zone.*
- *Assist financial institutions on AML/CFT issues covered under the FATF Recommendations, including, at a minimum, a description of money laundering and terrorist financing techniques and methods; and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective.*
- *Establish a mechanism for providing feedback to reporting institutions, including general and specific or case-by-case feedback.*
- *Consider reviewing the guidance provided by the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.*
- *Provide specialized training to financial institutions to improve the quality and quantity of STRs, and require treating them differently than other types of reporting.*
- *Strengthen the guidelines and feedback across all sectors to: (i) incorporate different examples covering sectors other than banking; and (ii) provide more Georgian examples of money laundering and terrorist financing typologies.*
- *Issue guidance and provide feedback on reporting to DNFBPs*

Measures adopted and implemented

295. For guidance on reporting to the FMS see comments on R.26.

296. The authorities reported that the FMS provides feedback to reporting entities through regular meetings and annual activity reports. The activity reports of the FMS are published online. They contain information about the statistics of reports received from reporting entities (STRs, CTRs) and cases disseminated to law enforcement authorities (LEAs), as well as the typology of most frequently used ML/FT techniques and major trends in the field.

297. There are also mechanisms in place allowing the FMS to receive information about the measures taken by LEAs on ML/FT related cases and feed it back to reporting entities, including the number of investigations, prosecutions and convictions. In particular, the Memorandum of Understanding on Raising the Effectiveness of Inter-Agency Cooperation in the Law Enforcement Field was concluded between the Ministries of Finance, Internal Affairs, and Justice, the Chief Prosecutor's Office and the FMS on 16 May 2013. These agreements provide for the exchange of information on ML/FT crimes, including on cases disseminated by the FMS.

298. The authorities also reported the FMS is undertaking awareness-raising activities (consultative meetings, trainings) to make sure that the AML/CFT requirements are properly understood and implemented by reporting entities. The amendments to the AML/CFT Law of 24 December 2014 were developed in close cooperation with both FIs and DNFBPs.

299. Regular consultative meetings were also held after the adoption of the amendments to discuss issues of implementation. In particular, the FMS met almost every electronic money institution – newly designated reporting entities - operating in Georgia to discuss all pressing issues concerning the existing AML/CFT framework. In addition, in May 2015, the FMS conducted a training-seminar for the members of the Association of Law Firms of Georgia on the strengthened CDD measures and the application of the risk-based approach based on the recent amendments to the AML/CFT Law.

300. In 2015, the FMS developed the indicators on identifying suspicious transaction for lawyers, accountants and auditors based on its own experience, as well as the FATF Recommendations and typologies.

Overall conclusion

301. Overall it would appear that positive steps have been taken to address the deficiencies under Recommendation 25, although not all deficiencies and recommended action points have been dealt with: no guidance has been issued for casinos, accountants and DPMS and no information on specific or case-by-case feedback to FIs was provided.

Recommendation 30 – Resources, integrity and training (rating PC)

Deficiencies

- *Overall, staff of competent agencies should be provided with adequate, relevant and specialized trainings on a regular basis. Trainings on the risks and vulnerabilities of ML and FT, information technology and other resources relevant to the execution of their functions, and assets management are necessary.*
- *Increase in the workload without a corresponding increase in the budget of the FMS. The limited financial resources and decrease in human resources (around 40 percent since 2007) combined with increased level of reporting affect the effectiveness of the core functions of the FMS, mainly the analysis and dissemination of reports.*
- *No sufficient safeguards are in place to warrant LEAs operational independence and autonomy.*

Recommended actions

- *Provide competent authorities with adequate, relevant and specialized trainings on a regular basis. Trainings on the risks and vulnerabilities of ML and FT, information technology and other resources relevant to the execution of their functions, and assets management are necessary.*
- *Increase the human and financial resources for the FMS and ensure full independence of LEAs.*

Measures adopted and implemented

302. The Law of Georgia on Prosecution Service was amended on 24 June 2013 to strengthen its institutional independence and make sure that prosecutors can carry out their professional responsibilities impartially and objectively. The amendments aimed to bring the status of the Prosecution Service in line with the best international and European practices by transferring all prosecutorial powers vested in the Minister of Justice to the Chief Prosecutor of Georgia. Thus, the possibility of the Minister of Justice to interfere in individual cases was removed. The Minister of Justice is left with the authority to define general criminal justice policy and issue respective guidelines.

303. According to the authorities, one of the priorities of the Chief Prosecutor's Office of Georgia (CPO) is to further increase the effectiveness of AML/CFT investigations and prosecutions by providing the competent investigators and prosecutors with adequate resources and training. Thus, the number of investigators and prosecutors in the AML Unit of the CPO increased from 5 to 9. The investigators and prosecutors also attended six training seminars on ML investigations and prosecutions from January 2013 to May 2014. The training seminars were conducted by the UN Office on Drugs and Crime, the Council of Europe, the European Anti-Fraud Office, the US Embassy in Georgia and the CPO Training Centre.

304. A significant number of specialised training activities for the staff of competent agencies have been provided during the period of 2012-2015. For a full list of trainings provided for FMS employees, prosecutors and investigators see information provided on pages 96-98 of the report submitted by the Georgian authorities.

305. Concerning resources of the FMS and staff training refer to Recommendation 26 above.

Overall conclusion

306. Overall, it would appear that steps have been taken to address the deficiencies under Recommendation 30. Therefore, it can be concluded that compliance with Recommendation 30 is now at a level equivalent to largely compliant.

Recommendation 31 – National co-operation (rating PC)

Deficiencies

- *Lack of a central coordinating body/committee to steer and coordinate the development and implementation of policies and activities to combat ML and TF.*

Implementation

- *There is no mechanism allowing the cooperation between supervisory agencies of FIs and DNFBPs notably, NBG, MOJ, and MOF.*

Recommended actions

- *Put in place effective mechanisms between policy makers, the FMS, LEAs and supervisors which enable them to cooperate and, where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat ML and TF. An AML/CFT Council similar to the one for Anti-Corruption that could develop a strategy and action plan is highly advised.*
- *Review statistics in the relevant areas of the fight against ML and TF on a regular basis to assess the effectiveness of the AML/CFT regime.*
- *Establish a mechanism allowing the cooperation between supervisory agencies of FIs and DNFBPs notably, NBG, MOJ, and MOF.*

Measures adopted and implemented

307. The authorities reported that the Inter-Agency Council for Developing and Coordinating the Implementation of AML/CFT Strategy and Action Plan was created in December 2013 to operate as a permanent coordinating body for the development and implementation of policies aimed at combating money laundering and terrorism financing. The Inter-Agency Council consists of high ranking officials from the Ministries of Finance, Internal Affairs, and Justice, the Chief Prosecutor's Office, the FMS, the NBG and other AML/CFT supervisory bodies. It is chaired by the Minister of Finance.

308. The Inter-Agency Council developed the AML/CFT Strategy and Action Plan, which was subsequently adopted by the Government of Georgia on 18 March 2014. The Strategy and Action Plan is based on the FATF Recommendations and seeks to remedy the deficiencies identified in the MONEYVAL 4th round MER. The Inter-Agency Council was put in charge of coordinating and monitoring the implementation of the Strategy and Action Plan. It is also responsible for coordinating efforts to carry out Georgia's first ever national risk assessment of money laundering and terrorism financing with the objective to develop effective risk-based AML/CFT policies and appropriately allocate resources.

309. Furthermore, the Memorandum of Understanding on Raising the Effectiveness of Inter-Agency Cooperation in the Law Enforcement Field was signed between the ministries of Finance, Internal Affairs, and Justice, the Chief Prosecutor's Office and the FMS on 16 May 2013. The memorandum aims to coordinate activities of the agencies in combating organised crime, corruption, money laundering and terrorism financing. It establishes mechanisms for information exchange and provides for the creation of ad hoc investigative groups. The memorandum, along

with other cooperation agreements signed with the Ministry of Internal Affairs (30.06.2008) and the Ministry of Justice (20.01.2009), also enables the FMS to receive feedback about the measures taken by LEAs on ML/FT related cases.

Overall conclusion

310. Overall, it would appear that all deficiencies under Recommendation 31, except the recommended action on review of statistics in the relevant areas of the fight against ML and TF, have been dealt with. Therefore, it can be concluded that compliance with Recommendation 30 is now at a level equivalent to largely compliant or complaint.

Recommendation 33 – Legal persons – beneficial owners (rating PC)

311. No information has been provided by the authorities on the progress as to Rec. 33.

Special Recommendation VI – AML/CFT requirements for money/value transfer services

Deficiencies

- *There were some forms of MVTs (such as electronic money institutions, casino accounts) which were not yet subject to regulation and supervision.*
- *Deficiencies in the AML/CFT Law relating to preventive measures, particularly on CDD, apply to MVT operators.*
- *Amount of fines for many types of violations, such as performing services without client identification, is very small for MVT operators to be considered effective and dissuasive.*
- *Effectiveness of implementation of reforms introduced with respect to systematic off-site monitoring and fit and proper tests could not be tested.*

Recommended actions

- *Take measures to address remittances which are taking place outside the regulated sector in Georgia.*
- *Rectify the legal deficiencies relating to preventive measures that apply to MVT operators.*
- *Increase supervisory resources available to supervise MVT operators.*

Measures adopted and implemented

312. For the requirements of the AML/CFT Law and electronic money institutions, see comments on R.5.

313. Concerning MVT operators, the Georgian authorities reported that the Law of Georgia on Payment Systems and Payment Services was adopted on 15 May 2012. It regulates the activities of payment service providers and designates the NBG as the regulator of the sector. Under the law, the NBG is *inter alia* authorized to:

- Register payment service providers and revoke registration if required by the law (Article 3.2);
- Establish standards of mutual compatibility of payment systems (Article 3.3);
- Conduct on-site inspections and distance monitoring of payment service providers (Article 45);
- Obtain all necessary financial and other types of information or documents from payment service providers (Article 16);
- Impose sanctions on payment service providers for violating legal requirements, including obligations under the AML/CFT Law.

314. The NBG regulations also establish fit and proper criteria for owners of a significant share (10%), and directors of payment system operators and providers in order to make sure that criminals and their associates are prevented from running these entities. In particular, pursuant to the NBG rules on Registration and De-registration of Payment Service Providers (Article 2.2) and Registration and De-registration of Payment System Operators (Article 2.2), both adopted on 10 February 2012, individuals convicted of ML/FT, other economic or grave crimes are prohibited from acting as directors or owners of significant shares of payment service providers and operators.

315. The NBG also actively monitors the information obtained from publicly-available sources about the existence of payment service providers or payment systems that operate without registration, which is a criminal offence under Article 192 of the Criminal Code. So far, no cases of unauthorized activity of payment service providers have been identified.

316. Finally, the authorities reported that there are only 42 money remittance institutions (including 11 sole entrepreneurs) in Georgia and their cash flow is relatively insignificant. For instance, in 2014 the total amount of transfers carried out through money remittance providers in Georgia was about Euro 13 million, both domestically and overseas. Considering the small scale of money remittance business in Georgia, the NBG considers that the resources allocated for the supervision of this sector are sufficient, and the fines provided for the violation of AML/CFT requirements are effective and dissuasive.

Overall conclusion

317. Progress appears to have been achieved as the Law of Georgia on Payment Systems and Payment Services was adopted on 15 May 2012 (which regulates the activities of payment service providers and designates the NBG as the regulator of the sector) and electronic money institutions are now subject to AML/CFT requirements.

318. Some minor effectiveness issues remain (e.g. not clear whether sanctions provided for violations of AML/CFT requirements by payment service providers are effective and dissuasive in practice).

Special Recommendation VII – Wire transfers (rating PC)

Deficiencies

- *Ambiguous obligation for the intermediary to transmit the originator information.*
- *No requirement that beneficial institutions be required to adopt effective risk-based procedures for identifying and handling missing or incomplete originator information wire transfers and to consider whether such transfer is suspicious.*
- *No reporting obligations fulfilled for missing originator information.*
- *No sanctions imposed for non-compliance with the reporting obligation established by the AML/CFT law in the case of missing/incomplete information.*

Implementation

- *Poor FIs internal controls applied on wire transfers (national/cross-border) for AML/CFT purposes.*

Recommended actions

- *Ensure that all domestic and cross-border transfers are adequately monitored and supervised in terms of ML/FT risk management.*

- *Amend the AML/CFT Law and regulations (FMS Decrees) to ensure that there is an obligation for the intermediary to transmit the originator information along the messages chain without any exception.*
- *Require beneficiary institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information, including the consideration to report to the FMS and to restrict or terminate the business relationship with counterpart financial institutions failing to meet SR.VII standards.*
- *Ensure that nonbanking institutions carrying out wire transfer are compliance with the AML law.*
- *Consider developing guidelines to assist FIs in understanding the relationship of wire transfers to the monitoring process and to ensure the accuracy of the data received, with regards to the originator information from incoming transfers received by the FIs.*

Measures adopted and implemented

319. The authorities reported that paragraphs 8 and 9 of Article 6 of the FMS Regulation on Receiving, Systemizing and Processing the Information by Money Remittance Entity and Forwarding to the FMS of Georgia requires all domestic or cross-border remittances to be accompanied with originator information.

320. A similar requirement is imposed on electronic money institutions under Paragraphs 10 and 11 of Article 6 of the FMS Regulation on Receiving, Systemizing and Processing the Information by Payment Service Provider and Forwarding to the FMS of Georgia.

321. The authorities reported that the NBG has been examining the implementation of this requirement by FIs, including money remittance institutions. In particular, 2 money remittance institutions were fined by the NBG in 2015.

322. The progress is limited to the above.

Overall conclusion

323. It would appear that no progress has been achieved and the identified deficiencies and recommended action points under Special Recommendation VII remain outstanding.

Special Recommendation VIII – Non-profit organizations(rating PC)

Deficiencies

- *No review of the adequacy of law and regulations related to NPOs.*
- *No identification of types and features of NPOs which are vulnerable to FT.*
- *No periodic reassessment of NPO risks.*
- *No outreach conducted other than the publication of the FATF best practices paper to raise awareness about the risks of terrorist abuse.*
- *No publicly available registration data for NPOs registered prior to 2009.*
- *No supervision or monitoring of NPOs.*
- *No requirement to keep transactional information below GEL 3,000 (1,200 EUR).*
- *No appropriate point of contact and procedures to respond to international requests related to NPOs.*

Implementation

- *Lack of domestic cooperation and sharing of information related to NPOs between appropriate authorities.*

Effectiveness

- *Measures in place do not address the TF vulnerabilities that exist in the sector.*

Recommended actions

- *Conduct a review of the adequacy of laws and regulations that relate to non-profit organizations.*
- *Identify types and features of NPOs that are at risk of FT.*
- *Conduct a reassessment of NPOs risk by reviewing information on the sector's potential vulnerabilities.*
- *Conduct outreach to raise awareness in the NPO sector about the risks of terrorist abuse.*
- *Establish effective supervision or monitoring of NPOs.*
- *Establish a requirement for NPOs to state the activity they undertake.*
- *Establish appropriate measures to sanction violations of oversight measures or rules by NPOs.*
- *Expand requirement to keep information on transactions above GEL 3,000 to all transactions.*
- *Migrate pre-2010 NPO registration data in publicly available registry.*
- *Establish domestic coordination mechanisms regarding NPOs.*
- *Establish point of contact for receipt of information queries on NPOs within the Revenue Service and the National Agency of Public Registry.*

Measures adopted and implemented

324. The authorities reported that the Inter-Agency Council for Developing and Coordinating the Implementation of AML/CFT Strategy and Action Plan has recently started working on Georgia's first national ML/FT risk assessment. The process aims to identify and assess the general, sectorial and thematic ML/FT risks for the purpose of developing risk-based policies and effectively allocating available resources. The risk assessment will cover both FIs and DNFBPs, including NPOs.

325. According to the authorities, under the existing provisions of the Tax Code (Subparagraph "f" of Article 43.1) NPOs are required to keep the information and documents on all transactions that are necessary for tax administration purposes for at least 6 years. The relevant legislative amendments are being developed by the Ministry of Finance that impose record-keeping requirements on NPOs for AML/CFT purposes, as well as ensure application of effective sanctions for the violation of these requirements in accordance with the FATF Recommendations.

326. The progress is limited to the above.

Overall conclusion

327. It would appear that no progress has been achieved and identified deficiencies and recommended action points under Special Recommendation VIII remain outstanding.

Special Recommendation IX – Cross-border declaration and disclosure (rating NC)

Deficiencies

- *Lack of clear powers to request and obtain further information from the carrier with regard to the origin of the currency or the bearer negotiable instruments and their intended use.*
- *Lack of powers to be able to stop or restrain currency and bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or FT may be found.*
- *Lack of proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation for ML and FT purposes.*

- *The requirement for the retention of records does not extend to all kind of bearer negotiable instruments declared or otherwise detected, or the identification data of the bearer.*
- *Absence of clear definition of "bearer negotiable instruments."*
- *Weak implementation of the system transportation of currency and bearer negotiable instruments across all BCPs.*
- *Insufficient statistics on number of declarations from various BCPs to assess the effectiveness of the measures in place.*
- *Lack of training on the best practice of implementing the requirement of SR.IX.*

Effectiveness

- *In a cash-based society, the declaration system is not being implemented effectively to detect the transportation of cash and negotiable instruments that could be transported by launderers or terrorist financiers.*

Recommended actions

- *Amend the requirements so that they extend to the shipment of currency and bearer negotiable instruments through cargo containers and the mail.*
- *Define clearly the term "bearer negotiable instruments" to include monetary instruments in bearer form such as: travellers cheques; negotiable instruments (including cheques, promissory notes, and money orders) that are either in bearer form, endorsed without restriction made out to a fictitious payee, or otherwise in such a form that title can pass upon delivery; and incomplete instruments (including cheques, promissory notes, and money orders) signed, but with the payee's name omitted.*
- *Take legislative steps to align the cross-border cash and bearer negotiable instruments powers to Customs to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use in cases of suspicion of ML or TF and the temporary restraint measures, and the adequate and uniform level of sanctions.*
- *Provide competent authorities present at the BCPs with the authority to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or FT may be found, where there is a suspicion of ML or FT; or where there is a false declaration.*
- *Once this system is established, Customs should be training on the best practices paper for SR.IX.*

Measures adopted and implemented

328. With respect to the first deficiency, the authorities reported that the Order №290 of the Minister of Finance of Georgia on the "Approval of the Instruction on Movement and Customs Clearance of Goods within the Customs Territory of Georgia" was amended on 21 August 2015 to require carriers to provide information about the origin and intended use of cash, checks and other securities over GEL 30,000 (EUR 11,000) that are being transported across the Georgian border.

329. Concerning cargo containers and mail, the authorities reported that the AML/CFT Law was amended on 17 July 2015 to extend the AML/CFT requirements for cross-border transportation of cash and securities to the export/import of physical currency and bearer negotiable instruments through cargo containers and mail. Article 6.3 of the AML/CFT Law was amended to read as follows:

> *"3. The Revenue Service shall carry out the identification of persons at border carrying national and foreign currency in cash, checks and other securities or*

persons sending/receiving national and foreign currency in cash, checks and other securities in the amount above GEL 30,000 (or its equivalent in other currency).”

330. The authorities also reported that the Tax Code was amended on 17 July 2015 to enhance the effectiveness of the sanctions regime for the violation of rules of cross-border transportation of physical currency, cheques and the other bearer negotiable instruments. In particular, the amount of fine for the transportation of physical currency and securities worth from EUR 11,000 to EUR19,000 and bypassing the customs control increased from EUR 380 to EUR 1,100 (Article 289.12). The amount of fine for the same action when the value of goods exceeds EUR 19,000 increased from EUR 1,100 to EUR 1,900 (Article 289.13). Furthermore, the amount of fine for the undeclared physical currency, cheques and other bearer negotiable instruments exceeding EUR 37,500 will be 10% of their total value (Article 289.13[1]).

331. The progress is limited to the above.

Overall conclusion

332. No clear progress has been achieved. Two deficiencies have been addressed (i.e. extended AML/CFT requirements to cover cargo containers/mail and the requirement to provide information about the origin and intended use of cash, checks and other securities) while the rest still remain outstanding.

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The MONEYVAL Secretariat