



Strasbourg, 15 February 2007

MONEYVAL (2006) 18 ADD  
English only

**EUROPEAN COMMITTEE ON CRIME PROBLEMS  
(CDPC)**

**COMMITTEE OF EXPERTS ON THE EVALUATION  
OF ANTI-MONEY LAUNDERING MEASURES**  
**(MONEYVAL)**

***THIRD ROUND DETAILED ASSESSMENT REPORT  
ON GEORGIA***

***ANTI-MONEY LAUNDERING  
AND COMBATING THE FINANCING OF TERRORISM***

**ANNEXES**

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# **1. Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation**

The Law of Georgia

On Facilitating the Prevention of Illicit Income Legalisation

*(Published in "Sakartvelos Sakanonmdeblo Macne" #17, Article 113, June 16, 2003)*

## Article 1. Purpose and Scope of the Law

1. The purpose of this Law shall be to create legal mechanisms against legalisation of illicit income and financing acts of terrorism, and to protect legal rights and interests of public and state.
2. This Law shall regulate the relationship between the authorized bodies and other relevant entities under this Law related to facilitating the detection and prevention of illicit income legalisation in Georgia as well as the relationship between Georgian authorized organs, on the one hand, and ones of other countries and international organisations, on the other hand.
3. This Law shall apply to Georgian resident and non-resident entities, their representatives, missions and branches, as well as to departments, institutions and organisations.

*(Changed under the Law of February 25, 2004)*

## Article 2. Definition of Terms

As used in this Law, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by an entity, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- b) Property – property as considered under the Civil Code of Georgia;
- c) Legalisation of Illicit Income - legalisation of illicit income (acquisition, utilisation, transfer or any other action), as well as hiding or concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;  
*(Changed under the Law of February 25, 2004)*
- d) Monitoring – identification of an entity that is party to a transaction by the entities conducting monitoring under this Law, and registration and systemisation of information on the transaction and submission of such information to the Financial Monitoring Service of Georgia, pursuant to the procedures defined under this Law and other regulations adopted (issued) in compliance with this Law".

*(Changed under the Law of February 25, 2004)*

- e) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia on the basis of the information provided by a competent international organisation;
- f) Competent international organizations - Council of Europe, FATF, and other organizations recognized as such by International Community.
- g) Supervisory body – a supervisory body as defined under Article 4 of this Law, which, within its authority, supervises activities of relevant monitoring entities;
- h) Suspicious transaction – a transaction (regardless its amount) supported with a grounded supposition that it had been concluded or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained etc.), or any person involved in the transaction is likely to be connected with a terrorist or terrorism-supporting persons, or the person’s legal or real address or place of residence is located in a non-cooperative area and the transaction amount is transferred to or from such area;  
*(Changed under the Law of February 25, 2004)*
- i) Off-shore area – a country or a part of the territory thereof where preferential taxation regime exists or/and where requirements for identification of parties to the transaction do not comply with international standards, which are recognized as such by the International Organizations.  
*(Changed under the Law of February 25, 2004)*
- j) Non-resident person - a person who is not a resident under the Tax Code of Georgia;
- k) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity and its representational authority by means of the registration- and establishment-confirming documents;
- l) Financial Monitoring Service of Georgia – a legal entity of public law established pursuant to this Law, which exercises its authorities granted by this Law and other relevant legislation;
- m) Monitoring entity – an entity as determined under Article 3 of this Law, which, for the purpose of facilitating the prevention of legalisation of illicit income is required to undertake actions prescribed by the legislation;
- n) Founder of non-state pension scheme – a legal entity defined under the Law of Georgia “on Non-State Pension Insurance and Security”.

### Article 3. Monitoring Entities

Monitoring entities shall include:

- a) Commercial banks, currency exchange bureaus and non-bank depository institutions;
- b) Broker companies and securities' registrars;
- c) Insurance companies and non-state pension scheme founders;
- d) Entities, organizing lotteries and other commercial games;
- e) Entities engaged in activities related to precious metals, precious stones and products thereof, as well as antiquities;
- f) Customs authorities;
- g) Entities engaged in extension of grants and charity assistance;
- h) Notaries;
- i) Postal organizations.

### Article 4. Supervisory Bodies

The supervisory bodies shall include:

- a) National Bank of Georgia – for commercial banks, currency exchange bureaus and non-bank depository institutions;
- b) National Securities Commission of Georgia – for broker companies and securities' registrars;
- c) State Insurance Supervision Service of Georgia – for insurance companies and non-state pension scheme founders;
- d) The Ministry of Finance of Georgia – for entities organizing lotteries and other commercial games; entities engaged in activities related to precious metals, precious stones and products thereof, as well as antiques; customs authorities and entities engaged in extension of grants and charity assistance;
- e) The Ministry of Justice of Georgia – for notaries.
- f) Ministry of Infrastructure and Development of Georgia – for Postal Organizations.

*(Changed under the Law of February 25, 2004)*

### Article 5. Transactions Subject to Monitoring

1. For the purposes of this Law, transactions subject to monitoring, shall be the transaction concluded or implemented by the entity or the series of concluded or implemented transactions aimed at partition of the transaction (transaction amount), if one or both of the following provisions exist:
  - a) The amount of the transaction or the series of transactions exceeds GEL 30,000 or its equivalent in other currency (in case of cash, as well as non-cash settlements);
  - b) The transaction evokes a suspicion according to the Subsection “h”, Article 2 of this law.

2. Subject to monitoring by commercial banks shall be transactions considered under Subsection b, Section 1 of this Article, as well as transaction concluded or implemented by the entity or series of concluded or implemented transactions aimed at partition of the transaction, if the amount of such transaction or the series of transactions exceeds GEL 30,000 or its equivalent in other currency and it represents the following transaction (operation):
  - a) Receipt of money by the entity using bank checks, in bearer form, as well as exchange of bank notes of one denomination for bank notes of another denomination;
  - b) Trade of foreign currency in cash form;
  - c) Transfer of funds to or from a bank account in Georgia, by the holders of the accounts with banks registered in non-cooperative area or off-shore area;
  - d) Issuance or receipt of a loan, by a person registered in a non-cooperative area or off-shore area, or any other transaction (operation) undertaken by such person through the banking institution located in Georgia;
  - e) Transfer of funds from Georgia to another country to the account of an anonymous entity, or transfer of funds to Georgia from the bank account of an anonymous entity in another country;
  - f) Contribution of funds by a person into the authorized capital of an enterprise other than the purchase of stocks of accountable enterprises, as defined under the Law of Georgia on Securities Market.
  - g) Placement of funds in cash to the bank account by the physical person and further transfer;
  - h) Extension of a loan, secured by bearer securities;
  - i) Extension of a loan without any security.
  - j) Transfer of funds from or to the account of a legal entity within three months after its registration.
  - k) Transfer of funds from or to the account of grant or charity assistance.
3. Subject to monitoring by customs authorities shall be import and export of monetary units on the territory of Georgia exceeding GEL 30,000 (or its equivalent in other currency).
4. Subject to monitoring also shall be concluded or attempted transaction considered under Subsection b, Section 1 of this Article and other fact (circumstance), which, according to the written instructions of the FMS, may be related to legalisation of illicit income or financing terrorism.

5. Except transactions considered under Sections 2 and 4 of this Article, the list of specific transactions shall be defined by the Financial Monitoring Service of Georgia for the entities performing monitoring, on which the Financial Monitoring Service of Georgia shall be informed in certain cases, according to the established rule.
6. In spite of supposition on equivocacy and amount of the transaction, the monitoring entity shall not suspend implementation of the transaction (providing services to the person (client) having the business relationship with the entity), except for the case provided by Section 7 of this Article.
7. If the person willing to establish business relationship with the monitoring entity can not be identified, the entity shall refuse to implement transaction with (provide services to the client) such person. The monitoring entity shall also suspend implementation of the transaction, if any party to the transaction is on the list of terrorists or persons supporting terrorism, and immediately forward the relevant reporting form to the Financial Monitoring Service of Georgia.  
*(Changed under the Law of February 25, 2004)*

#### Article 6. Obligations of Monitoring Entities to Register Information (Documents) on Transactions

1. Monitoring entities, based on their main business activities, shall be obligated to carry out identification of all business-related entities (representative and agent, as well as the third person, if the transaction is made in favor of the third person).  
*(Changed under the Law of February 25, 2004)*
2. Commercial banks shall be obligated also to ensure identification of all entities opening a bank account, or all representatives authorized on its opening or disposal and the third person on whose name the account is opened.
- 2<sup>1</sup>. Monitoring entity shall not be authorized to provide the client with services or establish business relationship with him, without preliminary identification of this person in conformance with this law and normative acts of the relevant supervisory body and the Financial Monitoring Service.  
*(Amended under the Law of February 25, 2004)*
3. Commercial banks shall be obligated to engage in banking operations, which do not imply the opening of an account by an entity, including receipt and sending of money transfers, only after they complete the identification of an entity. For purposes of this Law, such operations shall be subject to monitoring if sufficient grounds exist thereof.
4. Monitoring entities shall be obligated to register the following information (documents) on the transactions subject to monitoring under this Law:
  - a) Type, form, subject, basis and objective of a transaction;
  - b) Date and place of conclusion of a transaction, as well as the amount of money needed for the transaction and the currency thereof;



- c) Information (Documents), as prescribed by this Law, presented for the identification of an entity involved in the transaction;
  - d) Information (documents) necessary for the identification of the person at whose order the transaction is concluded or undertaken;
  - e) Information (documents) necessary for the identification of the person by whom the transaction is being concluded or undertaken.
5. Information (Documents) presented for the identification of an entity shall at least allow to ascertain, in the case of an individual, his/her name, family name, date of birth, citizenship, place of residence, personal number by ID (passport), number of ID (passport) (in case of individual entrepreneur - the registering authority, registration date and number) and, in the case of a legal entity, name, subject of activity, legal address, registering agency, registration date and number, identification code, persons authorized to its management and representation.  
*(Changed under the Law of February 25, 2004)*
6. Documents necessary for the identification of a resident entity, shall be the following: in the case of an individual - ID (passport) or other official document containing relevant information (the relevant document confirming registration in the case of individual entrepreneur) and having the equal legal power according to the Georgian legislation; in the case of a legal entity – a resolution (or other relevant legal act) on registration of the legal entity issued by the court (or other authority as prescribed by the legislation), or/and a record from an entrepreneurial (other relevant) register.  
*(Changed under the Law of February 25, 2004)*
7. Non-resident legal entity shall be obligated to legalize the documentation necessary for its identification in compliance with the procedure established under the Georgian legislation.

Article 7. Obligations of Monitoring Entities to Keep Records of Information (Documents) on Transactions

- 1. Monitoring entities shall be obligated to keep information (documents) presented for identification of an entity for the period of no less than 5 years from the moment of breaching business relationship with the entity, while other information (documents) about transactions subject to monitoring for no less than 5 years from the day the transaction has been concluded or implemented, unless the Georgian legislation sets a longer term for the retention of such information (documents).
- 2. Information (documents) on transactions, including those presented for the identification of an entity shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by a notary or a recipient person (an authorized employee) shall be maintained.
- 3. The information (documents) shall be recorded and stored in a way where all its data fully reflect the concluded or implemented transactions and, when needed, especially upon criminal prosecutions, are used as evidence.

4. Monitoring entities shall be obligated to create an electronic database (system) in order to reveal suspicious and disintegrated transactions.  
*(Amended under the Law of February 25, 2004)*

#### Article 8. Obligations of Monitoring Entities to Implement Internal Control

1. Monitoring entities shall be obligated to ensure the implementation of internal control for the purpose of preventing legalisation of illicit income.
2. Monitoring entities shall be obligated to develop the internal regulations (internal control procedures) and take adequate measures for their enforcement. By these regulations shall be established rules and procedures for identification of clients and persons willing to establish business relationship, analyzing information, revealing suspicious transactions within the monitoring entity and rules and procedures for transfer of information to the Financial Monitoring Service in conformance with requirements of this law and normative acts of Financial Monitoring Service and with consideration of work specificity of monitoring entities. Also, an employee, or the structural unit, responsible for revealing suspicious transactions and forwarding the information and his duties shall be identified. The Financial Monitoring Service of Georgia shall have the right to set the list of those principles that are to be addressed by the internal regulation, to recall and review the internal regulation and indicate to the monitoring entity on incompliance of this regulation with normative acts and request its correction.  
*(Changed under the Law of February 25, 2004)*
3. Monitoring entities shall be obligated to systemize the information on transactions subject to monitoring, i. e. to develop the data registration system and ensure its operation.
4. To systemize information and ensure internal control, the management body of the monitoring entity shall be obligated to designate the relevant staff member in charge, or a structural unit for this particular purpose.
5. A responsible person or a structural unit considered under paragraph 4 of this Article shall be obligated to:
  - a) Take control over the implementation of the internal regulation, developed in accord of this Law, in compliance with the procedure and frequency defined under the regulation;
  - b) Submit written information on the transactions subject to monitoring to the management body of the monitoring entity, in compliance with the procedure and frequency defined under the regulation;
6. Monitoring entities shall be obligated to provide periodic training for the employees involved in the process of detecting the facts of legalizing illicit income.
7. The procedures and conditions of the control over enforcement of this law and normative acts adopted (issued) on its basis, currency exchange bureaus, non-bank depository institutions, brokering companies and securities registrars, entities organizing lotteries and other commercial games (except casinos), entities engaged in

activities related to precious metals, precious stones and products thereof and antiquities, persons engaged in extension of grants and charity assistance, notaries and post offices shall be determined under the normative act of the supervisory body, in agreement with the Financial Monitoring Service of Georgia.

*(Changed under the Law of February 25, 2004)*

#### Article 9. Obligations of Monitoring Entities to Submit Report on Transactions Subject to Monitoring

1. If the monitoring entity has the supposition that the transaction considered under the Article 5 of this law is present, the entity shall be obligated to send a written notification to the Financial Monitoring Service of Georgia about this fact according to the rule set by this law and normative acts of the Financial Monitoring Service. If the monitoring entity has the supposition that the transaction is suspicious, the grounds for considering the transaction as such shall be indicated. The Financial Monitoring Service shall be informed about all those facts (circumstances) that in the judgment of the monitoring entity may be related to legalisation of illicit income or financing terrorism.
2. The submission of the written notice to the Financial Monitoring Service of Georgia shall imply completing of and forwarding by the monitoring entities a special form of report on transactions. The report shall be forwarded no later than within three working days from the moment of conclusion or implementation of the transaction or from the moment the grounded supposition arose. If the monitoring entity has the supposition that any party to the transaction is related with terrorists or persons supporting terrorism, the monitoring entity shall be obligated to send the report to the Financial Monitoring Service of Georgia on the day the information is received, along with the relevant available materials and documents.
3. The report shall also be submitted in an electronic format, within the period defined by Section 2, yet the monitoring entity shall be obligated to retain a hard copy of the reporting form (signed copy) for no less than five years.
4. If the written report cannot be presented within the set period of time due to objective reasons, the monitoring entity shall be obligated to report through existing communication means (telephone, fax and email), yet the time and the name of the recipient person shall be indicated in the next written notification presented thereafter.
5. The normative act of the Financial Monitoring Service shall define those exceptions, when the Financial Monitoring Service is not notified (the printed and electronic forms), though the transaction considered under the Subsection "a", Section 1, Article 5 is present. As a rule, this regulation shall be used when transaction does not evoke suspicion proceeding from the purposes of this law.

*(Changed under the Law of February 25, 2004)*

#### Article 10. Financial Monitoring Service of Georgia

1. The Financial Monitoring Service of Georgia shall be established under the National Bank of Georgia in compliance with the "Law of Georgia on the Legal Entity of

Public Law" and Organic Law of Georgia "on the National Bank of Georgia" and shall exercise authorities prescribed by this Law and relevant normative acts.

2. The Financial Monitoring Service of Georgia, in agreement with the relevant supervisory body, shall design a reporting form on suspicious transactions. The reporting form, along with other information shall include the information on a suspicious transaction and parties to it, as well as on bank accounts (where practicable).
3. To ascertain the suspiciousness of the transaction, The Financial Monitoring Service of Georgia shall define and forward to the monitoring entities the information (list, directives, etc) on a suspicious transaction and parties to it.
4. The Financial Monitoring Service of Georgia shall be authorized to:
  - a) Request and obtain from monitoring entities additional information and documents (original or copy) available to them, including confidential information, on any transaction and parties to it, for the purpose of revealing the facts of illicit income legalisation or terrorism financing;  
*(Changed under the Law of February 25, 2004)*
  - b) Provide the supervisory organs with the information to get their response;
  - c) Approve (issue) normative acts on the conditions and procedures for receiving, systemizing, processing and forwarding the information and identification of the entity.  
*(Changed under the Law of February 25, 2004)*
  - d) Participate in drafting laws and other normative acts and discussions thereof regarding the issues that regulate the economic sector and related authorities;
  - e) For the purpose of implementing the assigned functions, forward questions and obtain information from all state or local self-government and government bodies and agencies, as well as from any individual or legal entity, which exercises public legal authority granted by the legislation;
  - f) Apply to the court for the purpose of sealing the property (bank account) or suspending a transaction (operation), if there is the grounded supposition that the property (transaction amount) may be used for financing terrorism (in such event materials shall be immediately forwarded to the relevant authority of the General Prosecutor's Office of Georgia).  
*(Amended under the Law of February 25, 2004)*
5. The financial Monitoring Service of Georgia is obliged to:
  - a) Create an information network, systemize and analyze the obtained information, ensure the creation and proper functioning of the relevant database;

- b) In the case of arising the grounded supposition, due to the analysis of the relevant information, that the transaction is suspicious and is implemented for legalisation of illicit income or financing terrorism, immediately forward this information (including confidential information) and the available relevant materials to the corresponding authority of the General Prosecutor's Office of Georgia, without any permission from any organ or entity.  
*(Changed under the Law of February 25, 2004)*
  - c) Review the status of the enforcement of this law and prepare appropriate legislative proposals, when needed, to ensure the accomplishment of the goals of this Law.
6. Any person or organ shall receive the information from the FMS, regarded as confidential pursuant to the Georgian legislation, only upon submission of the relevant court resolution except for cases considered under Georgian Constitution, International Agreements of Georgia and Agreements concluded by the Financial Monitoring Service of Georgia pursuant to Article 13 of this Law. No one shall have the right to assign the Financial Monitoring Service to seek for (obtain) any information.  
*(Changed under the Law of February 25, 2004)*
7. The issues related to the management, structure, representation, accountability and control of the Financial Monitoring Service of Georgia shall be determined by the Regulation of the Service approved by the President of Georgia.

#### Article 11. Responsibilities of Supervisory Bodies

- 1. The supervisory bodies shall be responsible for overseeing the compliance with the obligations (with respect to transactions, including the systemization, and forwarding the information for identification of parties to the transaction, and performance of internal control, etc) prescribed by this Law by the monitoring entities, in accordance with the set rules and procedures.
- 2. The supervisory bodies shall be obligated to collaborate with each other, with competent Georgian and other countries' authorized agencies and international organizations through exchanging information and experience, and assist law enforcement agencies, within the scope of their competence.
- 3. If the supervisory body reveals that the transaction is subject to monitoring and the information on this has not been forwarded to the Financial Monitoring Service of Georgia, or guidelines of the relevant normative acts and Financial Monitoring Service have been violated, it shall immediately inform the Financial Monitoring Service and apply the appropriate sanction against the infringer.  
*(Changed under the Law of February 25, 2004)*

#### Article 12. Responsibility for Protection and Disclosure of Information

- 1. Financial Monitoring Service of Georgia, monitoring entities and supervisory bodies shall not be authorized to inform parties to the transaction or other persons that the

information on transaction has been forwarded to the relevant authority in conformance with obligations defined under this law.  
*(Changed under the Law of February 25, 2004)*

2. The Financial Monitoring Service of Georgia, the supervisory and law-enforcement bodies, their management and employees, shall be obligated to ensure the protection of the information obtained pursuant to this Law, which contains personal, banking, commercial or professional secrets, and disclose such information in accordance with the applicable Georgian legislation.
3. When acting within the scope of their powers, Financial Monitoring Service of Georgia, monitoring entities, supervisory bodies, their management and employees shall not be held accountable for failure to observe the confidentiality of information considered under a normative act, or under an agreement, as well as for protection or referral of such information, except for commitment of the crime considered under the Criminal Code of Georgia.  
*(Section 4 deleted under the Law, February 25, 2004)*

#### Article 13. International Cooperation

1. The Georgian bodies authorized to work on issues related to legalisation of illicit income, shall cooperate, within their competence, with competent agencies of other countries and international organizations, in affairs such as receipt of information, preliminary investigation, court hearing and execution of resolutions.
2. The Financial Monitoring Service of Georgia shall have the right to conclude independently agreements (covenants) with corresponding agencies of other countries, which shall regulate exchange of information concerning prevention of illicit income legalisation and terrorism financing and other issues within their competence. These agreements (covenants) shall provide for observance of confidentiality of information and its use only for the purpose defined under the Law.  
*(Changed under the Law of February 25, 2004)*
3. The Financial Monitoring Service of Georgia, without permission from any other entity or organ, shall forward requests for submission of necessary information on issues related to legalisation of illicit income and terrorism financing to authorized agencies of other countries and international organizations, and respond to such requests.  
*(Changed under the Law of February 25, 2004)*
4. The Georgian bodies authorized to work on issues related to legalisation of illicit income, shall ensure the confidentiality of relevant information and use it only for the purposes that are indicated in the forwarded request.

#### Article 14. Compensation of Material Damage

1. The material damage, inflicted to individuals and legal entities as a result of violation of confidentiality of information, obtained in cases set by this Law and in compliance with the established rule, by the officials and employees of the Financial Monitoring Service of Georgia, monitoring entities, supervisory and law-enforcement bodies,



shall be compensated by the damaging entity – correspondingly by the Financial Monitoring Service of Georgia, monitoring entity, supervisory and law enforcement bodies at the amount set under the court decision.

2. The Material damage inflicted to individuals and legal entities as a result of the actions committed by the Financial Monitoring Service of Georgia related to referral of information and materials to the relevant service of the General Prosecutor's Office of Georgia on the basis of ungrounded supposition, non-compliant with this Law, shall be compensated by the Financial Monitoring Service of Georgia based on a court decision in accord with the procedures established under the Georgian legislation.

#### Article 15. Transitional Provisions

1. Within ten days from the promulgation of this Law, the National Bank of Georgia shall ensure the preparation, and submission to the President of Georgia for approval, of the appropriate normative acts related to the establishment of the Financial Monitoring Service of Georgia.
2. President of Georgia shall be requested to issue, within one month after the promulgation of this Law, the decree on approval of the regulation on the Financial Monitoring Service of Georgia
3. Within three months after the promulgation of this Law, the National Bank of Georgia shall complete the legal, organizational and financial measures related to the establishment of the Financial Monitoring Service of Georgia.
4. The Financial Monitoring Service of Georgia, in agreement with supervisory bodies, shall ensure adoption (issuance) of normative acts, concerning the rule and conditions of receiving, processing and forwarding the information, and their regular elaboration; monitoring entities shall ensure development of internal regulations considered under the Article 8.  
*(Changed under the Law of February 25, 2004)*
5. The Supervisory Bodies shall ensure adoption (issuance) of the regulation on definition and application of sanctions (including financial sanctions) against monitoring entities for violation of this law and normative acts adopted on its basis.  
*(Changed under the Law of February 25, 2004)*
6. Within one year after the promulgation of this Law:
  - a) The Ministry of Finance, together with the National Bank of Georgia, shall carry out necessary measures to record the movement of cash at the Georgian State borders, in the way to ensure the conscientious use of the information received in relation to the above, and free flow of capital.
  - b) The National Bank of Georgia shall undertake measures to promote the use and broader application of non-cash payment, and submit the legislative suggestions to limit the control over the commercial banks by criminals.

Article 16. Conclusive Provisions

1. This Law, except for Articles 10 and 15 shall be enforced from January 1, 2004.
2. Articles 10 and 15 of this Law shall be enforced upon promulgation.



## **2. Law On Changes and Amendments to the Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation of February 25, 2004**

**Article 2.** Normative Acts, provided for in Section 15, Article 1 of this Law, shall be adopted (issued) within 3 months after the effective date of this Law. *(refers to Sections 4 and 5, Article 15 of this Law)*

**Article 3.** Currency exchanging bureaus, non-bank depository institutions, brokerage companies and securities' registrars, entities organizing lotteries and other commercial games (except casinos), entities engaged in activities related to precious metals, precious stones and products thereof, antiquities, notaries and persons engaged in extension of grants and charity assistance shall ensure development of good e-mail system and electronic data base within a year from the effective date of this law and implementation of the software for revealing partition of the transaction within two years after the effective date of this Law.

**Article 4.** Within three months after the effective date of this Law Supervisory bodies shall ensure:

- a) issuance of regulations for monitoring entities under Section 7, Article 8 of the law on "Facilitating the Prevention of Illicit Income Legalization "
- b) completion of organizational work (including adoption (issuance) of normative acts) for the purposes of meeting obligations considered under Article 11 of the Law on "Facilitating the Prevention of Illicit Income Legalization.

**Article 5.** Within six months from the effective date of this law, the Ministry of Finance of Georgia shall develop the relevant draft laws of Georgia on changes and amendments to the Law of Georgia on Customs to regulate principles and procedures for declaring cash amounts upon crossing customs border of Georgia by physical persons.

### **Article 6.**

1. This Law shall become effective on the fifteenth day from its promulgation, except for Section 4 of Article 1.
2. Section 4, Article 1 shall become effective on September 1, 2004.  
*(refers to Article 5 of this Law)*

Mikheil Saakashvili  
President of Georgia

February 25, 2004  
Tbilisi  
#3430 - rs

### 3. Law on Normative Acts (Article 19)

#### Article 19

1. For normative acts effective in Georgia the following hierarchy is set based on the legal force thereof:
  - a) Constitution of Georgia, Constitutional Law of Georgia;
  - a<sup>1</sup>) Constitutional agreement of Georgia; (24.06.2004 N 213)
  - b) International agreements and treaties of Georgia;
  - c) Organic law of Georgia;
  - d) Law of Georgia, Parliamentary rules, Decree of the President of Georgia; (17.02.2004 N3350)
  - e) Ordinance of the President of Georgia;
  - f) resolution of the Parliament of Georgia, Resolution of the Government of Georgia; (24.06.2004 N213)
  - f<sup>1</sup>) Rescinded (24.06.2004 N213)
  - g) Resolution of the national commission on regulation of the energy system, Resolution of the of the national commission on regulation of oil and gas resources of Georgia, Resolution of the national communications commission of Georgia, Order of the Chairman of the agency of state acquisitions of Georgia, Order of the Minister of Georgia, Resolution of the accounting standards' commission, resolution of the Board of Audit council, Resolution of the central elections commission, Order of the head of the special service of the state security and Order of the head of the special service of foreign intelligence of Georgia; (9.06.2006 N3241)
  - g<sup>1</sup>) Resolution of the national commission on the transport regulation; (25.05.2006 N3181)
  - h) Order of the head of the agency of free commerce and competition (03.06.2005 N1553)
  - h<sup>1</sup>) Order of the director general of the accreditation center – the United national body of accreditation; (11.04.2006 N2834)
  - h<sup>2</sup>) Order of the director general of the national agency of standards, technical rules and metrology; (28.04.2006 N2947)
  - i) Order of the head of the state insurance supervision service of Georgia (20.06.2001 N967)
  - j) Order of the head of the Financial Monitoring Service of Georgia (23.07.2003 N2621)
  
2. Normative acts of the national Bank of Georgia, National Securities Commission of Georgia (24.12.98) and chamber of Control of Georgia adopted within the scope determined by the legislative acts of Georgia have prevailing legal force over other normative acts; Resolution of the National Bank's Council of Georgia has prevailing legal force over the order of the president of the national Bank of Georgia.

#### **4. Criminal Code of Georgia (Articles 4, 18, 25, 202, 220, 323 to 331)**

##### Article 4

###### Territorial application of criminal legislation of Georgia

1. Everyone who committed crime on the territory of Georgia shall be held responsibility under the present Code.
2. A crime is committed on the territory of Georgia if it was started, continued, stopped or accomplished on the territory of Georgia. This Code also applies to crimes committed on the continental shelf and exclusive economic zone of Georgia.
3. Criminal responsibility under the present Code shall be imposed for the crimes committed on or against the vessel with Georgian flag or other visible sign, unless otherwise is provided by international agreement binding for Georgia.
4. If a crime is committed on the territory of Georgia by a diplomatic agent or any person having diplomatic immunity, the issue of criminal responsibility shall be decided according to the principles of international law.

##### Article 18

###### Preparation of Crime

1. Preparation of crime shall be intentional creation of conditions for the perpetration of crime.
2. Criminal liability shall be prescribed for the preparation of grave or especially grave crimes only.
3. Criminal liability for the preparation of crime shall be determined under the relevant article of this Code which provides for liability for completed crimes, by giving reference to this article.

##### Article 25

###### Criminal responsibility of executor and accomplices

1. Executor and accomplices shall bear criminal responsibility in accordance to their culpability based on the common illegal activity and to the extent of the nature and scope of their participation in the crime.
2. Criminal responsibility of a co-executor shall be determined by relevant article(s) of the Criminal Code without reference to the present Article.
3. Criminal responsibility of an organizer, instigator and assistant shall be determined by relevant article(s) of this Code with reference to the present Article, unless he/she is an executor at the same time.

4. When an element of a crime is on the side of an executor or accomplice, another executor or accomplice shall bear responsibility for that element if he/she new about it.
5. Personal element characteristic to culpability, and/or to an executor or accomplice shall serve as a basis of responsibility for only that executor or accomplice.
6. A person shall bear responsibility as an organizer, instigator or assistant for the participation in a crime where executor can only be a special subject defined by the present Code.
7. If an executor failed to accomplish the crime, an accomplice shall bear criminal responsibility for the participation in preparation of crime or in attempted crime. A person who failed to persuade another person to participate in a crime shall also bear criminal responsibility for the preparation of crime.

#### Article 202

##### Illegal Gathering or Spreading of Information Containing Commercial or Bank Secrets

1. Illegal gathering of information containing commercial or bank secrets for the purpose of illegal spreading or illegal application thereof, - shall be punishable by fine or by corrective labour for up to one year in length or by jail sentence for up to a two-year term, by deprivation of the right to occupy a position or pursue a particular activity for the term not in excess of three years or without it.
2. Illegal disclosure of the information containing commercial or bank secrets or using thereof for mercenary purposes or on any other personal motive, that has caused a substantial damage, - shall be punishable by fine or by restriction of freedom for up to a three-year term or by imprisonment for the term not exceeding four years, by deprivation of the right to occupy a position or pursue a particular activity for the term not in excess of five years or without it.

#### Article 220

##### Abuse of Authority

Abuse of managing, representative or other special authority in an enterprise or other organization to the detriment of the legal interests of this organization, designed to derive profit or privilege for oneself or others, that has caused a substantial damage,- shall be punishable by fine or by corrective labor for up to a two-year term or by jail time from three to five years.

## CHAPTER XXXVIII. TERRORISM

### Article 323. Terrorist Act

1. Terrorist act, i.e. explosion, arson, application of arms or any other action giving rise to threat of a person's death, substantial property damage or any other grave consequence and undermines public security, strategic, political or economic interests of the state, perpetrated to intimidate the population or put pressure upon a governmental body,-
  - a. shall be punishable by prison sentences ranging from ten to fifteen years in length.
2. The same action committed:
  - a. by s group;
  - b. repeatedly;
  - c. by using weapons of mass destruction,-
  - d. shall bear legal consequences of imprisonment ranging from twelve to seventeen years in length.
3. The action referred to in Paragraph 1 or 2 of this article, that has claimed a human life or has given rise to any other grave consequence,-
  - a. shall carry legal consequences of imprisonment ranging from fifteen to twenty years in length or by life imprisonment.
4. Note: Criminal liability shall be lifted up from the person participating in the preparation of the terrorist act who by giving a timely notice to a governmental body or acting otherwise, will help stave off the terrorist act, in case his/her action bears no other criminal signs.

### Article 324. Technological Terrorism

1. Technological terrorism, i.e. the use, or threat of use, of a nuclear, radiological, chemical or bacteriological (biological) arms or a component thereof, pathogenic micro-organism, radioactive or other substance hazardous for human health, including the seizure of the object of nuclear, chemical or strong technological or ecological vulnerability, that undermines public security, strategic, political or economic interest, perpetrated to intimidate the population or put pressure upon a governmental body,
2. shall bear legal consequences of imprisonment ranging from ten to fifteen years in length.
3. The same action, that has claimed a human life or has given rise to any other grave consequence,-
4. shall carry legal consequences of imprisonment ranging from twelve to twenty years in length or by life imprisonment.

### Article 324<sup>1</sup>. Cyber Terrorism

1. Cyber terrorism, i.e. illegal abstraction, the use, or threat of use of protected by law computer information, giving rise to threat of a grave consequence and undermines public security, strategic, political or economic interests of the state, perpetrated to intimidate the population or put pressure upon a governmental body,- shall be punishable by prison sentences ranging from ten to fifteen years in length.

2. The same action, that has claimed a human life or has given rise to any other grave consequence,- shall carry legal consequences of imprisonment ranging from twelve to twenty years in length or by life imprisonment.

#### Article 325. Assault on Political Official of Georgia

Encroachment upon the life, health or property of the President or any other political official of Georgia or a family member thereof, related to the diplomatic activity of such official,- shall be punishable by prison sentences ranging from seven to twenty years in length or by life imprisonment.

#### Article 326. Assault on Person or Institution Enjoying International Protection

Assault on the representative of a foreign state or the employer of an international organization enjoying international protection or on their office or residential building or vehicle, as well as encroachment upon the life, health or property of a family member thereof on political motives or for deterioration of international relations,- shall be punishable by prison sentences ranging from seven to twenty years in length or by life imprisonment.

#### Article 327. Formation of Terrorist Organization or Leading Thereof or Participation Therein

1. Formation or leading of a terrorist organization,-
2. shall bear legal consequences of imprisonment ranging from twelve to fifteen years in length.
3. Participation in a terrorist organization,-
4. shall be punishable by prison sentences ranging from ten to twelve years in length.

#### Article 328. Accession and Assistance to Terrorist Organization of Foreign State or to Such Organization Controlled by Foreign State

Accession to the terrorist organization of a foreign state or to such organization controlled by a foreign state or assisting it in terrorist activities, shall carry legal consequences of imprisonment ranging from ten to fifteen years in length.

#### Article 329. Seizure of Hostage for Terrorist Purposes

1. Hostage-taking for terrorist purposes, i.e. to coerce the state authority or an international or religious organization to carry out or not to carry out a particular action by promising to release the hostage,- shall be punishable by prison sentences ranging from seven to thirteen years in length.
2. The same action perpetrated:
  - a) against a political official of Georgia or a family member thereof;
  - b) against a foreign official representative or the one enjoying international protection;
  - c) by a group;
  - d) repeatedly;
  - e) by a terrorist organization,-

shall bear legal consequences of imprisonment ranging from eight to fifteen years in length.

3. The action referred to in Paragraph 1 or 2 of this article that has claimed a human life or has given rise to any other grave consequence,- shall carry legal consequences of imprisonment ranging from twelve to twenty years in length.

#### Article 330. Taking Possession of or Blocking Object of Strategic or Special Importance for Terrorist Purposes

1. Taking possession of or blocking the object of strategic or special importance for terrorist purposes,- shall be punishable by prison sentences ranging from eight to fifteen years in length.
2. The action referred to in Paragraph 1 of this article that has claimed a human life or has given rise to a grave consequence,- shall carry legal consequences of imprisonment ranging from twelve to twelve years in length or by life imprisonment.

#### Article 331. False Notification on Terrorism

1. False notification on terrorism,-

shall be punishable by fine or by corrective labour from one to two years in length or by jail time up to three months or by imprisonment not in excess of three years.

2. The same action committed:
  - a) With previous collusion by a group;
  - b) Repeatedly;
  - c) What has given rise to any other grave consequence,-shall be punishable by prison sentences ranging from three to five years in length.

## 5. Criminal Procedure Code of Georgia (Articles 50,147, 875)

### Article 44

21<sup>2</sup>. Related person – person, who on the basis of legal documents owns the property and there is sufficient evidence that it has been acquired through criminal actions of the suspect, accused or defendant and the property is being used by the suspect, accused or defendant.

### Article 62. Departmental and Personal Jurisdiction criminal procedure code

The conduct of a preliminary investigation in a criminal case comes within the jurisdiction of investigators of the Ministry of Internal Affairs, unless the present Code provides otherwise. Investigators of the Prosecutor's Office have jurisdiction over the offences committed by the President of Georgia, a member of the Government of Georgia, a judge of Georgia, the Ombudsman, the Chairman of the Chamber of Control, a member of the National Bank Council, Extraordinary and Plenipotentiary Ambassador of Georgia, the prosecutor, investigator, prosecutor's advocate, policeman, officers in service of the highest military or special rank or the equated persons, as well as offences provided for in Articles 194 and 332-342 of the Criminal Code of Georgia. (16.12.2005 N2265)

Deleted (30.06.2004 N280)

Deleted (30.06.2004 N280)

Deleted (30.06.2004 N280)

Deleted (24.12.2004 N209)

61. Investigators of Investigation Department of the Financial Police of the Ministry of Finance of Georgia shall have jurisdiction over offences considered under Articles 182, 189, 190, 192, 193, 195-201, 204, 213, 214 (except section 4 of this article), 216-221 of Criminal Code of Georgia.

62. Investigators of investigation department of the Ministry of Defense of Georgia shall have jurisdiction over crimes considered under Articles 356-359, 383-392, 394-403, as well as crimes committed in military units of the Ministry of Defense of Georgia.

63. Investigators of investigation department of the Ministry of Justice of Georgia shall investigate offences provided for in Articles 3421, 377-381, as well as crimes committed in places of detention.

64. If any offence provided for in Articles 383-403 of the Criminal Code of Georgia has been committed by the officer of the Ministry of Internal Affairs of Georgia, such offence shall be investigated by the investigation unit of the Ministry.

65. If there is competition in investigation jurisdiction between the Prosecutor's Office and any of the bodies listed in Article 61 (1) of this Code, the Prosecutor's Office shall carry out investigation. (25.03.2005)

In the case of consolidation of several charges (with respect to one or several persons) in a single proceeding, the matter shall be investigated by the investigator having jurisdiction over the most serious offences.

Deleted (25.03.2005 N1204)



## CHAPTER XXIV SEIZURE OF PROPERTY (excerpt)

### Article 190. Grounds for and Purpose of Seizure of Property

1. For the purpose of securing a civil action or other property payments as well as a procedural confiscation, the court may seize property, including bank accounts of the suspect, accused or person on trial and the person bearing material responsibility for his actions, provided that there are data to suppose that they may conceal or sell the property, or the property has been obtained criminally. In the existence of conditions indicated in this section, if the suspect, accused or person on trial is an official, the procurator is obliged to petition before the court for seizing the official's property, including bank accounts, as well as suspending the performance of obligations assumed by the official under agreements made on behalf of the state, also for applying other coercive measures in order to secure the action.
2. A measure of seizure of property provided for under this Code is also applicable in preparing a terrorist act and other especially grave offence, provided there are sufficient data evidencing that the property will be used for committing an offence.

### Article 191. Restriction of Proprietor's Competence upon Seizure of Property

The seizure of property prohibits the proprietor or the person in whose use it is to dispose of it, as well as to use it, where appropriate.

### Article 192. Property not Subject to Seizure

1. The essential food products, firing, objects of professional activity and other goods, which secure normal living conditions for the accused and his family members, may not be seized.
2. Seizure may not be applied to the property of institutions, enterprises, organizations, public and professional associations, except for the share of joint property which separation is possible without prejudice to their economic activities.

### Article 193. Petition for Seizure of Property and Procedure for its Hearing

1. In the existence of the grounds for seizure of property prescribed by Article 190 of this Code, the inquirer, investigator or procurator shall ascertain where and in whose hands the property is. For this purpose, in order to detect money, securities and things, the necessary investigative acts may be conducted in banks, pawnshops, and cloakrooms, in postal and other institutions.
2. The inquirer, investigator or procurator shall, under the procedure established by Article 140, make and file with the court a reasoned petition for seizure of property. To secure the judge's order, the petition shall indicate all necessary data. The procurator shall sanction the petition of the inquirer for securing the judge's order on seizure of property.
3. The judge under the procedure established by Article 140 should consider the petition.

#### Article 194. Judge's Order and Court Ruling/Decision on Seizure of Property

1. Seizure of property is effected on the basis of the judge's order, a copy of which is delivered to the inquirer, investigator or procurator in compliance with his petition or on the basis of a reasoned ruling/decision of the court hearing the matter.
2. The judge's order or the court ruling/decision shall indicate: whose property is seized; where and with whom it is kept; of which things, securities, money, valuables it consists if it has been ascertained by the investigator; which share of the joint property is seized; who is commissioned with the execution of the order of seizure; whether search is admissible if the voluntary handing over of the property has been denied; where and who is authorized for conducting a search; to what extent seizure shall extend for securing the action.
3. If the property, money, valuables are kept in several places and with different people, the appropriate number of the judge's orders or court ruling/decisions on seizure of property shall be issued.

#### Article 195. Decision on Seizure of Property in Case of Urgent Necessity

1. In a case of urgent necessity, if there are grounds to suppose that the property may be concealed or destroyed, the inquirer, with the procurator's sanction, the investigator or procurator are competent to pass a reasoned decision on seizure of property. The decision shall indicate the data provided for in Article 194(2).
2. The decision shall be executed by the person having passed it, after which it ought to be reported to the judge within 24 hours, who shall either attest the legality of the decision or declare it unlawful and revoke the imposed seizure of property.

#### Article 196. Procedure for Execution of Judge's Order or Court Ruling/Decision on Seizure of Property

1. An inquirer, investigator or procurator shall hand in judge's order and, in exceptional cases, his decision on seizure of property to the person in whose possession the property is with the property transfer request. If the request is waived or in the existence of reliable evidence of the incomplete transfer of property, it shall be subject to search under a procedure prescribed by this Code.
2. Pursuant to the court ruling/decision, an executor shall impose seizure of property.
3. The executor himself shall specify the goods and valuables subject to seizure within the extent indicated in the judge's order or court ruling/decision.
4. A commodity expert entrusted with the assessment of property shall attend seizure of property.
5. The extent of damage resulted from an offence and the value of the property subject to seizure shall be defined at the market average.
6. Upon seizure of cash deposits, any transactions with them shall be suspended.
7. In the case of matrimonial or family property, the accused's share shall be subject to seizure; however, in the existence of data evidencing that the joint property has been acquired or replenished at the expense of criminally gained resources, the entire property or part thereof may be seized.
8. In determining a share of property subject to seizure, the degree of participation of each of the accuseds in the committed offence shall be taken into account. In all

cases, the value of the accused's property under execution shall not exceed the total extent of the damage resulted from participation of all the accuseds.

#### Article 197. Record of Seizure

1. An inquirer, investigator or procurator shall enter a seizure of property shall in a record made in compliance with the provisions of Article 287, while an executor shall describe the property. A record/inventory shall indicate: the accurate description of the property subject to seizure; the quantity, size, weight, degree of wear and tear; other individual characteristics and the price; what is to be seized and left in storage; whether the property or part thereof belongs to other persons; the statements made in respect of actions of the person effecting seizure.
2. A copy of the sealed record/inventory shall be handed in against receipt to the person whose property is under execution. If seizure of property is effected in the absence of the person, a copy of the record/inventory shall be handed in to one of the adult family members of the person or to a representative of a body of local government or self-government. Upon seizure of property on the territory of an institution, enterprise, or organization, a copy of the record shall be handed in against receipt to a representative of the authorities.

#### Article 198. Storage of Seized Property

1. Property under execution shall, save immovable and large-size things, be seized.
2. Precious metals, gems, foreign currency, securities shall be kept in storage in a state banking institution, while bonds and lottery tickets - in saving banks. Cash shall be deposited with the court within whose jurisdiction the criminal case falls. Other items under execution shall be sealed and stored in the body on the petition of which the property has been seized, or shall be delivered in storage to a representative of the local executive governmental or self-governmental authority.
3. The seized property, save the property indicated in section 2 of this article, shall be sealed and left in storage of the proprietor, owner or adult family member of the accused. The persons concerned shall be informed of the responsibility provided by law for the alienation or damage of property, following which a written undertaking shall be obtained therefrom.

#### Article 199. Validity of Judge's Order or Court Ruling/Decision on Seizure of Property

1. Seizure of property may be effected either before execution of the judgment of conviction or before dismissal of criminal proceedings.
2. In the case of acquittal or dismissal of criminal proceedings on the grounds indicated in subsections a), b), c), d), e) and i), section one, Article 28, seizure of property shall be revoked.
3. In the case of acquittal or dismissal of criminal proceedings on the grounds indicated in subsections f), g), h), k), l), m), n), o), section one of Article 28, for securing action in civil proceedings, should such action be filed, the judge or court has the right to prolong the term of seizure of property up to 30 days.
4. In the cases of withdrawal of a civil action or where other grounds for seizure of property no longer exist, the judge, on the petition of an inquirer, investigator, procurator or the court considering the matter, may, by its ruling, revoke this measure.

5. Except for the cases provided for in section 4 of this article, the measure of seizure applied to the accused's property may also be revoked by the Procurator-approved reasoned ruling of the investigator for suspending criminal prosecution.
6. In case the sentence is dismissed and the matter is returned for re-trial, the appellate and cassation instances are entitled not to revoke seizure of property of the accused, but if the judgment is left unchanged - to issue an order for keeping seizure in force until the execution of judgment.

#### Article 200. Appeal against Judicial Order on Seizure of Property

1. A judicial order on seizure of property may, within 72 hours, and the ruling for revocation of the imposed seizure on property within 48 hours as of the date of their issue or execution, be appealed against with the Cassation Chamber of the Supreme Court of Georgia under the procedure prescribed by Article 243. The appeal shall not suspend the execution of the order.
2. A person who believes that his property has been unlawfully or unreasonably seized, including the person who is not connected with the matter, but whose property has been mistakenly entered in a record/inventory, is entitled to claim release of his property from seizure as per Article 198 of the Code of Civil Procedure of Georgia. The court ruling in connection with the lodged action concerning the release of property from seizure shall be binding on an inquirer, investigator and procurator, as well as on the court hearing the matter.

#### Article 201. Return of Property Upon Rehabilitation

In the case of rehabilitation of an accused or convict, he shall be entitled to the return of all the executed and seized property in kind or in cash at the market average prevailing on the date of rehabilitation - where the refund in kind is impossible.

## **6. The law of Georgia on Organized Crime and Racketeering**

### Article 1. Purpose of Law

The purpose of this law is to facilitate prevention and fight against Organized Crime, Thieves' Brotherhood and Racketeering, as well as fight against members of Thieves' Brotherhood to defend private, public, and State interests.

### Article 2. Racketeering, Racketeering Group, Racketeer

1. Racketeering is a recurring and organized activity conducted for the purpose of obtaining regular proceeds or other profit, related to committal of a deliberate crime, (if the conviction is not voided or removed), committed at least twice in a course of 5 calendar years, which does not include a period of racketeer's arrest and service of sentence.
2. Racketeering Group is a legal entity, also any type of association of legal entity and/or a physical person, whose activity is related to racketeering.
3. Racketeer is a person who personally, or in relationship with other person(s) conducts racketeering activity, or otherwise participates in the racketeering activity and is aware that this is a racketeering group, also unlawfully decides or participates in solving issues between the racketeering groups or between a racketeering group and other persons.

### Article 3. Thieves' brotherhood, member of the Thieves brotherhood, Thief in Law

1. Thieves Brotherhood-any type of union, which operates in accordance with the special rules of its own make or which are recognized by it, aimed at gaining profit for its members or for other persons by means of intimidation, threat, coercion, terms of remaining silent, negotiations between the thieves ("a sit down"), involvement of a minor in a criminal activity, committal of a crime or instigation.
2. Member of the Thieves Brotherhood-any person who recognizes Thieves Brotherhood and actively pursues goals of the brotherhood.
3. Negotiations between the thieves ("a sit down")- solving an argument between two or more persons by a member of the thieves' brotherhood, which is provided for by threat, coercion, intimidation or other illicit actions.
4. Thief in Law- a member of the thieves' brotherhood, who runs or/and organizes a certain group of individuals in any form in accordance with the rules of the thieves brotherhood.

### Article 4. Family member, close relative, associated person

1. Family members of a racketeer or a member of thieves' brotherhood include: his spouse, underage child, step child, also a person who is permanently residing with a

racketeer or a member of thieves brotherhood.

2. Close relative to a racketeer or a member of thieves' brotherhood include his-direct ascending and descending line relative (in a Family Tree), sister and brother, also stepchildren of his parents and of his child, spouse's sister, brother and parents.
3. Associated person to a racketeer or a member of thieves' brotherhood is a person who, based on legal documentation owns assets and there is sufficient evidence that these assets derive from racketeering and illegal activity of the member of the thieves' brotherhood, and these assets are utilized by a racketeer or a member of thieves' brotherhood.

#### Article 5. Assets of a racketeer and a member of thieves' brotherhood

1. Assets which derive from Racketeering are assets obtained through a racketeering activity, profit made on such assets, assets acquired through racketeering proceeds; also proceeds, assets, or profit made on assets which belong to racketeer's family member, close relative or associated person, when there is no documented or other evidence that these assets and proceeds are acquired through lawful means.
2. Assets of a member of thieves' brotherhood--proceeds, assets, or profit made on assets owned by family member, close relative or associated person of a member of thieves' brotherhood, when there is no documented or other evidence that these assets and proceeds are acquired through lawful means.
3. Assets of a racketeer and a member of thieves' brotherhood are subject to forfeiture and after satisfying lawful claims of a third party, shall be transferred to the ownership of their legal owners. In case if legal owner cannot be identified, they are transferred to the State.
4. Set of rules for forfeiture and passage to State ownership of assets of a racketeer and a member of thieves' brotherhood, is provided by Civil Procedures Code of Georgia.

#### Article 6. Liability of a racketeer, member of the thieves' brotherhood and of a thief in law

Liability of a racketeer, member of the thieves' brotherhood and of a thief in law is stipulated by this law and other legislative bills of Georgia.

#### Article 7. Final Provisions

1. After this law becomes effective, previous law on Organized Crime and Racketeering dated June 24, 2004, shall be considered null and void.
2. This law becomes effective after 15 days from the day of its promulgation.

President of Georgia  
Mikeil Saakashvili

## **7. Civil Code of Georgia (Articles 50, 147, 875)**

### Article 50. Concept

Deal (transaction) shall be an expression of unilateral, bilateral or multilateral will, directed to creation, amendment or termination of legal relation.

### Article 147. Concept

Property according to this Code, shall represent all items and immaterial property, which can be owned, used and disposed by natural persons and legal entities and purchased without limitation, if it is not prohibited by the law and does not contradict with moral norms.

### Article 875. Savings Book

While issuing a savings book, the credit institution shall be obligated to fill it on the named person (specific person). (23.07.2003 N2617)

(This text reflects the text of the law as subsequently amended and not as it was at the time of the on-site visit)

## 8. Civil Procedure Code of Georgia (Article 356)

Article 356

Article 356<sup>1</sup>. Definitions

For the purposes of this chapter the under-mentioned terms have the following definitions:

- a) Racketeering – a multiple and organized activity carried out for the purpose of gaining profit or other property benefit on a regular basis, which is related to the commission of an intentional crime (if prior conviction has not been expunged or dropped), provided that it is carried out at least twice in the period of five calendar years. The five year term does not include the term of detention or serving sentence of racketeer;
- b) Racketeering gang – a legal person, as well as any unity of physical and/or legal persons, whose activities are related to racketeering.
- c) Racketeer – a person who conducts the activities of a racketeering gang independently or in concert with other person(s) or otherwise knowingly participates in the activities of a racketeering gang as such, as well as unlawfully resolves or participates in the resolution of disputes between racketeering gangs or racketeering gang and other persons.
- c<sup>1</sup>) Human trafficker – physical or legal person or the group of persons who has committed the crime envisaged by Articles 143<sup>1</sup> or/and 143<sup>2</sup> of the Criminal Code of Georgia;
- d) Family member – the spouse, minor child or step child of the racketeer, those of the member of the criminal circle or human trafficker as well as the person permanently residing with the human trafficker;
- e) Close relative – family member the relative of direct line of ascent and descend, brother and sister, the step-children of their parent and child, brother sister and parents of the spouse of racketeer, the member of the criminal circle or human trafficker;
- f) The person related to racketeer, the member of the criminal circle or human trafficker – a person who, under the legal document owns property that, based on the sufficient evidence, has been obtained through racketeering or other illegal ways and is used by racketeer, the member of the criminal circle or human trafficker;
- g) Property obtained through racketeering – property obtained through racketeering, the profit gained from this property, property acquired through the income received from racketeering, as well as income, property, or the profit gained from the property of a racketeering gang, racketeer, his/her family member, close relative, or a person associated with a racketeer, where the documents or other evidence certifying lawful receipt of this property does not exist;
- h) The property owned by the member of the criminal circle - income, property, or the profit gained from the property of the member of the criminal circle, his/her family member, close relative, or a person associated with a racketeer or the member of the criminal circle, where the documents or other evidence certifying lawful receipt of this property does not exist;
- i) The property owned by human trafficker – property obtained through human trafficking, income, property, or the profit gained from the property of human



trafficker, his/her family member, close relative, or a person associated with a human trafficker, where the documents or other evidence certifying lawful receipt of this property does not exist.

Article 356<sup>2</sup>. Lodging complaint on the seizure of the property owned by racketeer, the member of the criminal circle or human trafficker and its transfer to the state

1. Prosecutor is authorized to move with a motion on the seizure and confiscation of the property owned by racketeer, the member of the criminal circle or human trafficker within 30 days after the entering into the force of the court judgment rendered against racketeer, the member of the criminal circle or human trafficker.
2. The motion on the seizure of the property owned by racketeer and its transfer to the state may be moved against racketeering gang, racketeer, his/her family member, close relative or the person involved in racketeering;
3. The motion on the seizure and confiscation of the property owned by the member of the criminal circle may be moved against the member of the criminal circle, his/her family member, close relative or the person related to the member of the criminal society;
4. The motion on the seizure and the confiscation of the property owned by human trafficker may be lodged against human trafficker, his/her family member, close relative or the person related to the human trafficker;

Article 356<sup>3</sup>. Declaring property as obtained through racketeering, declaring the property owned by the member of the criminal circle or human trafficker as illegal or unfounded

1. The court shall declare the property owned by racketeering gang, racketeer, his/her family member, close relative or the person involved in racketeering as obtained through racketeering, if in the course of the proceedings, as a result of the examination of the due evidence, it has been revealed that the property has been obtained through racketeering, represents the profit gained from this property, or was purchased by the income received from racketeering, or where the documents or other evidence certifying lawful receipt of this property by racketeering gang, racketeer, his/her family member, close relative, or a person associated with a racketeer does not exist.
2. The complainant shall present before the court evidence confirming the racketeering related origin of the property.
3. The court shall declare the property owned by the member of the criminal circle, his/her family member, close relative or the person related to the member of the criminal circle as illegal or unfounded, if the documents or other evidence certifying lawful receipt of the property owned by the member of the criminal circle, his/her family member, close relative or the person related to the member of the criminal circle does not exist.
4. The respondent shall present before the court evidence confirming the fact that his/her property is legal and founded.
5. The court shall declare the property owned by human trafficker or his/her family member as illegal or unfounded, if the documents or other evidence certifying lawful receipt of the property owned by human trafficker or his/her family member does not exist.

6. The respondent shall present before the court evidence confirming the fact that his/her property is legal and founded.

Article 356<sup>4</sup>. Seizure of property

Prosecutor shall address the court with the motion on the seizure of the property, including bank accounts, whenever there is a reasonable suspicion that racketeering gang, racketeer, the member of the criminal circle, his/her family member, human trafficker, close relative or the related person, will be hidden or spent or otherwise disposed.

Article 356<sup>5</sup>. The legal consequences related to declaring property as obtained through racketeering, or as illegal or unfounded

1. The property owned by racketeering gang, racketeer, the member of the criminal circle, his/her family member, close relative, human trafficker, his/her family member or the person related to racketeer or the member of the criminal circle declared as obtained through racketeering, or as illegal or unfounded by the court shall be transferred to the legal owner, and in case such is not identified – to the state, but only after the due satisfaction of the third parties in the case.
2. Whenever the part of the property is declared illegal, unfounded or obtained through racketeering, only that part of the property shall be transferred to the legal owner, and in case such is not identified – to the state, the respondent was unable to establish as legal, founded or obtained through the legal way other than racketeering.
3. The respondent shall pay the equivalent sum when the property declared as illegal, unfounded or obtained through racketeering can not be returned in its original state.
4. The property that is declared illegal, unfounded or obtained through racketeering shall be transferred to legal owner or the state in accordance with a law of Georgia on Execution of Court Decisions.

Article 356<sup>6</sup>. The decision in absentia

1. The paragraph “c” of Article 233 of the present Code shall not be used with regard to the proceedings on the seizure of property owned by racketeer, the member of the criminal circle or human trafficker, when the retrieval is announced against racketeer, the member of the criminal circle, his/her family member, close relative, human trafficker, his/her family member or the person related to racketeer or the member of the criminal circle.
2. The copy of the decision in absentia shall be forwarded to the party that failed to appear at the trial within 5 days after its issuance.
3. The rules related to the delivery of the court summons (notification) established Under Chapter VIII shall be used in the circumstances provided for in paragraph 1 of this Article.

**9. Ordinance N. 526 on Establishing Inter Departmental Anti – Terrorist Commission at the National Security Council for Fulfillment of Resolution N1373 (2001) of the UN Security Council and Implementing United National program for fighting International Terrorism**

PRESIDENT OF GEORGIA

Tbilisi, 21 December 2001

For the purpose of consolidating efforts of civilized states commonwealth in the field of fighting terrorism as a result of terrorist acts committed against the US on September 11, 2002 and implementing united national action plan for fulfillment of the Resolution N1373 (2001) of the UN Security Council:

1. The inter-departmental national anti-terrorist temporary commission shall be established at the National Security Council with the following composition:

Irakli Alasania	- Chairman, Deputy Secretary of the National Security Council of Georgia
Amiran Meskheli	Deputy Chairman, Deputy Minister of the State Security of Georgia
Aleksi Aleksishvili	First Deputy Minister of Finance
Gia Getsadze	First Deputy Minister of Internal Affairs
David Gobechia	Head of the Operational-Investigation Division of the State Border Defense of Georgia
Victor Dolidze	Director of International Security department of the national Security Council of Georgia
Merab Kakulia	Vice President of the National Bank of Georgia
Besik Loladze	Deputy Minister of Justice of Georgia
Giorgi Mzhavanadze	Chairman of the Civil Aviation Administration
Henrich Muradiani	Deputy Minister of Economic Development
David Sikharulidze	Deputy Minister of Defense
Nikoloz Tabatadze	First Deputy Minister of External Affairs
Artem Togonidze	Commission Secretary, Chief Advisor of Law Enforcement and Special Services Division of State and Public Security Department of the National Security Council of Georgia
David Chikhladze	Deputy Head of Special Service of State Security
Nona Tsotsoria	deputy Prosecutor General of Georgia
Levan Jugeli	Deputy Minister of Health, Labor and Social Security

2. National Security Council shall review the report of the commission on Fulfillment of Resolution N1373 (2001) of the UN Security Council and Implementing United National program for fighting International Terrorism.
3. The commission shall cooperate with the anti-terrorist committee of the UN Security Council.

## **10. Organic Law of Georgia on National Bank (Articles 49, 73 and 74)**

### Article 59. Supervision

1. The National Bank shall have full authority to supervise all activities of banks, non-bank depositary institutions and currency exchange offices. This includes the issuance and revocation of licenses, full examination and regulation, the imposition of restrictions and sanctions, as well as the temporary administration and liquidation of commercial banks and non-bank depositary institutions pursuant to the Georgian legislation.
2. The National Bank is empowered to require and obtain any type of document and financial reporting from persons who exercise control over banks and non-bank depositary institutions. The National Bank shall be empowered to investigate the sources of capital in banks and non-bank depositary institutions and to investigate persons who control them and the circumstances surrounding such control.
3. In case of failure to provide the information as required in Section 2 or in case of any violation revealed thereby, the National Bank shall be empowered to require divestiture or reduction of control. In case of failure to comply with this requirement, the National Bank may impose sanctions and actions against the relevant commercial bank or non-bank depositary institution pursuant to such procedures and in such amounts as are provided by its regulations.
  - a. While carrying out its supervisory functions, the National Bank shall be authorized:
    - (a) to issue relevant resolutions, decrees, regulations, procedures, guidelines, manuals, instructions and to take such corrective actions and impose such sanctions as it shall deem necessary in order to promote the stability of the financial and credit system.
    - (b) to supervise and inspect any commercial bank, non-bank depositary institution and currency exchange office and their subsidiaries other than persons licensed by the National Securities Commission of Georgia, to examine their accounts, funds, ledgers, documents and other materials and to access all information it deems necessary. In case of the revelation of evidence of criminal activity, such materials shall be delivered to appropriate authorities.
    - (c) To increase the required reserves of banks and non-bank depositary institutions, to terminate their active operations, to prohibit distribution of profit, payment of dividends or other distributions, to prohibit increases in the remuneration or the payment of bonuses and similar compensation, to require the injection of additional capital and to increase required reserves on possible losses from assets and contingent liabilities.
    - (d) To suspend the signing authority of administrator or accountant of a commercial bank or non-bank depositary institution, to impose money penalties on him or her, to require him or her to be removed from his or her position, to impose money penalties on commercial banks, non-bank depositary institutions and currency exchange offices and to revoke their licenses issued by the National Bank. The amount of any penalties imposed by the National Bank and the procedures for the implementation thereof, as well as the procedures and terms for issuing, suspending and revoking licenses shall be determined by regulations of the National Bank.

- b. A Liquidator or Temporary Administrator of a commercial bank or non-bank depository institution shall be appointed only by the National Bank and shall report to the National Bank. The Liquidator or Temporary Administrator shall assume the full authority of all organs (including shareholders' meetings) of the commercial bank or non-bank depository institution.
- c. For the purpose of ensuring the stability of the banking system and the safety of deposits, the National Bank shall be authorized:
  - i. to establish and manage bridge banks, which carry out their activities in accordance with the "Law of Georgia on Activities of Commercial Banks".
  - ii. through a Temporary Administrator or Liquidator, to facilitate the merger of an insolvent bank with another bank or to transfer all or part of its assets and liabilities under terms and conditions set by the National Bank.
- d. The National Bank shall periodically set for commercial banks and non-bank depository institutions required amounts of minimum paid-in issued and other kinds of capital, as well as procedures, forms and terms for raising it. These rights of the National Bank shall also apply to commercial banks and non-bank depository institutions, which are already in operation.
- e. The National Bank shall have the right to require the National Securities Commission of Georgia to inspect subsidiaries of any commercial bank or non-bank depository institution licensed by the Commission in order to avoid any risk to the commercial banks or non-bank depository institutions that may arise from inappropriate activities of their subsidiaries. The National Bank shall be authorized to require the inclusion of its representatives as part of the Commission's inspection team that examines any such subsidiary.
- f. No person shall have the right to receive deposits without a license of the National Bank or to use their proceeds for the purpose of extending credit. The National Bank may request reports, examination of funds, accounting ledgers, documents, and other materials from any person, as well as to inspect persons, who to its knowledge are taking deposits and other repayable funds without a license of the National Bank, other than the persons licensed by the National Securities Commission of Georgia.
- g. Banks and non-bank depository institutions may be declared insolvent and failed only on the basis of a decision made by the National Bank pursuant to the procedure defined by it. (*October 23, #1114, Legislative Bulletin #32*).

#### Article 73 National Bank Regulations

- 1. In carrying out its tasks, the National Bank shall enjoy autonomous independent regulatory powers. All of its regulations shall be published in the official publication of the National Bank or other official gazette and in any other official publication of the National Bank as determined under applicable law and shall take effect on the date of publication in official gazette or on the date specified in the regulation. The National Bank shall maintain a public register of all of its regulations, guidelines and instructions.
- 2. Formats and standards set for electronic settlement accounts and informational security, approved by the National Bank by appropriate regulations shall be individually provided to banks and non-bank depository institutions and shall come into force as of the date set by the National Bank.
- 3. The National Bank shall send draft regulations to the Ministry of Justice for legal expertise unless there is a need for a particular regulation to immediately take effect. The need for such a regulation to immediately take effect shall be determined by an

adopting (issuing) organ and set forth in the relevant regulation. Regulations adopted by the National Bank shall be immediately (and no later than the following business day) submitted to the Ministry of Justice to receive their registration codes. Regulations, which are to take immediate effect, shall become effective as of the date set in the regulation. (*October 23, #1114, Legislative Bulletin #32*).

#### Article 74<sup>1</sup> Georgian Financial Monitoring Service

1. To facilitate the prevention of legalisation of illicit income, a legal entity of public law – the Georgian Financial Monitoring Service – is established with the National Bank.
2. The Georgian Financial Monitoring Service is an independent entity and does not conform to any agency or officer in its activities. The Service conducts its activities in accordance with its bylaw, this Law, the Law of Georgia on the Legal Entity of Public Law, the Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation, and other normative acts.
3. The Head of the Georgian Financial Monitoring Service is nominated by the Council of the National Bank, appointed for the term of 4 years, and relieved of his duties by the President of the National Bank. The Head of the Service is relieved of his duties if he/she:
  - a) has committed a serious professional error;
  - b) is unable to perform his duties due to health condition or because he/she is recognized incapable by the court;
  - c) has become insolvent or has been declared bankrupt and has not been rehabilitated;
  - d) has committed a crime.
4. The issues related to the management, structure, representation, accountability and control of the Financial Monitoring Service shall be defined by the bylaw of the Service, which is approved by President of Georgia.
5. The property necessary for the operation of the Financial Monitoring Service shall be granted to the Service by the National Bank, on the basis of the relevant resolution of the Council of the National Bank. The Council of the National Bank approves the budget of the Service annually. The Service is accountable to President of Georgia and the Council of the National Bank.

## **11. Decree N. 354 on Establishing the Entity of the Public Law – the Financial Monitoring Service of Georgia**

PRESIDENT OF GEORGIA

Tbilisi, 16 July 2003

Financial Monitoring Service of Georgia

Pursuant to the Laws of Georgia “On Facilitating Prevention of Illicit Income Legalisation” and “Legal Entity of the Public Law” and the Organic Law of Georgia “on the National Bank of Georgia” I decree:

1. Establish the legal entity of the Public Law – Financial Monitoring Service of Georgia.
2. Approve the attached regulation on the legal entity of the Public Law - the Financial Monitoring Service of Georgia,.

Eduard Shevardnadze

Approved under  
Decree N 354 of July 16, 2003  
of the President of Georgia  
REGULATION

On Establishing the Legal Entity of the Public Law – Financial Monitoring Service of Georgia

Chapter I  
General Provisions

Article 1

1. Financial Monitoring Service of Georgia (hereinafter referred to as the Service) is the legal entity of the Public Law, which was established pursuant to the Law of Georgia “On Facilitating Prevention of Illicit Income Legalisation”. The Service shall be the separate organization from governmental authorities, which independently performs legal public activities as prescribed by the legislation.
2. The Service shall operate in conformance with the Law of Georgia “On Facilitating Prevention of Illicit Income Legalisation”, other normative acts and this regulation.



3. The Service shall have independent balance sheet, bank account and the seal with the name and the State Emblem.

## Chapter II

### Goals and Activities

#### Article 2

1. The aim of the Service shall be facilitation to preventing the illicit income legalisation.
2. In conformance with the Law of Georgia “On Facilitating Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall:
  - a. For the purpose of revealing facts of illicit income legalisation, collect information from monitoring entities on transactions subject to monitoring, analyze it and forward to the relevant authorities in cases considered under the law.
  - b. Issue normative acts within its competence, concerning conditions for submission, processing and forwarding the information and other procedures defined by the legislation.
  - c. Participate in drafting and review of laws and other normative acts concerning economic security.
  - d. Develop informational network, systemize and analyze collected information and ensure establishing the relevant data base and its normal operation.
  - e. Conduct activities defined under the Law of Georgia “On Facilitating Prevention of Illicit Income Legalisation”. and other normative acts.

## Chapter III

### Management of the Service

#### Article 3

1. The Head shall supervise operation of the Service and represent it in front of other organs and third parties.
2. The Head shall be nominated by the Council of the National Bank of Georgia and appointed by the President of Georgia for the term of four years.
3. The Head of the Financial Monitoring Service of Georgia shall be dismissed by the President of Georgia, pursuant to the active legislation.
4. The Head shall have deputies.



5. The staffing list and number of employees shall be determined by the Head of the Service in agreement with the Council of the National Bank of Georgia.
6. The Head shall define duties and authorities of the employees.
7. Employees shall be hired and dismissed under decree of the Head of the Service in line with the legislation. Employment term contracts shall be concluded with technical staff. Employment term contracts may be concluded with any other employee.
8. In the event of absence of the Head of the Service , his duties shall be undertaken by one of his deputies on the basis of Decree of the Head or the deputy who was last replacing him.

#### Chapter IV

#### Property, Funds, Accounting and Reporting

##### Article 4

The National Bank of Georgia shall hand over to the Service premises, technical means, other property and financial resources necessary for fulfillment of assigned duties and responsibilities.

##### Article 5

1. Financial Sources of the Service shall be:
  - a. Budget of the Service, approved by the Council of the National Bank on an annual basis;
  - b. Other revenues not prohibited by the Georgian Legislation.
2. The Service shall open bank accounts in conformance with the procedure set under the Law.
3. Resources and revenues defined by this article shall completely be used for achieving goals of the Service and implementation of functions. Their use for other purposes shall be prohibited.

##### Article 6

1. The Service shall perform accounting and reporting of financial activities in line with the legislation, make balance sheet and submit to the National Bank for approval.
2. The National Bank shall exercise control over expenditure of funds allocated to the Service, conduct examination of financial-economic activities of the Service and not interfere in implementation of duties and responsibilities of the Service

assigned by the Law of Georgia “On Facilitating Prevention of Illicit Income Legalisation”..

#### Article 7

The Service shall present report to the Council of the National Bank of Georgia on performed activities twice a year.

#### Chapter V Termination of Activities, Liquidation

#### Article 8

1. Activities of the Service shall only be terminated on the basis of the relevant normative act.
2. Liquidation of the Service shall be conducted by the liquidator appointed by the Council of the National Bank of Georgia.
3. Liquidation shall be carried out in accordance with the rule set by the Georgian legislation.
4. The property, remained as a result of liquidation of the Service, shall be returned to the National bank of Georgia.

#### Chapter VI

#### Procedures for Making Changes and Amendments to the Regulation

#### Article 9

Changes and amendments to the Regulation of the Service shall be made under Decree of the President of Georgia based on the proposal of the Head of the Service, which has been agreed with the Council of the National Bank.

#### Chapter VII

#### Transitional Provisions

#### Article 10

Subsection “b”, Section 2, Article 2 of this Regulation shall become effective upon enactment of changes to the Law of Georgia “On Normative Acts”.

## 12. Law of Georgia on Operative Searching Activities (Article 7)

### Article 7. The Notion of operative-searching Measure

1. An operative-searching measure is the action of determined by this Law of authorised governmental body/ officer within competence ensuring performance of tasks foreseen by the Article 2 of this Law.
2. For implementation of these tasks the following means are exercised in open or in secret manner:
  - a. Questioning of citizens;
  - b. gathering notes(information) and the visual control;
  - c. controlling purchase,
  - d. controlled delivery;
  - e. research of subjects and documents;
  - f. identification of a person;
  - g. censorship of correspondence of detained, imprisoned or accused person;
  - h. secret listening and taping of phone conversations by court decision, gaining information from the channel of communication (by connecting to the means of communication, computer networks, linear communications and station apparatus), control of post-telegraph staff (except the diplomatic post);
  - i. secretive audio-video taping according to the court decision, making of films and photos; electronic control by technical means, the use of which will not cause any danger to persons life, health and environment;
  - j. involvement of a secret representative or operative officer in the criminal group according to the established rule.
  - k. creation of conspirative organisation in accordance with stated rule.
3. Operative-searching measures, considered by parts 2(h) and 2(i) of this Article carried out only by order of the Court. The order is issued by the judge of the relevant regional (city) Court with respect to investigation case, on the basis of mediation of the prosecutor. The Judge has to examine the mediation within 24 hours on closed session in attendance of prosecutor. After hearings explanations of prosecutor, examination of mediation and materials, judge takes one of the following decisions:
  - a) give an order to perform operative-searching measure;
  - b) take a decision on refusal to satisfy the mediation.
4. Operative-searching measure, considered by parts 2(h) and 2(i) of this Article, which needed the order of the Court, in the case of imminent necessity, when the delay can cause destruction of important factual data, or impossible to obtain judge's order in case of his absence, can be performed on the basis of decision, taken by prosecutor. In such case within 12 hours from the beginning of operative-searching measure (if this time frame is running out, in this case not later an hour after expiration of this time) prosecutor is obliged to turn to the judge of the regional (city) court, on which territory operative-searching measure is being conducted with purpose of legitimation of operative-searching measure. The Court has to examine the mediation within 24 hours on closed session. After hearings explanations of prosecutor, the judge examines legality of performed operative-searching measure and takes one of the following decisions:
  - a) about recognizance legality of operative-searching measure;

- b) About recognizance as illegal operative-searching measure, abolishment of existing results and destruction of obtained data.
- 5. The decision of judge (order, resolution) in cases considered by parts 3 and 4 of this Article is final and is not appealed.
- 6. The enumeration of activities determined by part 2 of this Article is complete; it can be changed or fulfilled only by this Law.
- 7. There shall be drawn up report on performance of operative-searching measure, reflecting conditions of using technical means. The report with materials shall be kept in accordance with rules, established by this Law
- 8. An authorized person of agencies performing operative-searching activity himself-herself participates in the implementation of the activities determined by part 2 of this Article and has the right to use specialists of the specific branch, also the assistance of private individuals on a volunteer basis, either in an open or in secret manner.

### 13. Customs Declaration for Private Persons

1. Personal data:

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First name

last name

date of birth

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Place of residence (country, address)

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Type of ID, Number, Private number

Citizenship (country)

Country of arrival

Country of departure

Purpose of trip:            business            private            tourism            other

2. Private subjects of my handbag as well as my personal baggage articles which are applicable in the declaration:

a) Georgian national or foreign currency and securities (bearer's negotiable instruments):

Yes                      No

Name of currency (securities)	Quantity (value)	
	In digits	in letters

b) Jewelry (precious metals, stones and other wares), antiquities and pieces of art (icons, pictures, statues etc.), any type of weapon, bullets, flammable substances, narcotics, psychotropic, drastic and poison substances, radioactive substances, high-frequency radio-electronic outfit, communication facilities, alive pets, alive birds, plants

Name of subject	Quantity	Yes	No
		For custom's authorities' remarks	
	Quantity unit		
	In digits		
	In letters		

c) Goods to be imported (including excisable)  
above the limit of not-taxable (limit is equal to 300 GEL)

Yes No

d) Undiversified goods of over 20 kg

Yes No

e) Diversified goods of over 50 kg

Yes No

I am agreed completely with the remarks; hereby I certify the truth of data by

Signature

date

Customs officer's signature

**14. Decree N. 152 on Approval of the Regulation on Receiving, Systemizing and Processing the Information by Customs Authorities and Forwarding to the Financial Monitoring Service of Georgia**

FINANCIAL MONITORING SERVICE OF GEORGIA

Tbilisi, 16 November 2004

Pursuant to the Articles 10, 15 of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” I Decree:

- a) Approve the attached Regulation (including annexes) “On Receiving, Systemizing and Processing the Information by Customs Authorities and Forwarding to the Financial Monitoring Service of Georgia”.
- b) Customs Department of the Ministry of Finance of Georgia shall submit “Registration Forms of Customs Offices in the Financial Monitoring Service of Georgia” (Annex 2) for each customs office within a month from the effective date of this decree.
- c) This decree shall become effective upon promulgation.

N. Geguchadze

Approved under Decree # 152  
of the Head of the Financial  
Monitoring Service of Georgia,  
November 16, 2004

REGULATION

On Approving the Regulation on Receiving, Systemizing and Processing the Information by Customs Authorities and Forwarding to the Financial Monitoring Service of Georgia

Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, Decree #354 of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” of July 16, 2003 and other relevant normative acts of Georgia.
2. This regulation shall apply to Head Office of the Customs department of the Ministry of Finance of Georgia, regional customs authorities and structural units thereof.

3. This regulation shall regulate terms and procedures for receiving, systemizing, processing and filing the respective information by Head Office of the Customs department of the Ministry of Finance of Georgia, regional customs authorities and structural units thereof (customs offices) and forwarding to the Financial Monitoring Service of Georgia in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”.

#### Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

- a) Customs authorities - Head Office of the Customs department of the Ministry of Finance of Georgia, regional customs authorities and structural units thereof (customs offices);
- b) Monitoring – identification of persons carrying cash, registration and systemization of information on such persons and submission to the Service by Customs Authorities in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and normative acts of the Ministry of Finance and the FMS.
- c) Identification of a person – determining the identity of an individual, carrying cash in national or foreign currency with the total value of GEL 30,000 or more (or its equivalent in other currency), by means of identity documents having legal power.
- d) Cash – bank notes and coins in national and foreign currency;
- e) Employee in charge of monitoring – employees of the Customs Department of the Ministry of Finance of Georgia, who shall perform monitoring activities and are granted the respective authority.

#### Article 3. Movement of Cash Subject to Monitoring by Customs Authorities

- a) For purposes of this Regulation, subject to monitoring by customs authorities shall be import to and export from Georgia of national and foreign currency, if the total volume exceeds GEL 30,000 or its equivalent in other currency.
- b) Declaration of national and foreign currency, carried by physical persons through the customs border of Georgia, shall be conducted in accordance with the established procedure.

#### Article 4. Obligations of Customs Authorities with Respect to Implementation of Internal Control

1. Pursuant to the Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Customs Department of the Ministry of Finance of Georgia shall develop and approve internal regulation (internal control procedure) under the respectively legalized resolution;
2. Implementation of internal control shall include the following:
  - a) Identification of physical persons, carrying GEL 30,000 or more or its equivalent in other currency through the customs border of Georgia, in



compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and requirements of this regulation;

- b) Systemizing, filing and submitting to the Service the information obtained through identification of persons carrying cash, who are subject to monitoring;
- c) Regular training of the staff in issues of financial monitoring.

3. Internal regulation (internal control procedure) shall define:

- a) Issues with respect to appointment of employees in charge of monitoring in the customs department or creation of the respective structural units;
- b) Functions, authority and responsibility of the employees of customs authorities in charge of monitoring or the respective structural unit;
- c) Rules for recording, systemizing and filing the information related to financial monitoring;
- d) Procedure for submitting information, indicated in “customs declaration of the physical person” by persons, carrying cash subject to monitoring, pursuant to Section 1, Article 3 of this regulation, from regional customs authorities (customs offices) to customs department;
- e) Procedure for submission of special reporting forms compiled on the basis of information received from regional customs offices and structural units thereof (customs offices) and other materials (information) to the Service;
- f) Functions, authority and responsibility of other employees (structural units) of customs offices, including functions, authority and responsibilities of supervisors.

4. Employee (or special structural unit) in charge of monitoring shall follow the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation, internal regulation of the Customs Authority, FMS guidelines as well as the relevant normative acts issued by the Ministry of Finance of Georgia.

Article 5. Obligations of Customs Authorities with respect to Identification and Registration of Identification Details (Documents)

- 1. Customs authorities shall be obligated to identify persons carrying cash subject to monitoring in compliance with Section 1, Article 3 of this regulation;
- 2. The following information shall be obtained through the identification process:
  - a) First name, last name;
  - b) Citizenship;

- c) Number of ID (Passport);
  - d) Date of birth;
  - e) Permanent (registered) place of residence
3. In addition to information listed in Section 2 of this Article, the following details shall be recorded:
- a) Country the person comes from;
  - b) Country the person travels to.
4. Document required for identification of the person: passport issued by the appropriate authorities of the respective State.

#### Article 6. Obligations of Customs Authorities to Keep Information (Documents)

1. Customs Department shall be obligated to keep “customs declaration of physical person” filled by persons carrying cash defined under Section 1, Article 3 of this regulation for no less than six years from the moment of crossing the customs border by such persons. Subject to retention for six years shall also be special reporting forms (hard as well as electronic copies) provided for in Article 7 of this regulation.
2. The information related to financial monitoring shall be systemized, recorded and maintained in a way, that when needed it can be found and retrieved in a shortest period of time.

#### Article 7. Obligations of Customs Authorities to Present Reporting Forms

1. Customs department shall forward the received information, as special reporting forms (or in any other form), to the Service in written as well as electronic form.
2. Submission of information to the Service in written form shall imply completion and submission of special reporting forms by employee of the customs department in charge of monitoring or by special structural unit established for such purpose. Special reporting form is provided in the Annex 1 of this regulation. Reporting form shall be sent (submitted) within three working days from the moment of crossing customs border by the physical person;
3. Submission (sending) of information in an electronic form shall imply submission (sending) of reporting form as an electronic file (developed by the Service) to the e-mail address of the service or by electronic carrier (floppy disc) within three working days from the moment of crossing the customs border by the person;
4. If due to objective reasons the special reporting form cannot be presented within the set period of time provided for in Sections 2 and 3 of this Article, defined under Section 4 of this Article, information available to the Customs Authority shall be submitted through existing communication means (telephone, fax and e-mail). However, no later than within three working days from the moment the information is received, the Customs Authority shall be obligated to submit completed special reporting form indicating

communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.

5. Hard copy of the special reporting form shall be submitted to the Financial Monitoring Service of Georgia in a sealed envelope by the authorized employee of the Customs Authority or sent as an ordered mail. Name and address of the sender shall be written on the envelope, as well as the addressee – Financial Monitoring Service of Georgia. Delivery address: Freedom Square 7, 7<sup>th</sup> floor Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
6. Electronic version of the special reporting form shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.
7. Reporting forms shall be prepared in two copies and each of them certified with the signature of the employee designated under the internal regulation of the Customs Authority and responsible for making the final decision. One copy of the form shall be presented to the Financial Monitoring Service of Georgia, and the other copy shall be retained in the Customs Authority for no less than six years.
8. Customs Department shall maintain register of reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of reporting forms shall be consistent during each year and reflected in a special journal, pages of which are numbered.
9. Reporting form shall be filled completely. If any information required in the form is not available, the following shall be written in: “we do not have information.” If due to peculiarities of the specific case, it is not necessary to fill in any of the boxes, “----“ shall be written in.
10. If there is not sufficient space for writing full information available, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which report the information should be attached. Each additional sheet shall be certified with a signature of the employee who is authorized under the internal regulation and is responsible for making final decision.

#### Article 8. Procedure for Submitting the Additional Information to the Service

1. Pursuant to Subsection “a”, Section 4, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the service shall have the right to request additional information from Customs Authorities and according to Subsection “e” the Service request information and available documents (including confidential documents). Customs Authorities shall be obligated to submit the requested information to the Service within three working days from the receipt of the request.
2. In compliance with legal Acts of the Service on “the List of Terrorists and Persons Supporting Terrorism” or written guidelines of the Service related to legalisation of

illicit income, movement of related persons across the customs of border of Georgia and other specific facts (circumstances) shall be made known to the service by submitting the report or according to the procedure defined under this regulation.

#### Article 9. Inputting Information on Customs Authorities (Customs Offices) in the FMS Database

1. For the purpose of systemization and analysis of the information received by the FMS on monitoring import and export of cash in Georgia and for elaboration of the data base established pursuant to the Subsection “a”, Section 5, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Customs department shall submit “ Form of registration of Customs Offices in the Financial Monitoring Service of Georgia” (Annex 2) approved along with this regulation to the service for each customs office. The form shall be fully completed and certified with the signature of the head of Customs department.
2. In the event of changes in information (as well as replacement of the employee in charge of monitoring) presented in the form, the Customs Department shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

#### Article 10. Responsibilities Related to Monitoring

1. Ministry of Finance of Georgia shall supervise compliance of Customs Authorities with norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation.
2. For violation of norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation, persons in charge of monitoring shall be held responsible pursuant to the procedure set under the legislation.

## 15. Law of Georgia on Non-Bank Depository Institutions – Credit Unions

### CHAPTER I

#### General Provisions

##### Article 1. Definitions

The terms used in this Law, shall have the following meanings:

- a) Non-bank depository institution – credit union – an enterprise registered in an organizational-legal capacity of a co-operation, which receives deposits from its members only, provides lending to its members, undertakes banking activities allowed under this Law, and the ultimate goal of which is not to gain profit.
- b) Deposit - funds deposited by a member of a of a non-bank depository institution - credit union, the ownership right on which is obtained by the credit union, and on which, as a rule, an interest is accrued.
- c) Share — a monetary contribution of a member of a credit union made to the issued capital of the of a non-bank depository institution –a credit union, which grants such member certain rights towards a credit union, defined under this Law and the Law of Georgia on Entrepreneurs.
- d) Banking activities – the activities listed in article 3 of this Law;
- e) Loan –any liability of a non-bank depository institution –credit union - related to the issuance of funds by a credit union to its members on the principles of repayment, valuation and maturity.
- f) Management body –General Meeting, Supervisory Council, executive board of a non-bank depository institution – a credit union ;
- g) investment – investment of excess liquid resources in short-term tangible and intangible assets, for the purpose of obtaining possible profit;
- h) excess liquidity – funds which remain with a non-bank depository institution –a credit union – after timely settlement of members’ and other financial claims, as well as after the satisfaction of the members’ demand on loans.
- i) commercial bank – a legal entity licensed by the National Bank of Georgia which takes deposits and, using these deposits, carries out the banking activities defined under the Georgian banking legislation on its behalf.
- j) license –the right granted at the decision of the National Bank of Georgia to a non-bank depository institution – a credit union - to carry out the banking activities defined under this Law, with observation of pertinent conditions.
- k) license certificate – a document certifying the possession of a license.

- l) reserves – property which is created by a non-bank depository institution – a credit union, for a certain objective, and does not represent a shared possession of its members.
- m) corrective actions – measures exercised by the National Bank of Georgia and/or the Supervisory Council of a credit union, for purposes of supervising and regulating the activities of the non-bank depository institution – credit union.
- n) family member – spouse, parents, children, adopted children and other legal dependants of a member of a non-bank depository institution – a credit union.
- o) close relative – a family member, other relatives of direct upward and downward chain, step-child, sister, brother, as well as step-children of parent and child, of a member of a non-bank depository institution – a credit union.
- p) business partner – a person connected by commercial interests with a non-bank depository institution – a credit union.

#### Article 2. Purpose and Applicability of the Law

- 1. This Law shall apply to non-bank depository institutions – credit unions (hereinafter to be referred to as “credit union”). The purpose of the Law is to provide legal regulation of its activities in accordance with the Organic Law on the National Bank of Georgia, this Law, the Law of Georgia on Entrepreneurs, other legislative acts, and normative acts of the National Bank of Georgia (hereinafter to be referred to as “National Bank”).
- 2. When formulating company names, credit unions shall include the term “credit union”, as well as consider the requirement of the Law of Georgia on Entrepreneurs. No credit union has the right to use the word “bank” in their company names.
- 3. No one has the right to use the term “credit union” or any other word combination using this term, in their business names, unless this entity possesses a pertinent license issued by the National Bank, except the cases when it is so set or recognized under an international agreement, or it is obvious from the business name that the entity does not carry out banking activities defined under this Law.

#### Article 3. Principles and Powers Governing the Activities of Credit Unions

- 1. The principles governing the activities of credit union are as follows:
  - a) voluntary membership;
  - b) membership of individuals being a common bond;
  - c) immediate participation of members in the management of a credit union;
- 2. A credit union is authorized to carry out the following kinds of banking activities:
  - a) attract deposits from its members only;
  - b) extend loans to its members only;

- c) engage in investment activities in accord with the requirements of article 17 of this Law;
- d) render services related to the above activities, including loan commitments.

#### Article 4. Registration of Credit Unions

1. Credit Unions shall be registered in accord with the requirements of the Law of Georgia on Entrepreneurs.
2. Credit Unions are obligated to notify the National Bank on any changes made in the Business Register within 3 business days after registration.

### CHAPTER II

#### Conditions for Membership of Credit Unions; Rights and Duties of Members

#### Article 5. Membership of a Credit Union

1. Only individuals shall be entitled to become members of a credit union.
2. A person enrolled in a credit union is obligated to invest a share within the time-limit and in the amount defined under the Bylaw of Credit Union (“bylaw”).

### CHAPTER III

#### Management of Credit Union

#### Article 6. Management Bodies of Credit Union

1. Activities of credit unions shall be governed by the General Meeting, the Supervisory Council and the Executive Board.
2. Members of the Management Body of a credit union, except hired Executive Director, shall be the members of the same credit union. No more than one family member shall be a member of the same Managing Body, except the case when all members of the credit union are members of the same family, or the majority of credit union members is represented by members of the same family.

#### Article 7. General Meeting

1. The supreme body of a credit union is the General Meeting, which, in compliance with the rights granted under the legislation and bylaw, shall make important decisions on activities of the credit union. Except the cases considered under this Law, the General Meeting shall be summoned at least once a year, for the annual balance to be discussed and approved within the first half of the financial year.
2. The General Meeting of credit union has the special authority to:
  - a) Approve the bylaw of a credit union and make amendments to it.
  - b) Elect and re-elect the members of the Supervisory Council and Executive Board;
  - c) Approve the Annual Report submitted by the Executive Board regarding the activities of the Credit Union and the decisions of the Supervisory Council.



- d) Adopt decisions regarding the utilization of revenues of the Credit Union or indemnification of damages;
  - e) Establish general reserves, determine of their scope and the procedures of utilization.
  - f) Establish branches;
  - g) Adopt any decision regarding the reorganization and liquidation of the credit union;
  - h) Adopt decisions regarding sale or purchase of real property of the credit union, as well as distribution of unused funds;
  - i) Make decisions regarding other issues provided under the Georgian legislation and the bylaw;
3. For decisions regarding the issues considered under subparagraphs f) and g) of this article, it is necessary to obtain prior consent of the National Bank.
  4. The General Meeting is authorized to make decisions if it is attended by no less than 60% of its members, for extraordinary meeting – 40%. If the general meeting is re-summoned, it shall be considered to have decision-making power, irrespective of the number of members attending. The General Meeting shall be called within one to three weeks period, with the notice to be published in a newspaper or other means, as defined under the bylaw.

#### Article 8. Supervisory Council

1. The Supervisory Council shall control the activities of the credit union. It shall be accountable to the General Meeting.
2. The Supervisory Council shall be elected by the General Meeting for the term of two years . The number of members of the Supervisory Council shall be odd – no less than three, and no more than fifteen.
3. The Supervisory Council shall be authorized to:
  - a) Monitor the implementation of the policy of the credit union;
  - b) Initiate the invitation of audit, at the request of the General Meeting or 10% of its members, in order to audit the activities of the credit union;
  - c) Immediately summon the extraordinary meeting in order to take measures to avoid dissatisfactory work or anticipated aggravation of its activities, to make decisions regarding the deprivation or suspension of powers of the members of the Supervisory Council and Executive Board, or in other cases considered under this Law.
  - d) Decide on other issues considered under the Georgian legislation and the bylaw.
4. Members of the Executive Board shall have no right to be members of the Supervisory Council.
5. The General Meeting shall have no right to approve the Annual Report without findings of the Supervisory Council.
6. The Supervisory Council shall issue authorization on the issuance of loans to each member of the Executive Board.



7. The Supervisory Council shall have the right to suspend the authority of a member of the management body, before an extraordinary meeting is summoned.
8. The decisions of the Supervisory Council shall be based on simple majority of votes.

#### Article 9. Executive Board

1. The executive Board shall be elected by the General Meeting for the term of 2 years. The number of members of the Executive Board shall be odd – no less than three and no more than nine members. Executive director, designated from the Executive Board, shall chair the Board and represent it vis-à-vis third parties.
2. The Executive Board shall be authorized to:
  - a) Elect the Credit Committee;
  - b) Determine the policy of the credit union;
  - c) Accept new members, suspend their authority and expel them;
  - d) Designate and dismiss the executive director;
  - e) Determine the services to be rendered to the members of the credit union, including the conditions and procedures for receipt of deposits.
  - f) Approve write-offs of non-recovered loans in accord with the procedure established by the National Bank.
  - g) Use the reserves considered under this Law with observance of the procedure established by the normative acts of the National Bank.
  - h) Prepare the Annual Report and submit it to the General Meeting for discussion.
  - i) Develop investment procedures;
  - j) Exercise other powers granted under the Georgian legislation and the bylaw.

#### Article 10. Credit Committee

1. Credit Committee is a special body accountable to the Executive Board which is responsible for lending activities of the credit union. It is obligated to submit the comprehensive report of its activities to the Executive Board and the Supervisory Council on a monthly basis.
2. Credit Committee shall be elected by the Executive Board for the term of two years. It shall consist of no less than three members, the rights and duties of which shall be defined under the legislation.
3. Credit Committee shall be authorized to:
  - Consider loan applications submitted by members of credit union and make appropriate decisions; consider loan applications submitted by members of the Executive Board and submit proposals to the Supervisory Council.
  - Periodically control and discuss loan portfolio, appraise all collateral or other means of security, verify documentation related to any loan, design and implement loan collection efforts.
  - Take measures to cover losses in case of default on loan;
  - Classify loans and create reserves for possible losses in accord with the procedures established by the National Bank.

- Control the repayment of loans;
  - Decide on other issues considered under the Georgian legislation and the bylaw.
4. Members of the Executive Board and the Supervisory Council of the credit union, as well as hired individuals shall have no right to be members of the Credit Committee.
  5. The meeting of the Credit Committee shall be summoned at least once a month. The issues discussed and decisions made shall be reflected in the minutes which shall be forwarded to the Executive Board for feedback, when needed.

#### Article 11. External Audit and Accounting

Credit Unions are obligated to:

- a) invite an external auditor annually, in order to conduct audit in accord with the procedures established by the National Bank.
- b) Maintain accounting and financial reporting in accord with the accounting procedures established by the National Bank.

#### Article 12. Conflict of Interests

A member of the Supervisory Council or the Executive Board of the credit union shall not be a member of the Supervisory Council or the Executive Board of any bank or other credit union. In addition, a person shall be prohibited to be a member of the Executive Board of the credit union, if such person:

- a) Has participated in a transaction which caused significant damage to a commercial bank or other credit union.
- b) Has misused his/her powers when working at a commercial bank, or other credit union.
- c) Previously held an administrative position of a commercial bank or other credit union, and as a result of his/her doings, the commercial bank or other credit union became insolvent;
- d) Has not discharged his/her financial liability to a commercial bank or other credit union.
- e) Other prohibitions considered under this Law apply to him/her.

### CHAPTER IV

#### Deposit

#### Article 13. Deposit

1. Deposits attracted by a credit union shall represent the main source of formation of the credit union's funds. Credit unions receive deposits only from their members. Deposits can be term, or demand. A savings book may be issued for term deposits. Issues regarding the savings book shall be regulated by the Georgian legislation.
2. Credit unions shall ensure the management of assets and liabilities so that the interest rate set for the deposit should not exceed the interest rate accrued to the extended loan.

3. For the purpose of securing a loan, a credit union may require the recipient of the loan to pledge or block the deposit.
4. Credit unions may, at any time, offset the deposit of a loan recipient against a delinquent loan, in accord with the requirements of the Civil Code of Georgia.

#### Article 14. Withdrawal of Deposit

Deposits shall be withdrawn in accord with an agreement. Requests of members of the credit union to withdraw their deposits fully or partially, may be rejected if they are liable to the credit union in terms of a loan, warranty, or otherwise.

### CHAPTER V

#### Loan

#### Article 15. Conditions and Purpose of Extending Loans

1. Credit unions shall extend loans only to their members, in accord with this Law and the requirements set by the National Bank, and following the timeframe and conditions defined periodically by the Credit Committee.
2. A loan extended by a credit union may be secured or not secured. A share or deposit of a member, his/her personal or immovable property, as well as the warranty and/or bank guarantee of other solvent person may serve as a security. Members of the Executive Board, the Supervisory Council or the Credit Committee of a credit union, shall have no right to provide direct or indirect warranty, or act as a guarantor for any loan extended by the credit union.

#### Article 16. Confidentiality

1. Information on a deposit of a member of the credit union, as well as on the loan transaction, shall be confidential for those who are not members of a credit union, and shall be issued only at the pertinent decision of the court.
2. In order to fulfill its supervisory function, the National Bank has the right to receive any information and document related to the activities of the credit union, as indicated in paragraph 1 of this article.

### CHAPTER VI

#### Investments

#### Article 17. Permissible Investments

1. A credit union has the right to make the following types of investments, in consideration of excess liquidity:
  - a) in treasury bills;
  - b) in commercial banks in the form of short-term deposits;
  - c) in the form of short-term loans to other credit unions;

2. In consideration of excess liquidity, a credit union can also make other investments permitted by the National Bank.
3. According to the types of investments considered under paragraphs 1 and 2 of this article, total investment at a single institution shall not exceed 15% of the assets of a credit union.
4. The sum of investments considered under paragraphs 1 and 2 of this article, shall not exceed 30% of the assets of a credit union.
5. The limits considered under paragraphs 3 and 4 of this article may be exceeded at the decision of the General Meeting.

## CHAPTER VII

### Reserves

#### Article 18. General Reserve

A credit union is required to create a general reserve. General reserve shall be formed of contributions from annual earnings, and shall be no less than 90% of the distributable earnings.

#### Article 19. Utilization of General Reserve

General reserve shall be primarily utilized to cover the loss of a credit union.

#### Article 20. Asset Loss Reserve

Beside general reserve, a credit union, shall, in accord with the procedures set by the National Bank, create asset loss reserve, which shall not be a constituent of general reserve.

## CHAPTER VIII

### Capital and Dividends

#### Article 21. Capital of Credit Union

1. Capital of a credit union shall consist of issued capital, additional monetary contributions, monetary donations, general reserve considered under this Law, last year's retained earnings and financial year's earnings.
2. Issued capital shall be formed of the shares deposited by the members of a credit union. Minimum amount of a share, as well as the procedure for depositing the shares, shall be defined under this Law, the Law of Georgia on Entrepreneurs, and bylaw.
3. The National Bank shall periodically define for credit unions the minimum amount of issued capital in cash form. Issued capital of a credit union may be reduced only at the consent of the National Bank, but it shall be no less than the minimum amount of issued capital defined by the National Bank.

#### Article 22. Dividends

1. Dividends may be accrued on a share. Dividends shall be accrued only to the fully-paid shares. The amount of dividends shall be defined by the General Meeting after considering the proposals of the Executive Board and the Supervisory Council.
2. Dividends shall be accrued on shares on proportional basis. Installments made during the reporting year, shall be considered in earnings distribution, in proportion with the time passed after making such installments.
3. Dividends shall be accrued on shares only after making contributions to the general reserve, set by the law, in accord with the results of the financial year. The amount of dividends shall not exceed 10% of the distributable earnings.

## CHAPTER IX

### Licensing

#### Article 23. License Applications

1. A credit union shall apply to the National Bank for obtaining a license. The license application package shall include:
  - a) identity of an applicant, legal address, including branches;
  - b) request for obtaining a license;
  - c) date of submission of the application and signature of an authorized person;
  - d) list of documents attached to the application;
  - e) data of registration in a business register;
2. The license application shall be attached by:
  - a) originals or notarized copies of the bylaw and other registration documents registered in a court;
  - b) certificate on authorized and paid-in capital;
  - c) a document certifying the payment of a licensing fee;
  - d) documentation certifying the ownership of the real estate where a credit union is located, or other rights related thereto;
  - e) any other information that the National Bank may reasonably require in each concrete case.
3. If a license application is rejected, the applicant shall not be refunded the paid licensing fee.

#### Article 24. Decision on Granting a License

1. Within one month after the receipt of license application, the National Bank shall make reasoned decision on granting or rejecting a license, and inform the applicant in a written form within ten business days after making such decision.
2. The National Bank shall issue a license in the form of a license certificate only to those credit unions who are registered in accord with the set procedure, have their issued capital formed in the amount required by the National Bank, and submit the license application package consistent with the requirements of this Law.

3. A license shall not be issued if the documentation submitted by a credit union does not meet the requirements of this Law and the National Bank.
4. A license shall be issued for an indefinite term. The license shall not be passed to other person.
5. The National Bank shall maintain an institutional register of issued licenses, and is obligated to insert in this register the data on license issuance and revocation, as well as issuance of copy of license, within two business days after making pertinent decisions.

#### Article 25. Revocation of License

Only the National Bank is authorized to revoke a license, if:

- a) a credit union has applied to the National Bank with a reasoned written application and received the consent from the National Bank;
- b) a credit union did not commence activities allowed under this Law, within one year after the receipt of a license;
- c) it is ascertained that the license has been issued on the basis of the documents containing false or inaccurate data;
- d) it is ascertained that the credit union is insolvent;
- e) a credit union is being reorganized;
- f) a credit union has changed the focus of activities;
- g) a credit union no longer has the minimum amount of paid-in capital set by the National Bank;
- h) a credit has been removed from the Business Register;
- i) a credit union systematically violates the requirements of this Law and the National Bank's normative acts;

#### Article 26. Promulgation of Decision on License Revocation and Its Results

1. The decision on revocation of the license of a credit union shall be immediately promulgated in the National Bank and other printed media; it shall be simultaneously forwarded to the credit union which is obligated to return the license certificate to the National Bank within three days after making such decision. The decision shall be valid from the day it is made, or from the date defined under the decision itself.
2. From the day the license is revoked, a credit union is prohibited to carry out the activities allowed by the license, and shall be liquidated in accord with the procedure established by the National Bank. From the day the license is revoked, a credit union is obligated to repay all liabilities related to its activities within the shortest time. During the termination of activities, before all liabilities are redeemed, a credit union shall comply with the provisions of this Law, like any active credit union.
3. Decisions on insolvency and bankruptcy of a credit union shall be made solely by the National Bank. The National Bank shall commence the liquidation process immediately after the revocation of a license. Liquidator of a credit union shall be appointed only by the National Bank.

#### CHAPTER X

## National Bank Supervision over Credit Union Activities

### Article 27. Supervision

1. The National Bank shall supervise the activities of credit unions. Supervision implies issuance and revocation of licenses, any examination and regulation, imposition of limitations and sanctions, placement under temporary administration or liquidation, in accord with the Organic Law of the National Bank of Georgia and normative acts of the National Bank.
2. In order to supervise the activities of credit unions, the National Bank shall issue the following normative acts:
  - a) on requirements for minimum paid-in capital and minimum number of members of credit union (considering the territorial principle);
  - b) on adequacy of capital ratio;
  - c) on levels of risk;
  - d) the procedure for formation of asset loss reserve;
  - e) on other limits and normatives established by the National Bank;
3. The National Bank shall periodically inspect credit unions (both on and off site) in order to study their financial condition and assess the compliance with this Law and normative acts of the National Bank.
4. In order to remedy violations and deficiencies identified during the implementation of supervisory function, and improve the financial condition of credit unions, the National Bank shall take corrective measures against these institutions, including temporary administration and license revocation.

### Article 28. Reorganization

A credit union may be reorganized on the basis of prior consent of the National Bank, without changing its organizational and legal capacity and with full protection of the rights and interests of its members.

### Article 29. Temporary Administration and Liquidation

1. If, after the implementation of supervisory function over the activities of the credit union, it is ascertained that the deposits of the credit union members are under threat, the National Bank is authorized to place the institution under temporary administration, in order to improve its financial condition.
2. Temporary administration, as well as liquidator, shall succeed to the full authority of all bodies of a credit union.
3. During the liquidation of a credit union, claims shall be repaid in the following order:
  - a) The National Bank and other creditors, the liability to which arose after the license revocation;
  - b) Depositors;
  - c) Other claims to the credit union;

4. If the available amount is not sufficient to fully satisfy the claims listed in paragraph 3 of this article, then all claims shall be paid on pro rata basis.
5. The National Bank shall define the procedures for temporary administration and liquidation.

#### Article 30. Violations and Sanctions

1. If the requirements of this Law and the National Bank normative acts, as well as the National Bank's written instructions are ignored, the National Bank is authorized to exercise the following sanctions against credit unions:
  - a) send a written warning;
  - b) issue an instruction for the credit union to suspend or terminate certain activities and, within the timeframe defined by the National Bank, take measures to remedy the violations;
  - c) impose a penalty on the credit union, in accord with the procedure and at the amount defined by the National Bank;
  - d) make the Executive Director or a member of the Executive Board pay monetary penalty, if their action had caused financial damage to the credit union;
  - e) suspend the signature right from the Executive Director or accountant (if any) of the credit union;
  - f) require the Supervisory Council to summon an unscheduled General Meeting in order to discuss violations, implement measures to remedy these, or renew the composition of management bodies;
  - g) suspend or limit the asset growth, distribution of earnings, issuance of dividends, increase of salaries and attraction of deposits, issuance of bonuses and other awards;
  - h) in special cases, when the interests of the credit union members or other creditors are under threat, place the institution under temporary administration;
  - i) revoke a license of a credit union.
2. Penalties paid in accord with this article, shall be included in the revenues of the National Bank.



CHAPTER XI  
Transitional and Final Provisions

Article 31. Transitional Provision

Credit Unions created before the enforcement of this Law, are obligated, immediately after this Law is put in force, to carry out the pertinent banking activities only in compliance with the requirements of this Law.

Article 32. Enforcement of the Law

This Law shall be enforced from October 1, 2002.

Eduard Shevardnadze

President of Georgia  
Tbilisi,  
July 4, 2002

## **16. Decree N. 51 on Approval of Instruction on Opening Accounts in Georgian Banking Institutions**

Amended under Decree 43  
of the NBG President  
of 24.02.2005

Registered in the Ministry of Justice  
Of Georgia  
Registration number:  
220.010.000.08.009.006.406

NATIONAL BANK OF GEORGIA

Tbilisi, 17 March 2004

Pursuant to Article 73 of the Organic Law of Georgia on the National Bank of Georgia and Article 1517 of the Civil Code of Georgia I decree:

1. Approve enclosed Instruction on Opening Accounts in Georgian Banking Institutions;
2. The temporary Instruction on Opening Settlement, Correspondent, Foreign Currency, Budget, Current and other Accounts in Georgian Banking Institutions approved under the NBG Decree 222 of September 2, 1999 shall become null and void;
3. This Instruction shall become effective upon promulgation.

Acting President

G. Jigauri

Instruction on Opening Accounts in Georgian Banking Institutions  
Section I. General Provisions

Article 1.

1. This Instruction shall regulate issues related to opening accounts by Georgian residents in national currency.
2. Physical persons, legal entities and organizational formations (hereinafter referred to as persons) considered under the legislation, which do not represent legal entities shall be entitled to open the following types of accounts in banking institutions:
  - a) Settlement (current) accounts;
  - b) Correspondent accounts;
  - c) Deposits (savings account);
  - d) Special purpose accounts;
  - e) Cash service accounts.

## Article 2.

1. Person is entitled to independently select banking institution for loan, settlement and cash services. In addition, person is permitted to open accounts (without restrictions) in one or several banks. It shall not be permitted to open one or more correspondent accounts in one bank.
2. Banking institution shall open account for the client and render services to him/her on the basis of mutual intention (will).

## Article 3.

1. Banking institutions shall carry out settlements by using settlement documents established by the National Bank of Georgia.
2. Legal address of the account holder legal entity shall be address indicated in the extract from the respective register or any other document; Place of residence of a physical person shall be the address given in the ID (Passport) of such person.
3. In the event of changing the place of residence, the holder of settlement (current) and correspondent account shall inform the bank in writing within five days.

## Section II. Opening an Account

### Article 4.

1. Settlement (current) accounts shall be used for funds related to financial-entrepreneurial activities of those persons that have working capital and independent balance sheet. Non-entrepreneurial physical persons are entitled to open settlement (current) accounts for temporarily free funds and are prohibited to carry out transactions related to entrepreneurial activity from such accounts.
2. Branches, departments and other separated units are entitled to open accounts on the basis of mediation of the head office (organization), while institutions financed from the central and local budgets may need permission from treasury or local self-governance and governance authorities. In addition, these bodies are entitled to cancel mediation or withdraw previously issued permission and issue an order for closing the account.

### Article 5.

To carry out banking operations by special purposes and terms, persons are entitled to open the following purposeful accounts: for brokerage activities, received grants, first contributions of shareholders, sharers, partners and other activities.

### Article 6.

1. Correspondent accounts shall be used to make settlements between banks.
2. Amount on the correspondent account, from the moment of transferring to the account and until transferring from the account, shall be considered as an asset of the account holder.
3. Correspondent accounts of banks shall be opened:
  - a) In the National Bank of Georgia and its branches;
  - b) For head offices of banks in head offices of other commercial banks. IN each case of opening new account, opening and servicing parties shall be obligated

to immediately notify the NBG Bank Supervision and Regulation Department.

4. Correspondent accounts shall also be opened for branches of non-resident banks.
5. Branches of commercial banks shall be prohibited to open correspondent accounts with each other.

#### Article 7

For branches of banking institutions not having correspondent accounts, cash service accounts shall be opened in the NBG and branches thereof.

#### Article 8.

1. Deposit account shall be used for demand or time deposits, on which the bank acquires ownership and accrues interest.
2. When deposit becomes due, banking institution shall return the deposit amount (saving) in the original currency.
3. At the moment of accepting deposit, an agreement is formed between the bank and the client, in which the amount, term, interest rate, interest payment frequency and other terms are stated.

### Section III. Documents Required for Opening an Account

#### Article 9.

1. Legal entities shall submit the following documents to banking institutions for opening an account:
  - a) Application for opening an account (Annex 1); application for opening account shall be signed by senior administrator and chief accountant of the legal entity. If the position of chief accountant does not exist in the legal entity, application shall be signed solely by senior administrator of the legal entity;
  - b) Duly certified decision (order, resolution, decree) of the body authorized to establish, reorganize and liquidate the entity. Decision (order, resolution, decree) on establishing, reorganization and liquidation of the entity shall be submitted to the banking institution as a copy or extract certified by the signature of the administrator of the authority issuing such document and seal, or by notary, if not provided other wise under the legislation; \*  
\* Organizations, financed from the central and local budgets, for opening accounts in banking institutions shall only submit: a) permit certified by two signatures of the respective treasury service, or local self-governance and governance bodies and seal; b) samples of signatures and seal, certified by treasury service or local self-governance and governance bodies or by notary.
  - c) Registration certificate (extract from entrepreneurial and other relevant registers) issued by the body, which is entitled to carry out registration of enterprises, organizations, institutions (in case of copies, they should be duly certified). It shall be prohibited to open account for any person in banking institution without registration, except for cases provided for in legislation;
  - d) Registered charter (by-law) approved by the superior body (if such exists) or notarized copy.

- e) Certificate from tax authority on registration;
- f) Samples of signatures and seal.
  - Samples of signatures and seal shall be submitted by all persons regardless their type of ownership and organizational-legal form. Samples of signature and seal shall be submitted in the form of signature and seal card (Annex 2), which shall be certified by the superior body's administrators (or their deputies) signature and seal. If the superior body does not exist, signatures subject to submission shall be performed on the clean sheet of paper (not card) and notarized. Entrepreneurs not obligated under the legislation to have seal, shall open bank accounts without use of the respective seal.
  - Seals designed for special purposes (e.g. packages, certificates) shall not be used for certification of accounts and for accounting purposes.

CEO of the entity (the account of which is being opened) shall be entitled to make the first signature on the signature sample card. He/she shall be authorized to dispose funds of the entity under decision (decree, resolution, by-law, charter) of the superior body. The authority of the first signatory may also be granted to managers designated by the CEO.

The right of the second signatory shall be granted to the chief accountant or other persons authorized by the CEO.

The right of the first signatory shall not be granted to those persons that are defined as second signatories.

- g) Organizational formation envisaged under the legislation, which is not registered yet as the legal entity, shall submit the following documents to the bank:
  - Notarized Minutes of the shareholders' meeting;
  - Notarized Charter (by-law, agreement on joint activities);
  - Notarized Sample of signatures of those persons that have representational authority.

2. Branch for opening account shall submit the following documents to the bank:

- a) Application of the head office on opening the account;
- b) Notarized sample signature of the branch director;
- c) Extract from the entrepreneurial register;
- d) Short description of the branch activities;
- e) Certificate from the tax authority on registration of the head office.

3. Physical person, if conducting entrepreneurial activities, shall submit the following documents to the bank:

- a) Application on opening the account;
- b) Certificate from the tax authority on registration with indication of the registration number.
- c) Copy of the ID document;
- d) Notarized sample signature.

4. Physical person not performing entrepreneurial activities, shall submit the following documents to the bank:

- a) Application on opening the account (where he/she certifies that the account will not be used for entrepreneurial activities);
- b) Copy of ID;

- c) Sample signature.
5. Organizational formations not having status of legal entity for opening the purposeful accounts, shall submit to the bank:
- 5.1 Partnerships of apartment owners:
    - a) Application on opening the account;
    - b) Notarized by-law of the partnership, which should indicate who is in charge of management of the joint property of the partnership – apartment owners, chairman of the partnership or council of the partnership;
    - c) Notarized sample signature of the authorized person of the partnership;
    - d) Certificate from the tax authority on registration.
  - 5.2 Partnerships of joint business activities, which open accounts based on activities provided for in concluded agreements, shall submit:
    - a) Application on opening the account;
    - b) Notarized agreement;
    - c) Notarized sample signature card of the authorized person of the partnership;
    - d) Certificate from the tax authority on registration.
  - 5.3 Non-registered unions shall submit:
    - a) Application on opening the account;
    - b) Agreement (charter) in notarized form;
    - c) Notarized sample signature of the authorized person of the non-registered union;
    - d) Certificate from the tax authority on registration.
  - 5.4 For opening purposeful accounts, persons acting on the basis of resolution of the shareholders' meeting prior to registration by the court, for making first contributions to the share capital, shall submit the following documents to the bank:
    - a) Application on opening the account;
    - b) Notarized minutes of shareholders' meeting or other respective documents (decree, resolution, order).
    - c) After obtaining registration certificate (if registration is required under the legislation) the permanent settlement account will be opened. For this purpose, in addition to above-noted documents, copies of documents certifying registration in tax authority, duly certified copy of the charter (or other relevant document) and sample signature card shall be submitted to the bank.
  - 5.5 For opening the purposeful account physical persons shall submit:
    - a) Application on opening the account;
    - b) ID document;
    - c) Document from the respective authority, certifying necessity to conduct required activities;

6. If person, except for physical person, who does not carry out entrepreneurial activity, opens new account in the same banking institution where it already holds the account, such person shall be obligated to submit:
  - a) Application on opening the account;
  - b) Notarized sample signature card;
  - c) Certificate from tax authority on registration.

#### Article 10.

1. For the purpose of opening correspondent accounts, the banks shall submit the following documents to the bank:
  - a) Application on opening the account, signed by the senior administrator and chief accountant of the banking institution;
  - b) Charter adopted by the general meeting of banking institution, registered by the court or notarized copy thereof;
  - c) Certificate from tax authority on registration of the bank;
  - d) Copy of license issued by the NBG.
2. Commercial bank shall be entitled to change correspondent account opened in the NBG in case of structural reorganization, for which it shall submit additional motivation to the NBG for amending the accounts as well as documents certifying reorganization. In the event of changing the account, tax authorities shall be notified.
3. For branches of banking institutions not having correspondent accounts, cash service accounts shall be opened in the NBG or its branch (by location), for which banking institution submits signature and seal sample card, with signatures of administrators of the branch, certified by the head office.
4. Agreement between the NBG branch and branch of commercial bank shall provide for all issues envisaged under the current legislation.

#### Article 11.

1. Physical persons shall submit ID for opening deposit (saving).
2. Legal entities and organizational formations, which do not represent legal entities, shall open deposit accounts, to which monetary amounts and securities (shares, bonds) are deposited, on the basis of agreement, which shall provide for responsibility of administrators of banking institutions according to the Civil Code of Georgia and Regulation on Maintaining Saving Operations of Physical Persons by Commercial Banks, approved under Decree 132 of the NBG President of April 28, 2000.

#### Article 12.

New account shall not be opened in the name of liquidation commission (liquidator) established in relation to liquidation of enterprise/organization but the existing account should be re-registered. For this purpose, resolution of the authorized body on liquidation shall be submitted to the bank, as well as certified signature and seal sample card of the liquidation commission chairman, and in case of opening bankruptcy case, the duly certified court resolution and sample signature and seal card of the bankruptcy administrator.

#### Article 13.

1. After ascertaining accuracy and completeness of the submitted documents, administrator (or person authorized by him) of the banking institution (its branch) shall authorize the client's application with signature, after which the respective account is opened for the client.
2. Documents submitted by the client for the purpose of opening account shall be retained in the clients file, while signature and seal sample cards, on which number of opened account is indicated is to be kept with the accountant (responsible executive – controller) that renders services to the client .

#### Section IV. Re-registration and Closing of Accounts

#### Article 14.

1. In the event of reorganization of the entity, if the new legal entity is being established, the new account shall be opened respectively.
2. In the event of changing the firm name and subordination, the account holder shall submit application on occurred changes and resolution of the respective authority or notarized copy thereof.
3. Administrator of the banking institution shall be authorized to exempt the account holder from submission of documents for re-registration of the account and carry out re-registration under own order, if changes in the subordination or name are prescribed by the Georgian legislation.
4. Accounts in the banking institutions shall be closed::
  - a) According to application of the account holder;
  - b) Pursuant to resolution of the body, which is authorized to liquidate (reorganize) the entity;
  - c) Bankruptcy of the enterprise is declared according to the set procedure ;
  - d) Pursuant to court decision;
  - e) By the client pursuant to terms of the agreement on banking services;
  - f) In the event of not existence of the balance and records on the account for not less than a year, if the agreement does not provide otherwise, except for deposit (saving) accounts;
  - g) In other cases as prescribed under the legislation.
5. Banking institution shall be entitled to close accounts of individual entrepreneurs, legal entities and organizational formations, not representing legal entities, only after notifying tax authority by the place of registration.
6. Statute of limitation shall not apply to savings made in the banking institutions.
7. Operations on settlement (current), correspondent and other accounts may be suspended under the court decision and in special cases by the NBG, in accordance with the Law of Georgia on Activities of Commercial Banks.
8. Opening and closing of accounts shall be registered in the registry of personal accounts (Annex 3).
9. Usage of number of closed accounts shall not be permitted within two years from the moment of closing the account.



ANNEX 1

APPLICATION On Opening Account

Name of the Banking Institution \_\_\_\_\_ Codes \_\_\_\_\_

Name of the client \_\_\_\_\_

\_\_\_\_\_  
(in full)

\_\_\_\_\_

Please open \_\_\_\_\_  
(type of account)

Account in accordance with NBG the normative acts .

Seal Administrator (Position Signature)  
Chief Accountant (Signature)

200 . „\_“ \_\_\_\_\_

Notes of the Bank

Open \_\_\_\_\_ Account  
(current, budget and etc

Examined submitted documents for opening account

Permission is granted

(Position) (Signature) Chief accountant (signature)

200 . „\_“ \_\_\_\_\_

Account opened

Account N Nominal account. N

ANNEX 2

Card  
Samples of Signatures and Seal

Accountant holder \_\_\_\_\_ Code  
(full name)

\_\_\_\_\_

address \_\_\_\_\_

phone N \_\_\_\_\_

name of the superior organization \_\_\_\_\_ Code  
(Ministry, department or public organization)

\_\_\_\_\_

Name of the bank \_\_\_\_\_

\_\_\_\_\_

Location of the bank \_\_\_\_\_

Please find herewith samples of signatures and seal, required for carrying out operations on the account

0401026

Notes of the Bank

Permission for obtaining signature samples

Chief Accountant \_\_\_\_\_  
(signature)

“ \_\_\_\_\_ ” \_\_\_\_\_ 200 Б.

Various remarks

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Account N

\_\_\_\_\_  
 Name of the Account Holder

Position	Full Name	Signature Sample	Period of signatory authority of managers, temporarily granted with the right of first and second signatories sample of the seal
First signatory Second signatory			

Seal of the organization ,  
 Which certified  
 Authority and signatures

„\_\_\_\_“ \_\_\_\_\_ 200 β.

Administrator \_\_\_\_\_  
 Chief accountant \_\_\_\_\_

Note: if authority and signatures are not certified by the superior body, authority and signatures shall be notarized on the separate sheet of paper and not on the card.	Issued cheque books					
	Date	From N	To N	Date	From N	To N

ANNEX 3

\_\_\_\_\_  
 (Name of the Bank)

Book of Analytical registration of Personal Accounts

Balance sheet account N \_\_\_\_\_

Date of opening balance sheet account	Name of personal account (full and abbreviated)	N assigned account	Type of account	Date of closing account	Note

Name

N of the balance sheet account	N of the sheet	N of balance sheet account	N of the sheet	N of balance sheet account	N of the sheet	N of balance sheet account	N of the sheet

**17. Decree N. 95 on Approval of the Regulation on Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia**

FINANCIAL MONITORING SERVICE OF GEORGIA

Tbilisi, 28 July 2004

Pursuant to the Articles 10, 15 of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” I Decree:

1. Approve the attached Regulation “On Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia”.
2. Regulation “On Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia” shall become effective from September 1, 2004.
3. Regulation on Approving the Regulation on Receiving, Recording and Processing the Information by the Georgian Banking Institutions and Forwarding to the Financial Monitoring Service of Georgia approved under Decree #24 of December 25, 2003 shall become null and void from the effective date of this regulation.
4. Georgian banking institutions shall :
  - a) Ensure bringing the approved internal regulations concerning conducting financial monitoring into compliance with requirements of the Regulation “On Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia” approved under this decree prior to September 1, 2004, and in case of nonexistence of such regulations their development and approval ;
  - b) Submit “Form on registration of commercial banks in the Financial Monitoring Service of Georgia”, considered under Regulation “On Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia”, to the Financial Monitoring Service of Georgia within 10 days from the effective date of this Decree.
  - c) Ensure putting in action of an electronic data base containing identification details of clients and the relevant persons and information on banking transactions (operations) subject to monitoring no later than January 1, 2005; ensure implementation of the relevant software for revealing suspicious bank transactions (operations) and transactions aimed at partition of bank operation (transaction) no later than March 1, 2005.

5. Commercial banks, which commence their operation after the effective date of this Decree, shall take into consideration requirements of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” and the Regulation “On Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia” and submit “Form on registration of commercial banks in the Financial Monitoring Service of Georgia” to the FMS within one month period from the receipt of the License from the National Bank of Georgia.
6. This decree shall become effective upon promulgation.

N. Geguchadze

Approved under Decree # 95  
of the Head of the Financial  
Monitoring Service of Georgia,  
July 28, 2004

## REGULATION

On Approving the Regulation on Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia

### Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, Decree #354 of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” of July 16, 2003 and other relevant normative acts of Georgia.
2. This regulation shall apply to commercial banks (hereinafter referred to as “Bank”) of Georgia and their branches as well as branches of foreign banks (representations) located in Georgia.
3. This regulation shall apply to Georgian resident and non-resident entities, their representatives, missions and branches, as well as to departments, institutions and organizations.
4. This regulation shall regulate general principles and rules of financial monitoring conducted for the purpose of preventing illicit income legalisation and terrorism financing by the Bank, specifically, terms and procedures for identification of the Bank’s clients and other relevant persons, and rules for receiving, systemizing, processing and filing the respective information and forwarding to the Financial Monitoring Service of Georgia.

## Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- b) Property – property as considered under the Civil Code of Georgia: all property (movable as well as immovable) and immaterial property, which can be owned, used and disposed of by physical and legal persons;
- c) Legalisation of illicit income –legalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;
- d) Monitoring – identification of persons defined under the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” by the Bank; recording, systemizing and processing the information on bank operations and transactions subject to monitoring, as well as on persons involved in these operations and transactions and forwarding to the Financial Monitoring Service of Georgia in compliance with the procedure prescribed by the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation and other normative acts adopted on the basis of the Law;
- e) Suspicious transaction – a transaction and/or bank operation (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained etc.), or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the person taking part in the transaction is located in the non-cooperative area; also a transaction and/or banking operation which implies transfer of the amount to or from the non-cooperative area;
- f) Person – any resident or non-resident physical person and legal entity, as well as organizational formation considered under legislation, which does not represent a legal entity. For the purposes of this regulation, person shall also imply a department, institution or organization (unregistered union, partnership, partnership of apartment owners);
- g) Client of the Bank – any person, which applies to the Bank for banking services and implementation of bank operations according to the Law of Georgia on Activities of Commercial Banks;
- h) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity (organizational formation considered under

the legislation, which does not represent legal entity) and its representational authority by means of the registration- and establishment-confirming documents.

- i) Person involved in a bank operation (transaction) – all persons participating in the bank operation (transaction), including parties of the bank operation (transaction), their representatives and agents, as well as third parties in whose favor bank operation (transaction) is concluded;
- j) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia, based on the information from the competent international organization;
- k) Off-shore area – a country or a part of the territory thereof where preferential taxation regime exists or/and where requirements for identification of parties to the transaction do not comply with international standards, which are recognized as such by the International Organizations.
- l) Employee in charge of monitoring – employee of the Bank, who on the basis of the legalized resolution of the Bank is charged with the responsibility to ensure conducting monitoring activities in the Bank and the respective duties. If the special structural unit is established in the Bank for performing monitoring activities, Supervisor of such unit shall be the employee responsible for conducting monitoring. Duties and responsibilities of the employee in charge of monitoring shall be defined under the internal regulation developed and approved on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation.

### Article 3. Bank Operations (Transactions) Subject to Monitoring

1. For purposes of this Regulation, transaction subject to monitoring, shall be an implemented bank operation or concluded transaction, or the series of bank operations (transactions) aimed at partition of the bank operation (transaction), if one or both of the following provisions exist:
  - a) Bank operation (transaction) is suspicious (regardless the amount) according to Subsection “e”, Article 2 of this regulation;
  - b) The amount of the bank operation (transaction) implemented by the person or the series of bank operations (concluded transactions) aimed at partition of the bank operation (transaction) exceeds GEL 30,000, or its equivalent in other currency, if it belongs to one of the following:
    - b.a) Receipt (payment) of money by the person using bank checks, in bearer form as well as exchange of denominations;
    - b.b) Trade of foreign currency in cash;
    - b.c) Transfer of funds to or from a bank account in Georgia, by the holders of the accounts with banks registered in non-cooperative area;



b.d) Issuance or receipt of a loan, by a person registered in a non-cooperative area, or any other transaction (operation) implemented by such person through banking institution in Georgia;

b.e) Transfer of funds from Georgia to another country to the account of an anonymous person, or transfer of funds to Georgia from the bank account of an anonymous person from another country;

b.f) Contribution of funds by a person into the authorized capital of an enterprise;—other than the purchase of stock of accountable enterprises, as defined under the Law of Georgia on Securities Market;

b.g) Placement of funds in cash to the bank account by the physical person and further transfer;

b.h) Extension of a loan secured by bearer securities;

b.i) Extension of a loan without any security;

b.j) Transfer of funds from or to the account of a legal person within three months after its registration.

b.k) Transfer of funds from or to the account of grant or charity assistance.

2. All bank operation (transaction) including bank operations (transactions) listed in Section 1 of this Article shall be subject to monitoring, if there is a supposition that any party of the transaction is related to the terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be sent to banks (or shall be published in the newspaper - “Sakartvelos Sakanonmdeblo Macne”) by the FMS (in addition to the lists, which shall be sent to commercial banks by the National Bank of Georgia or other authorized institutions).
3. Subject to monitoring also shall be concluded or attempted transaction considered under Subsection b, Section 1 of this Article and other fact (circumstance), which, according to the written instructions of the FMS, may be related to legalisation of illicit income or financing terrorism.
4. Pursuant to Section 5, Article 5 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall have the authority to define the list of specific transactions (bank operations, or their characteristics, such as type of the business activities of persons involved in bank operation (transaction), geographic area of their location (place of registration), subject of transaction (bank operation) and etc.), on which the Financial Monitoring Service of Georgia shall be informed according to the rule for submitting reports set by this regulation.

#### Article 4. Obligations of Banks with Respect to Implementation of Internal Control

1. For preventing cases of illicit income legalisation, Bank shall exercise internal control in accordance with the Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”.
2. Implementation of internal control shall include the following:
  - a) Identification of all persons (clients) having business relationship with the Bank, their representatives and agents, persons involved in bank operation (transaction); if bank operation (transaction) is concluded in favor of the third person, identification of such person shall be carried out;
  - b) Analyzing the information obtained as a result of identification and revealing bank operations (transactions) subject to monitoring;
  - c) Documenting, systemizing and filing the information;
  - d) Submission of the information on bank operations (transactions) subject to monitoring to the Financial Monitoring Service of Georgia in the special reporting form;
  - e) Implementation of training programs for the Bank’s employees (with respect to avoiding legalisation of illicit income and financing terrorism).
3. For the purpose of defining internal control procedures, the Bank shall develop internal regulation on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” to be approved by the Bank’s Supervisory Council or Board of Directors. The internal regulation shall set terms for: identification of the Bank’s (its branches, representative offices) clients, persons willing to establish business relationship with the Bank and other relevant persons; systemizing, analyzing and filing the information obtained as a result of identification process; revealing transactions (bank operations) subject to monitoring and submission of special reporting forms to the Financial Monitoring Service of Georgia. All employees of the Bank shall get acquainted with the internal regulation.
4. Internal regulation, developed and approved by the Bank, for conducting monitoring shall define:
  - a) Terms and procedures for identification of Bank’s clients and other relevant persons determined under the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”;
  - b) Procedure for transferring information obtained through the identification process and other information existing in the Bank to an employee (special structural unit) in charge of monitoring;
  - c) Procedures for recording, systemizing and filing information related to the monitoring.

- d) Rule for submission of special reporting forms and other materials to the Financial Monitoring Service of Georgia (including completion of special reporting forms and granting authority for certifying these documents with signature and if the bank deems it necessary with the seal and other issues);
  - e) Functions, authority and responsibility of the employee in charge of monitoring (in case of the special structural unit – functions, authority and responsibility of the supervisor and each employee);
  - f) Functions, authority and responsibility of the Bank's other employees, including administrators with respect to monitoring, as well as the Bank's administrator who shall be directly charged with supervision of the monitoring process;
  - g) Bank's administrators, responsible employees and/or employees who shall be granted the authority under the internal regulation to keep confidential information related to the monitoring process;
  - h) Procedures for certifying copies of documents submitted by clients and employee (employees) in charge of certification in accordance with the Section 2, Article 8 of this Regulation.
5. Internal regulation for conducting monitoring developed and approved by the Bank shall address the following issues:
- a) A Decision on considering the bank operation (transaction) as suspicious and/or aimed at partition of the transaction, and forwarding the special reporting form to the Financial Monitoring Service of Georgia in each particular case shall be made by the employee in charge of monitoring (supervisor of the special structural unit), on the basis of the information obtained through identification as well as servicing clients and other relevant persons by the structural units of the bank, and information (after establishing overall network, information stored therein shall be used) existing in the bank (including different branches of the Bank). In addition, guidelines and other information sent by the Financial Monitoring Service of Georgia to the Bank shall be considered. For the purpose of revealing suspicious and/or disintegrated bank operations (transactions) the Bank shall be obligated to develop electronic data base (system).
  - b) Monitoring process with respect to suspicious bank operations (transactions) shall be conducted in a way that the Bank's clients, persons involved in bank operations (transactions) and other relevant persons shall not be aware that their activities represent object of monitoring;
  - c) The Bank shall be obligated to ensure confidentiality of information obtained through monitoring process (including information received from identification of clients and other relevant persons, materials on examination and analysis of the information), as well as of information on

completion of special reporting forms related to bank operations (transactions subject to monitoring) and submission to the FMS.

- d) One of the major principles of financial monitoring shall be participation of all employees of the Bank (within their competence) in facilitating revelation of illicit income legalisation and terrorism financing.
- e) Rules and procedures established by the internal regulation shall facilitate preventing participation of Bank's employees in the processes of illicit income legalisation and terrorism financing.

#### Article 5. Functions and Obligations of the Employee in Charge of Monitoring

1. For the purpose of conducting monitoring process, the Bank shall designate an employee (or special structural unit) in charge of monitoring on the basis of appropriately legalized resolution.
2. Functions, authority and responsibility of the employee (or special structural unit) in charge of monitoring shall be defined under the internal regulation of the bank.
3. Employee (or special structural unit) in charge of monitoring shall follow the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation", this regulation, internal regulation of the Bank, FMS guidelines as well as the relevant normative acts issued by the National Bank of Georgia.
4. Employee (or special structural unit) in charge of monitoring shall perform the following functions:
  - a) Organize the monitoring process and ensure performance of tasks defined under the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation", this Regulation and internal regulation of the Bank;
  - b) Analyze information (including identification details, information on bank operations (transactions)) received from various structural units of the Bank; reveal bank operations (transactions) subject to monitoring; ensure completion and certification of special reporting forms on transactions subject to monitoring and submission to the Financial Monitoring Service of Georgia in compliance with the rule set under the internal regulation of the Bank; systemize and file information (documents) related to the monitoring process. (Pursuant to the internal regulation of the Bank, authority for making decision on considering bank operation (transaction) or persons involved therein as suspicious, submitting the respective reporting forms to the FMS and signing such forms may be granted to the employee in charge of monitoring (supervisor of the special structural unit), as well as to the administrator of the Bank who oversees monitoring related issues according to the internal regulation);
5. Consult other employees of the Bank with respect to issues of preventing illicit income legalisation and terrorism financing and organize special training programs;

6. At least once a year prepare and submit written report on the monitoring process (elaboration of the Bank's internal regulation, if necessary) to the Bank's management.
7. Pursuant to the internal regulation of the Bank, employee (or special structural unit) in charge of monitoring shall be granted the authority to obtain any information necessary for fulfillment of his functions and shall be obligated to ensure observance of confidentiality of any information related to his/her activities.
8. In performing functions related to monitoring, the employee (or special structural unit) in charge of monitoring shall be subordinated and reporting only to the administrator of the Bank, defined under the internal regulation.
9. If employee (or special structural unit) in charge of monitoring reveals that any of the Bank's employees does not observe rules set by the internal regulation and within his/her competence does not participate in the monitoring process, he shall immediately inform the Bank's administrator who supervises monitoring issues according to the internal regulation.
10. Employee (or special structural unit) in charge of monitoring may also perform other functions (other than those related to the monitoring) with a condition that he/she does not have the authority to sign settlement or accounting documents (other than documents related to monitoring), as well as documents related to the Bank's liabilities and realization of rights.
11. In case of absence of the employee (or special structural unit) in charge of monitoring, his/her functions shall be transferred to another employee of the Bank, which shall be documented in the respective legalized resolution of the Bank. A copy of such document shall be submitted to the FMS.

Article 6. Obligations of Banks with respect to Identification and Registration of Identification Details (Documents)

1. Pursuant to the Article 6 of the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation" commercial bank shall be obligated to identify all clients and persons willing to establish business relationship with the Bank (including all account holders and persons opening accounts), their representatives, agents, representative authorized for opening or disposal of account, as well as the third person on whose behalf the account is opened, bank operation is implemented or transaction concluded.
2. Identification process shall be conducted in compliance with the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation", this regulation, the relevant normative acts issued by the National Bank of Georgia, procedures set by the internal regulation of the Bank and guidelines and recommendations of the FMS.
3. Bank shall not be authorized to provide the client with services or establish business relationship with him (carry out such bank operations which do not imply the opening of an account by a person, including receipt and sending of money transfers,

trade with foreign currency, exchange of denominations etc.) without preliminary identification of this person.

4. In spite of supposition on equivocacy and amount of the transaction, the Bank shall not suspend implementation of the transaction (providing services to the person (client) having the business relationship with the Bank), except for the following cases:
  - a) Person or client willing to establish business relationship with the Bank can not be identified;
  - b) Any party of the transaction is on the list of terrorists or persons supporting terrorism.
5. In cases indicated in Subsections “a” and “b”, Section 4 of this Article, the Bank shall be obligated not to serve the client (establish business relationship with the person), and in the case considered in Subsection “b”, Section 4 of this Article, immediately submit the respective reporting form, available materials and any other information on the operation (transaction) and persons involved to the FMS.
6. The following information, on all persons taking part in the transaction, shall be obtained through the identification process:
  - f) in case of physical person:
    - a.a) First name, last name;
    - a.b) Citizenship;
    - a.c) Date of birth;
    - a.d) Place of residence;
    - a.e) Number of ID (Passport) and citizen’s personal number by ID (Passport);
    - a.f) If the physical person is registered as an individual entrepreneur – the relevant registration date, number, registering authority, identification code of tax payer;
  - g) In case of legal person:
    - b.a) Full name;
    - b.b) Business activity;
    - b.c) Legal address (in case of the branch or representation the legal address of the head office also);
    - b.d) Registering authority, Date and number of registration;
    - b.e) Identification code of tax payer;

- b.f) Identification details of persons authorized for management and representation (in conformance with Subsection “a” of this Section);
  - b.g) Identification details of the person, who represents a legal entity in a particular bank operation (transaction) subject to monitoring;
    - h) In case of organizational formation considered under the legislation, which does not represent legal entity:
      - c.a) Full name;
      - c.b) Legal address;
      - c.c) Legal act or other document, based on which this formation has been established (or has been functioning);
      - c.d) Identification number of tax payer;
      - c.e) Identification details of persons authorized for management and representation;
      - c.f) Identification details of the person who represents such organizational formation in a particular bank operation (transaction) subject to monitoring.
7. Documents necessary for identification process shall be:
  8. if the physical person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; if the physical person is registered as an individual entrepreneur – document confirming registration;
  9. if the physical person is a foreign citizen – passport issued by the corresponding authority of the relevant State.
  10. in case of resident legal entity (or organizational formation which does not represent a legal entity) – a court (or resolution of any other organ as determined by the Georgian legislation) resolution (or other relevant legal act or document) on registration (establishing) of a legal entity, or/and a record from a business register (or other relevant register).
  11. Documents issued by the relevant authorities of foreign countries, presented by non-resident legal person for identification, shall be legalized in compliance with the procedure set under the Georgian legislation.
  12. Identification documents other than Citizen Identity Card and Passport shall be used only in cases when the physical person can not have ID or Passport (in case of opening deposit for the person under age, if bank operation is carried out by military person etc.).



13. For documenting, systemizing and better examining identification details of the Bank's permanent clients (persons that hold one or more accounts in the Bank and periodically apply to the bank for implementation of financial operations) the Bank shall use procedure of form (questionnaire) filling. In parallel with this process, the Bank shall ensure setting up of the relevant electronic data base.
14. Procedure of form (questionnaire) filling shall also be allowed for identification of persons, that apply to the Bank for implementing single financial operation (money transfers, trading with foreign currency, exchange of denominations etc), or represent second or third persons (if bank operation (transaction) is implemented in favor of third person) involved in bank operation (transaction).
15. If documents presented for identification and information stored in the Bank allow, in addition to the information listed in Subsections "a", "b" and "c", Section 6 of this Article the following details shall be documented:
  - a) In case of physical person:
    - a.a) Patronymic;
    - a.b) Place of birth;
    - a.c) ID (Passport) issuing authority and date of issuance;
    - a.d) Temporary (real) place of residence (in Georgia as well as abroad), if different from registered place of residence;
    - a.e) Main business activity and position held;
    - a.f) Bank account (accounts) details;
    - a.f) Tel/fax, e-mail;
    - a.g) If the physical person is registered as individual entrepreneur – identification number of tax payer.
  - b) In case of legal entity (as well as organizational formation, which does not represent a legal entity):
    - b.a) Identification details on physical persons and legal entities owning 20% and more of the stock, share and etc.
    - b.b) Date of appointing persons authorized for management and representation;
    - b.c) Bank account (account) details.
12. Detailed procedures for identification of clients and filling forms (questionnaire) and functions of the relevant employees shall be defined under the Bank's internal regulation.



Article 7. Obligations of Bank to Record Information (Documents) on Bank Operations (Transactions) Subject to Monitoring

- a. Pursuant to the Section 4, Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Bank shall be obligated to record information on bank operation and/or transaction subject to monitoring.
  - b. Requirement for recording information on bank operation (transaction) shall apply to transactions concluded and implemented by the Bank as well as operations and transactions implemented on the basis of the client’s order.
  - c. In the process of recording information on bank operation, the Bank shall document the following information:
  - d. Content of operation (e.g. money transfer, depositing, send/receive remittance);
  - e. Date of implementation of operation as well as amount and currency in which transaction is implemented;
  - f. Identification details of a person, based on whose order the Bank implements operation (person conducting operation), including type, number and opening date (closing date if necessary) of the bank account (accounts), which is used for implementation of the specific operation;
  - g. Second party to the operation (if it exists) and its bank account details (e.g. in case of money transfer – name of banking institution, account type, number and account holder);
  - h. Identification details of the person who is acting on behalf of the Bank’s client (representative, agent), as well as content, issuer, date of issuance and period of validity of power of attorney or procuracy, person certifying power of attorney or procuracy (e.g. notary), date and place of certification;
  - i. If transaction is implemented in favor of the third person – identification details of such person;
  - j. Purpose and/or basis for operation implementation - if information exists (e.g. Transaction concluded by the Bank’s client, on the basis of which bank operation is being implemented etc.)
2. In the process of recording transaction (including transaction on credit or banking services) between the Bank and the client, as well as filing the information on the transaction which represents which represents the basis for implementation of the bank operation, the Bank shall document the following information:
    - a) Type of transaction (e.g. acquisition, purchase/sale, rent, lease etc.);

- b) Subject of transaction (specific item, property or incorporeal right, which represents a subject of transaction, or service, work that shall be performed according to the transaction);
  - c) Form of transaction (e.g. written agreement, verbal transaction);
  - d) Purpose of transaction (e.g. commercial activities, receive profit, charity, payment of debt etc.);
  - e) Identification details of persons involved in a transaction (including their representatives and proxies;
  - f) Date and place of concluding transaction as well as validity period;
  - g) Amount and currency in which transaction shall be implemented;
  - h) In case transaction is subject to registration (certification) – name of the registering authority, registration date, place and number (e.g. in the event of notarial certification of transaction).
3. The bank shall be obligated to record information indicated in Sections 3 and 4 of this Article related to all those bank operations (transactions), which are subject to monitoring according to Article 5 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and Article 3 of this regulation.
  4. For the purpose of documenting, systemizing and filing the information indicated in Sections 3 and 4 of this Article, the Bank shall develop the relevant system.
  5. Identification details of those persons that do not represent the Bank’s clients (persons having business relationship with the Bank), shall be recorded on the basis of submitted information (documents available to the Bank). The Bank shall not request additionally from the client submission of identification documents on the other party of the transaction.

**Article 8. Obligations of Banks to Keep Information (documents) Related to the Monitoring Process**

1. Bank shall be obligated to keep information (documents) presented for identification of a person for the period not less than 5 years from the moment of breaching business relationship with the person, while other information (documents) about bank operation (transaction) subject to monitoring - for no less than 5 years from the day the bank operation (transaction) has been implemented, unless the Georgian legislation sets a longer term for the retention of such information (documents). In addition, information shall be retained in documentary, as well as electronic form.
2. Information (documents) on bank operation (transaction), including those presented for the identification of an entity shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by a notary or an authorized employee of the Bank shall be maintained. For the purpose of complying with this requirement the bank shall designate the person (persons) authorized under

the relevant legal act to certify copies. The copy shall be certified in a way that it is clear who and when certified the copy.

3. In addition to the information indicated in Section 1 of this Article, subject to retention for the period of five years shall be special reporting forms (hard copies as well as electronic) submitted to the Financial Monitoring Service of Georgia pursuant to Article 9 of this regulation and Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”. Also, hard copies of reports retained in the Bank shall be certified with the signature of an employee, who is authorized under the internal regulation of the Bank, and if it is provided by the internal regulation of the Bank, with the Bank’s seal.
4. The information (documents) retained in the Bank shall fully reflect the implemented bank operation and/or transaction and persons involved. In addition, information (document) shall be systemized, recorded and maintained in a way, that when needed (to be used as an evidence in criminal, civil or arbitrary proceedings) it can be found and retrieved in a shortest period of time.

#### Article 9. Obligations of Banks to Present Reporting Forms on Bank Operations (Transactions) Subject to Monitoring

1. Pursuant to the Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Bank shall be obligated to submit written notices to the Financial Monitoring Service of Georgia, related to transactions subject to monitoring (Article 3 of the Regulation, Article 5 of the Law).
2. Written notices submitted to the Financial Monitoring Service of Georgia shall be compiled in compliance with the “Reporting Form of the Bank Operation (Transaction) Subject to Monitoring (hereinafter referred to as “Reporting Form”) (Annex N1 of this Regulation).
3. Reporting forms shall be presented (completed and sent) to the FMS in documentary, as well as electronic form.
4. The following time periods shall be set for submission of reporting forms to the Financial Monitoring Service of Georgia:
  - a) If the amount of bank operation (transaction) or series of bank operations (transactions) exceeds GEL 30,000 or its equivalent in other currency, the report shall be submitted within three working days from the moment of implementing bank operation or concluding transaction (or from the moment of receiving information on such transaction);
  - b) If the bank operation (transaction) is considered as suspicious, or there is the grounded supposition that the bank operation (transaction) represents a part of the series of transactions aimed at partition, the report shall be submitted within three working days from the moment supposition on suspiciousness arose.
  - c) If the supposition exists that any person involved in a bank operation (transaction) is related to terrorists or terrorism-supporting persons, the report shall be submitted on the day the information is received. In addition, all

relevant materials and documents available to the Bank shall be forwarded to the FMS.

5. If due to objective reasons the special reporting form cannot be presented within the set period of time, defined under Section 4 of this Article, information available to the Bank shall be submitted through existing communication means (telephone, fax and e-mail). However, no later than the next working day from the moment the information is received, the Bank shall be obligated to submit completed special reporting form indicating communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.
6. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Financial Monitoring Service of Georgia in a sealed envelope by the authorized courier of the bank. If it is impracticable to use courier services, documents shall be sent as registered mail. Name and address of the sender bank shall be written on the envelope, as well as the addressee – Financial Monitoring Service of Georgia. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
7. Electronic version of the special reporting form, as well as initial information on bank operations (transactions) subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.
8. Information on bank operations (transactions) subject to monitoring shall be sent to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.
9. Decision on completion of the special reporting form and submission to the FMS shall be made by the employee of the Bank who is authorized under the internal regulation of the Bank.
10. Reporting forms shall be completed only by those employees of the bank who are authorized under the Bank's internal regulation.
11. Reporting forms shall be prepared in two copies and each of them certified with the signature of the employee (employee in charge of monitoring, in case of special structural unit – its supervisor, or administrator of the bank supervising monitoring issues) designated under the internal regulation of the Bank, and if provided by the internal regulation of the Bank – with a seal. One copy of the form shall be presented to the Financial Monitoring Service of Georgia, and the other copy shall be retained in the Bank for no less than five years.
12. The bank shall maintain register of reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of reporting forms shall be consistent during each year and reflected in a special journal, pages of which are numbered. The Bank ( branch) sending the report shall indicate the number of

the form in the respective boxes as well as individual code assigned to the bank (branch) by the FMS.

13. Reporting form shall be filled completely. If Bank does not have any information required in the form, the following shall be written in: "we do not have information." If due to peculiarities of the specific bank operation (transaction), it is not necessary to fill in any of the boxes, "----" shall be written in.
14. If there is not sufficient space for writing full information available to the Bank, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which report the information should be attached. Each additional sheet shall be certified with a signature of the employee who is authorized under the internal regulation of the Bank.
15. For organizational formations considered under legislation, which do not represent legal entities, boxes allocated for legal entities shall be filled in.
16. In the event of revealing suspicious bank operation (transaction) and submitting related special reporting form to the FMS, the Bank shall be obligated to focus special attention on other bank operations (transactions), implemented by persons involved in this particular bank operation (transaction).
17. Pursuant to Subsection "a", Section 4, Article 10 of the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation", the Financial Monitoring Service of Georgia shall be authorized to request additional information from the Bank and available documents (including confidential) in relation to any bank operation (transaction) and persons involved therein, including those bank operations (transactions) on which special reporting forms have not been presented to the Financial Monitoring Service of Georgia. The Bank shall be obligated to submit requested information to the FMS within two working days from the moment of receiving the request.
18. If the bank reveals any additional information, with respect to the relevant bank operation (transaction) or parties to it, after the report is sent, it shall immediately forward this information to the Financial Monitoring Service. Also, the additional information shall contain number and submission date of the reporting form, to which the information should be added. The additional information shall be presented in the special reporting form if necessary.
19. The bank is obliged to strictly observe confidentiality of form completion (with respect to suspicious bank operation (transaction), submission to the FMS and the related information. In case of suspicion regarding the bank operation, transaction or parties to it, and in the event of completion of the special reporting form and submission to the FMS, the bank shall not inform persons involved in the relevant bank operation (transaction), their representatives and any other persons. The employee of the Bank, who reveals suspicious bank operation (transaction) or completes the special reporting form, shall disclose this information only to those employees that are authorized to keep such information according to the internal regulation of the Bank.

20. Pursuant to Section 5, Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, legal acts issued by the Financial Monitoring Service of Georgia may define exceptions when the reporting form shall not be submitted to the Financial Monitoring Service of Georgia in spite of the fact that the amount of bank operation (transaction) exceeds GEL 30,000, or its equivalent in other currency.

Article 10. Inputting Information on Commercial Banks (their Branches, Representative Offices) in the FMS Database

1. For the purpose of systemization and analysis of the information received by the FMS on bank operations (transactions) subject to monitoring and pursuant to the Subsection “a”, Section 5, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall establish an electronic database. For inputting the information to the database on each commercial bank (branches, representative offices), the bank shall submit “form for registration of banking institutions in the Financial Monitoring Service of Georgia” (Annex N2 of the regulation). The form shall be fully completed and certified with a signature of the Bank’s Executive Supervisor. For ensuring the proper functioning of the database, the FMS shall assign individual registration code to each bank (and branch).
2. In the event of changes in information (as well as replacement of the employee in charge of monitoring) presented in the form for registration of banking institutions (their branches, representative offices) in the FMS, the Bank shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

Article 11. Responsibilities Related to Monitoring

1. National Bank of Georgia shall supervise compliance of the Bank with norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation.
2. For violation of norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation, the sanctions shall be used against the Bank in compliance with procedure and at the amount set by the National Bank of Georgia.

## **18. Law of Georgia on Activities of Commercial Banks**

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## CHAPTER I. GENERAL PROVISIONS

### Article 1. Definitions

Wherever used in this law, the following terms shall have the following meanings:

“Administrator” - any person who is a member of the Supervisory Council, the Management Board or the Audit Committee of a bank or who alone or together with one or more others has the authority to enter into commitments on behalf of a bank;

“Branch office” - a unit of a bank approved by the National Bank, which conducts directly all or some banking activities at a location other than at the bank’s principal office;

“Persons related to a bank” - administrators, significant shareholders or partners of a bank, and persons connected to them by marriage, close kinship or common business interest;

“Group of shareholders or partners acting in concert” - a number of either partners or shareholders of a bank who exercise together their interests in that bank.

“Bank” – a juridical person licensed by the National Bank that attracts deposits and uses them on its own behalf to conduct banking activity pursuant to applicable law;

“Credit” - any loan or commitment to lend by disbursing a sum of money to a borrower in exchange for a right to receive its repayment and including any guarantee of that repayment;

“Option” - the contract right to enjoy an agreed future benefit under terms and conditions presently agreed or, similarly, the right to choose not to enjoy such agreed future benefit ;

“Banking license” - an authorisation issued by the National Bank by which the permission to carry on the business of a bank is granted;

“Banking activities” - the activities that are listed in Article 21 of this law;

“Unsecured credit” - a credit which is uncollateralized;

“Debt instrument” - any negotiable instrument representing a promise to repay an indebtedness and any equivalent instrument giving the right to acquire another such instrument by subscription or exchange. Debt instruments may be in certificated form or in book-entry form;

“Trust services” - fiduciary banking operations;

“Factoring” - trade finance whereunder a bank finances its borrower’s working capital through either the outright discounting of accounts receivable due the borrower from its customers, or through the extending of credit collateralized by such accounts receivable to assume and remove from the borrower all foreign exchange and credit risks inherent in such accounts receivable;

“Fiduciary banking operations” – trust services on behalf of a customer which a bank or trust company carries out according to the wishes or instructions of a customer and at his or her expense such as the investment management servicing of the customer’s securities administered by the bank. Managed assets are not carried on the books of the bank, all



market and other risks being borne by the customer with the bank receiving only transaction, maintenance and management fees for its administration and management services;

“Forfeiting” – the financing by a bank of its customer’s exports under a trade-credit agreement pursuant to which the bank discounts non-negotiable notes held by the customer-exporter which have been issued by the customer’s foreign importer which notes carry the endorsement of the importer’s home country bank as guarantor;

“Futures transactions” - time based transactions on exchanges, providing for the sale and/or purchase of foreign exchange, gold or financial or debt instruments on a fixed future date for a fixed price prepaid at contract time;

“Subsidiary” – a legal entity of which another legal entity owns more than 50% of the voting shares or otherwise controls;

“Regulatory Capital”- required capital of a bank as determined by the risk weights assigned by regulation based on international standards to its assets for the purpose of maintaining a suitable cushion against losses whether or not anticipated;

“Equity Capital” – capital paid into a bank or other company by its shareholders and representing the difference between its total assets and total liabilities;

“Authorised Capital” - capital declared by shareholders of a bank or other company as provided for in its charter;

“Paid-in Capital” - the actually paid-in portion of Authorised Capital;

“Insolvent” or “Insolvency” – where the total liabilities of a bank or other enterprise exceed its total assets.

“Control” – the exercise of a dominating influence, directly or indirectly, alone or in concert with others over the activities or decisions of a bank or non-bank depository institution through the use of voting shares or by other means;

“Controlling Person” – a person exercising control.

“Affiliate” – a subsidiary of a juridical person or its mutually controlled corporate sister as well as the person which controls it.

“Person” – a physical or juridical entity or any other legally constituted organisational unit.

## Article 2. Scope of Operation of This Law

### 1. This law shall apply to all banks.

Banks shall be established in the organizational-legal form of the joint-stock company.

This law, the organic law “On the National Bank of Georgia”, the law of Georgia “On Entrepreneurs” and other legislative and normative acts shall regulate all activities of banks in Georgia.

2. No-person shall have the right to attract deposits and use them to extend credits on its behalf without a license granted by the National Bank.
3. No one shall use the word “bank” or derivatives of the word “bank” without having received a banking license issued pursuant to this law, unless such usage is established or recognized by law or international agreement, or unless it shall be clear from the context in which the word “bank” is used, that the person using it is not engaged in banking activities, as defined by this law or by the organic law “On the National Bank of Georgia”.
4. Licensing of currency exchange bureaus shall be carried out by the National Bank pursuant to its regulations.
5. Where there is any inconsistency or conflict between this law and any other laws, the provisions of this law shall prevail.

## CHAPTER II. LICENSING

### Article 3. Banking License Applications

1. Banking licenses shall be applied for in writing to the National Bank in such form as shall be prescribed by its regulations and shall be accompanied by the following information:
  - a) the charter, registered in the appropriate court and all other constitutive documents, in original form or their notarially confirmed copies;
  - b) all required information about the qualifications, banking experience, character and fitness of all proposed members of the applicant's Supervisory Council and Management Board;
  - c) a statement setting forth the amounts of authorized and paid-in capital of the bank. The statement shall include required information on the ownership and origins of both the authorized and regulatory capital components of the proposed bank;
  - d) a business plan for the proposed bank, setting out, inter alia, the types of activities and products envisaged for it accompanied by its proposed organization chart;
  - e) the name, residence (Head Office in the case of a juridical person), and occupation or profession of each person who owns five percent or more of the outstanding shares of the proposed bank, and the number of the shares held;
  - f) such additional information as shall be prescribed by regulations of the National Bank which should include at a minimum all amounts of the proposed bank's authorized capital and other financial resources, the location of the bank's Head Office and all proposed branch offices and any other information, which the National Bank shall reasonably request in the circumstances of each case.
  - g) documentation proving title ownership or right to use any property planned for occupancy by the applicant bank or its branches.
2. A special law shall define the fees on licensing, which shall be equal for all banks and shall be transferred to the income of the National Bank.

### Article 4. Decisions on Granting of Licenses

1. Within three months from the date of receipt of an application for a banking license, the National Bank shall make a reason-based decision on the application and notify the applicant thereof in writing .
2. The National Bank shall grant a banking license to a juridical person which is registered according to law where the amounts of its issued capital, its proposed office space, the experience, qualifications, character and fitness of its proposed administrators and its submitted business-plan comply with the assessment criteria previously defined by the National Bank, and where the banking activities applied for conform to such criteria.
3. Banking licenses shall be granted to banks only if the National Bank deems that:
  - a) the full amount of the minimum required issued capital established by the National Bank is paid up in cash;
  - b) all managers are fit and proper pursuant to the requirements of the National Bank and are not ineligible to serve under the restrictions on eligibility provided for by Section 4 of this Article.

- c) fit and proper criteria applicable to the managers of banks shall be defined under normative acts issued by the National Bank.
  - d) all documents and information submitted are complete and reliable and serve to realistically predict the stability of the bank's profitability and its financial condition.
  - e) A person shall be prohibited from serving as a manager of a bank if:
  - f) he or she has taken part in any operation or transaction that has resulted in substantial loss for a bank or a non-bank depository institution;
  - g) he or she has engaged in abusive practice when acting as an administrator of a bank or a non-bank depository institution;
  - h) he or she has previously served as an administrator of a bank or a non-bank depository institution, and as the result of his or her activities, the bank or non-bank depository institution has become insolvent;
  - i) he or she has failed to fulfill any financial obligation to a bank or a non-bank depository institution;
  - j) he or she has been in violation of any other prohibition or restriction provided under this law.
4. Licenses to branches of foreign banks shall be granted only if the foreign bank is authorized to engage in the business of receiving deposits in its home country. Licenses applied for by foreign banks shall be granted only following consultations between the National Bank and the competent bank supervisory authorities of the pertinent foreign country.

#### Article 5. Conditions of Licensing

- 1. Banking licenses shall be granted for indefinite periods of time and shall not be transferable.
- 2. By its decision to grant a banking license, the National Bank may attach conditions or restrictions to the banking license if the provisions of Subsection 2 of Article 4 are not fully satisfied. Thereafter, conditions or restrictions may be attached to a particular banking license only if the bank concerned has failed repeatedly to comply with the provisions of this law or any applicable regulation, guideline or instruction issued by the National Bank and only to the extent required to remedy such failure.

#### Article 6. Revocations of Banking Licenses

- 1. Banking licenses may be cancelled only upon a decision of the National Bank in the following circumstances:
  - a) upon a request of a bank pursuant to Article 7 of this law;
  - b) following a violation of a limit or standard set forth in Article 21 of this Law;
  - c) upon one or more of the following grounds:
    - The license has been obtained on the ground of false statements or material omissions or other significant irregularities that occurred in connection with the license application;
    - The bank has not made use of the banking license within 6 months after the date of its effectiveness;
    - A merger, consolidation or spin-off of the bank or any of its parts or assets has occurred;
    - The bank no longer possesses the minimum amount of authorised capital or regulatory capital in cash as required by regulation of the National Bank or can no

- longer be relied upon to fulfil its obligations towards its creditors or no longer provides safety for the assets entrusted to it;
- The shareholders have decided to dissolve or to liquidate the bank, or the bank has ceased to exist as a person.
  - The bank is engaged in or has been engaged in a pattern of unsafe or unsound practices threatening its financial condition which constitute a significant danger to its depositors;
  - The bank is in the process of voluntary liquidation.
  - Where the Bank has become insolvent.
2. The National Bank shall be obliged to revoke or suspend banking licenses of subsidiaries or branch offices of a foreign bank that has lost authority to engage in the banking business in its home country.
  3. Upon its cancelling of a license, the liquidation process of the legal entity holding the banking license shall be undertaken by the National Bank according to the procedures stipulated under Article 37 of this law.

#### Article 7. Voluntary Surrender of Banking Licenses

1. A bank may request the National Bank in writing to revoke its banking license. This request must present reasonable grounds for such surrender.
2. Within 3 months after its receipt of the request, the National Bank shall decide on the request. Its decision shall be forwarded in writing to the bank as soon as possible giving, in the event of denial of the request, the grounds therefor and shall guarantee protection of depositors.

#### Article 8. Publication and Effect of Decisions To Cancel Banking Licenses

1. The decision to cancel a banking license shall immediately be published in the National Bank's Gazette and other journals of general circulation. The decision shall become effective on the date of such publication or on such other date as the decision shall specify.
2. Starting on the date that the cancellation of a banking license takes effect, the bank shall be prohibited from engaging in any banking activities and it shall be liquidated pursuant to Article 37 of this Law. Starting from the date that the revocation of a banking license takes effect, the bank shall as soon as possible thereafter discharge its liabilities. During the winding up of its affairs the bank shall otherwise continue to be subject to the provisions of this Law as if it were licensed
3. Only the National Bank shall make a decision on declaring a bank insolvent or failed.

### CHAPTER III. OWNERSHIP AND ADMINISTRATION OF BANKS

#### Article 9. Requirements on Capital and Reserves of Banks

1. The National Bank shall periodically define for banks the minimum required amounts of reserves, issued capital and regulatory capital and the rules for their creation. Banks are hereby prohibited from non-cash authorized capital.
2. No bank shall decrease its authorized capital by repurchasing its shares or by decreasing its regulatory capital without prior written authorization from the National Bank and the prior amendments of its charter.

## Article 10. Restrictions on Ownership and Structure of Assets

1. No shareholder of a bank or group of shareholders acting in concert shall hold any number of shares, which exceeds 25 percent of the outstanding total capital of that bank. The National Bank shall be authorized to make an exception to the above restriction only for a shareholder, which has a banking license or represents a bank.
2. Banks shall be authorized to:
  - a) hold equity interests in a juridical person that represents no more than 20 percent of authorized capital stock of that juridical person when the net current value of the bank's holding is in excess of 15 percent of the bank's equity capital;
  - b) hold an unlimited amount of equity interest in persons engaged in businesses, which are connected with banking. Without the written permission of the National Bank, this amount shall not exceed 15 percent of the bank's equity capital;
  - c) pursuant to written authorization of the National Bank establish or acquire subsidiaries engaged in activities other than banking. This authorization shall define for each subsidiary the kinds of activities in which it may engage;
  - d) hold equity interests that it has acquired in lieu of repayment of loans granted. In such cases, if the limitations of subsections 2 or 3 of this Article are violated, the bank shall be obligated to dispose of such acquired shares in excess of any such limitations no later than 6 months after their acquisition. In special cases, the National Bank may extend the 6 months period.
  - e) establish or purchase subsidiary brokerage companies that only participate in brokerage activities as defined in the "Law of Georgia on Capital Markets" and hold an unlimited share in their equity, if without the permission from National Bank this share does not exceed 15 percent of the sum of this bank's equity capital.
3. The aggregate net value of all equity interests held pursuant to all of the above subsections shall never exceed 50 percent of the value of the Tier I component of its regulatory capital.
4. In the event of the purchase of 5 percent or more of a bank's shares by any person, or in the event of any change in the ownership on such amount of shares of any bank, all new beneficial owners of the shares shall notify National Securities Commission and the National Bank, as soon as possible after such purchase but in any case no later than 15 days thereafter. In the event of non-compliance with this requirement, such persons shall forfeit all voting right at the next following General Meeting of Shareholders.

## Article 11. Bank Mergers and Consolidations

To have legal effect, the merger, consolidation or spin-off of a bank or its or assets shall require the prior written authorization of the National Bank. Any such merger, consolidation or spin-off that would be inconsistent with the provisions of Article 10 above shall not be authorized.

## Article 12. Charter and By-Laws

1. Each bank shall have a charter consistent with all applicable law. The National Bank shall be promptly informed in writing about any amendment of its charter.
2. Each bank shall be governed by its By-Laws, which shall be consistent with its charter and which shall establish:

- a) the positions which may be appointed or elected to all administrative levels of the bank accompanied by a list of the qualification and experience criteria required for each position as may be specified by the National Bank;
  - b) the structure of the organization and administration of the bank, including its operational and administrative units, their sub-units and functions, their supervisory positions and reporting relationships;
  - c) the duties of each departmental director and the units under his supervision;
  - d) the functions of the Audit Committee and other permanent committees;
  - e) the limits of the authority of the various administrators and other employees of the bank to engage in banking activities in the name and for the account of the bank.
3. Each bank shall maintain on file with the National Bank a copy of its charter, its By-Laws, and a list of its officers who are currently authorized to contractually bind the bank, together with their specimen signatures and a description of the limits of their authorities.

#### Article 13. Managing Bodies of Banks

The administration of banks shall function and be formed in conformity with the law “On Entrepreneurs”, taking into account the requirements of this law. The highest administrative body of bank is the General Meeting of Shareholders, which acts in accordance with legislation and charter. It elects the Supervisory Council and the Audit Committee. The National Bank shall be informed of the date and agenda of the General Meeting of Shareholders, as well as its likely participants within a time period established under applicable law.

#### Article 14. Supervisory Councils

1. Supervisory Councils of banks shall ensure oversight of its activities. A Supervisory Council shall consist of an odd number of no fewer than 3 and no more than 21 members.
2. Each member of a banks’ Supervisory Council shall be elected for a term of four years. Their re-election shall not be restricted.
3. A bank’s General Meeting of Shareholders shall set the compensation of the members of the its Supervisory Council provided that it shall be paid only from the bank’s net profits.
4. A person shall not be eligible to be elected to the Supervisory Council or the Management Board of a bank on the basis of a decision made by its General Meeting of Shareholders if he or she:
  - a) is a member of the Supervisory Council or directorate of more than three other corporations registered in Georgia;
  - b) is a member of the Supervisory Council, Management Board or Audit Committee of any bank or non-bank depository institution;
  - c) is an employee of the bank;
  - d) has by law been deprived of the right to sit on the Supervisory Council of any person;
  - e) has been declared a bankrupt.
5. In addition to the requirements provided for in the law “On Entrepreneurs”, the following acts of a bank shall be performed exclusively with the consent of the Supervisory Council:
  - a) starting a new type of banking activity, or terminating a current activity;
  - b) determining and approving foreign exchange, credit and investment policies, asset and liability management, asset evaluation, rules and procedures for asset



- classification and the creation of loss reserves, the organization and operation of the bank's Internal Audit Department and the setting of policies and procedures.
- c) determining and approving the amount of minimum and maximum interest rates to be applied to loans and deposits.
  - d) the repurchase of shares as provided under this law.
6. Members of a bank's Supervisory Council shall conduct the bank's activities in an honest manner and shall exercise their duty of care in the same manner that a reasonable person in the same position and under the same circumstances would exercise always keeping in mind the stability and best interests of depositors.
- Members of the Supervisory Council failing to fulfil this responsibility shall be jointly liable for losses incurred by the bank. In such cases, members of the Supervisory Council shall have the burden of proof to show that they have acted in an honest manner keeping in mind the bank's stability and the best interests of depositors.
- A bank's waiver of indemnity rights or its compromise of such rights shall be void if the compensation is necessary for satisfying the bank's creditors. This rule shall not apply if the person liable for such compensation is solvent, or enters into a compromise with the creditors of the bank for the purpose of avoiding failure of the bank or terminating its business. If the compensation is necessary for satisfying the bank's creditors, the liability of the bank's managers shall not cease because of their acting to fulfil the shareholders' decision.
7. Decisions of each Supervisory Council member shall be in conformity with the bank's best interests. Their approach to their work shall be prudent and independent and intended to ensure the appointment and continued service of competent managers, the establishment of the bank's business plans and strategies, and the formulation of written policies to guide the bank's management.
  8. Members of a bank's Supervisory Council shall not delegate their authorities to others without the consent of the General Meeting of Shareholders.

#### Article 15. Management Boards

1. The management and representation of the company shall be the duty of the Management Board of a bank. They shall be responsible for operating the bank and carrying out its activities. The Management Board shall consist of at least three individuals appointed by the Supervisory Council for terms not exceeding four years. Their re-appointment is not limited.
2. An individual shall not be appointed as a member of a bank's Management Board or, upon the decision of its Supervisory Council shall be removed if:
  - a) he or she is not in compliance with the fit and proper criteria;
  - b) he or she is a member of the bank's Supervisory Council, or that of another bank or non-bank depository institution or of the Management Board of another enterprise;
  - c) he or she has by law been deprived of the right to sit on a Management Board;
  - d) he/she has been declared a bankrupt;
  - e) he or she has been convicted of an financial crime and his or her previous convictions have not been set aside;
  - f) he or she is the spouse, son, daughter or close relative of a member of the bank's Management Board.
3. The Management Board of a bank is authorised to delegate its powers in special cases partly or completely on the grounds of the written consent of the Supervisory Council.

## Article 16. Audit Committees and Internal Controls

1. Every bank shall have an Audit Committee, which shall consist of at least three members appointed by the General Meeting for four years. Their re-election shall not be restricted.
2. A member of the Audit Committee of a bank shall not be a member of that bank's Management Board or its Supervisory Council or a member of the Supervisory Council or Management Board of another bank, and, in addition, shall be a person who is eligible under law to take a seat on a bank Supervisory Council.
3. The Audit Committee shall be charged with the following responsibilities:
  - a) to establish appropriate rules for accounting and administrative controls, to oversee their observance and to conduct inspections of reporting and accounting records through the bank's Internal Audit Department;
  - b) to supervise the bank's compliance with applicable law and regulation;
  - c) to approve the Internal Auditing policies, and to organize the operations of the bank's Internal Audit Department;
  - d) to ensure that the Internal Audit Department is objective and independent from the bank's Management Board and its Supervisory Council;
  - e) to approve the work plan of the Internal Audit Department for the coming fiscal year, which, as a rule, shall include the exercise of control by the bank's appropriate authority over the management of currency, credit, investment, settlement, operational, accounting and other types of risks;
  - f) to review all quarterly reports of the Internal Audit Department and to approve and report audit findings and recommendations to the Supervisory Council and the Management Board;
  - g) to monitor the activities of the Internal Audit Department, comparing its actual performance against its Work Plan for each quarter and year;
  - h) to evaluate the performance of the Director of the Internal Audit Department and of individual internal auditors.
4. The Audit Committee shall meet at least once per quarter and in extraordinary cases upon the request of the bank's Supervisory Council. Decisions shall be made by a majority of the members present and no abstentions shall be allowed.
5. The General Meeting of Shareholders shall be authorized to determine the amount of salaries for members of the Audit Committee on condition that such salaries be paid from the bank's net income.

## Article 17. Banking Confidentiality

1. No person shall be permitted to reveal a bank's confidential information about any person or to disclose, disseminate or use such information for personal gain. Such information may be disclosed only to the National Bank within the appropriate areas of its responsibilities.
2. Information on operations, balances and accounts of any persons may be disclosed to account holders and their representatives. Such information may be disclosed to other persons only pursuant to a decision of a competent court.
3. Prior to receiving court permission therefor, neither courts, investigative bodies, nor tax authorities shall disclose confidential information obtained from any bank to any other bodies, including the media nor may any of them use such information in any public presentation.



## Article 18. Branch Offices

The establishment of a branch or representative office of a bank shall be authorized by a resolution of its Supervisory Council and shall be subject to such conditions and restrictions as may be established by regulation of the National Bank.

## CHAPTER IV. OPERATIONAL REQUIREMENTS

### Article 19. General Banking Principles

1. Banks shall conduct their administration and operations in accordance with sound administrative and accounting procedures, the requirements of law, the conditions and restrictions attached to their banking licenses, and shall comply with all rules, regulations, and instructions issued by the National Bank. All rules, regulations and instructions issued by the National Bank that apply to more than one bank shall be published in the official Gazette and shall take effect on the date of such publication or on such later date as shall be specified in the publication.
2. In the absence of National Bank instructions in a specific area of operations, a bank shall conduct such operations in accordance with international norms and practices.
3. Banks shall maintain adequate capital and sufficient liquid resources, and shall ensure that their assets are diversified as to risk of loss, in accordance with regulations issued by the National Bank.
4. The interaction between a bank and its customers shall be regulated by the conditions of agreements between them. In the event of late transfer violations by a bank of the terms of money transfer agreement with a customer, the bank shall pay to such aggrieved customer liquidated damages in an amount of not less than 0.5 percent of the amount outstanding for each day overdue.

### Article 20. Banking Activities

1. Banks are authorized to engage only in the following types of activities:
  - a) gather interest-bearing and interest-free deposits (time, demand and other) and to engage in other borrowings;
  - b) extending consumer loans, mortgage loans and other credits both secured and unsecured credits and engaging in factoring operations with and without the right of recourse, trade finance including the granting of guaranties, letters of credit, acceptance finance, and forfeiting.
  - c) buying, selling, paying and collecting monetary instruments, such as notes, bills of exchange and checks, certificates of deposit, as well as debt securities, futures, options and swaps on debt instruments, and interest rates, currencies, foreign exchange, precious metals and precious stones.
  - d) cash and non-cash settlement operations and the provision of collection services.
  - e) issuing money orders and managing money circulation (including tax cards, checks and bills of exchange).
  - f) securities brokerage services;
  - g) trust operations and funds management on behalf of clients;
  - h) safekeeping and registration of valuables including securities;
  - i) credit-information services;
  - j) activities incidental to each of the above types of services.

2. Activities connected to securities' operations listed in subsection 1 of this Article shall be regulated by the "Law of Georgia on Capital Markets".  
Article 21. Prudential Limits and Standards

1. Banks shall observe prudential limits and standards in the following areas as prescribed by regulations of the National Bank:
  - a) minimum amounts of issued and regulatory capital;
  - b) amounts of required regulatory capital to support the different risks applicable to various types of assets categorized according to National Bank regulation;
  - c) the maximum ratios of deposits to regulatory capital;
  - d) the ratio of aggregate amount of credits and other obligations issued to any single person, insider or outsider, to the bank's regulatory capital;
  - e) the ratio of the aggregate amount of credits and other obligations, issued to all insiders (persons closely related to the bank or to each other), to the bank regulatory capital;
  - f) the maximum aggregate amount of credits, expressed as a percentage of the aggregate amount of all its credits, that a bank shall be permitted to extend to its ten largest borrowers (including insiders and related persons).
2. Banks shall observe prudential standards and ratios in connection with the following areas of activity as may be prescribed by regulations of the National Bank:
  - a) requirements concerning minimum aggregate amounts of liquid asset holdings or specific categories of such holdings in relation to their value, such ratio to be established with respect to assets and off-balance sheet liabilities in general or according to specific type, provided that in any case banks shall be permitted to meet their minimum liquidity requirements by maintaining with the National Bank deposits of equivalent values;
  - b) requirements concerning the maximum aggregate amount of credits and investments, or specific categories thereof;
  - c) requirements concerning the classification of assets and off-balance sheet liabilities as well as formation and use of reserves for loan losses as well as the terms and time limits governing income from such assets may no longer be accounted for as revenue unless received in cash;
  - d) prohibitions, restrictions or conditions concerning:
  - e) the types or forms of credits and investments;
  - f) matching as to maturity and interest in respect of assets and liabilities including off-balance sheet items;
  - g) unhedged exposure positions, exceeding specific limits in foreign currencies, precious metals or precious stones.

#### Article 22. Prohibited Transactions

1. Banks shall refrain from entering into transactions or engaging in practices of any kind that provide them, alone or together with others, a position of dominance on the money, financial or foreign exchange markets. Banks shall refrain from engaging in manipulative practices which could result in unfair advantage for themselves or for third parties, by fostering reduced competition in banking services such as through cooperative price fixing of their own interest rates or of the brokerage fees of their subsidiaries. The National Bank is authorised to set parameters, evaluate criteria and provide regulatory measures to police this field pursuant to applicable law.

2. No bank shall enter into any agreement with any customer under which the granting of any loan or the provision of any other banking service to such customer is conditioned upon the purchase or use of any additional service of that bank or of any of its affiliates.

#### Article 23. Records of Transactions and Commitments

Banks shall keep on file for periods prescribed by the National Bank all pertinent documentation supporting each of its transactions, namely:

- a) applications and all contract documents pertaining to the transactions (including credit, guarantee and collateral agreements);
- b) the financial records of its customer and other pertinent parties (including borrowers and guarantors), and any other written evidence on which the bank relied in approving the transactions;
- c) the signed written record of the bank's decision approving the transaction;
- d) such other documents as the National Bank may specify by regulation.

#### Article 24 (Eliminated)

#### Article 25. Transactions With Related Parties

Banks shall be prohibited from extending any loans or rendering any other banking services under preferential terms to any of their administrators, controlling persons, affiliates or their related parties regardless of the type of service with regard to pricing, maturity, security, value of collateral or any other terms or conditions.

### CHAPTER IV<sup>1</sup>. PARTICULARS CONCERNING DISPUTES ABOUT CERTAIN ACTIVITIES OF BANKS

#### Article 25<sup>1</sup>. Disputes on Realization of Property Pledged as Collateral

1. An application by a bank arising out of any dispute with respect to its realisation on property pledged with it as collateral, which application is brought before a circuit court pursuant the First Instance Rule of Civil Pleadings, shall be heard at the Circuit Court no later than 20 days following the filing date of such application.
2. A decision made by the Circuit Court on the realisation on property pledged with a bank as collateral may be appealed within 10 days only pursuant to the Rule of Cassation.

### CHAPTER V. ACCOUNTS, AUDITS, REPORTING AND INSPECTIONS

#### Article 26. Accounts and Financial Statements

1. Banks and their subsidiaries shall maintain at all times accurate accounts and records and shall prepare annual financial statements adequate to their respective operations and financial conditions in accordance with sound accounting practices pursuant to international accounting standards. Financial reporting shall be in such form and detail as shall be prescribed by regulations of the National Bank with due deference to their supporting guidelines.
2. The accounts, records and financial statements of a bank shall reflect the operations and financial conditions of its subsidiaries on a consolidated basis.

#### Article 27. External Audits

1. Each bank and its subsidiaries shall cause their books to be audited annually by an external auditor who shall conduct each such audit in accordance with procedures established by the National Bank.
2. Each bank shall submit to the National Bank a complete report of its annual external audit as soon as it is completed, and shall publish its annual financial statement and external audit report in the official Gazette in such form as shall be provided for by the National Bank.

#### Article 28. Foreign Bank Branches

The provisions of Articles 26, 27, and 29 shall apply to branch offices of foreign banks that operate under a banking license issued by the National Bank and to subsidiaries of foreign banks. Statutory and regulatory provisions requiring financial statements in the case of branch offices may be satisfied by financial statements prepared on a pro forma basis, with the effect that an Audit Committee or other representative organ of the Home Office may function as the Audit Committee of the branch office.

#### Article 29. Reports and Inspections

1. Each bank shall prepare and submit to the National Bank both for the bank itself and separately for each of its subsidiaries reports concerning organizational, administrative and operational activities and concerning liquidity, solvency, and profitability in order to enable the National Bank to assess their financial conditions both individually and on a consolidated basis. These reports shall be prepared in such form and detail and shall be submitted at such intervals as shall be prescribed by regulation of the National Bank.
2. Each bank and each of its subsidiaries shall be subject to inspections by inspectors of the National Bank or by auditors appointed by it. Such auditors may include employees of the monetary or prudential supervision divisions of pertinent foreign regulators in cases where such inspections are to take place with respect to a branch office or subsidiary of a foreign bank.
3. In their inspections of banks and their subsidiaries, the National Bank and its auditors may:
  - a) examine all books, records, accounts, funds and other documents of banks and their subsidiaries;
  - b) require that administrators and employees of banks and their affiliates submit to review information on the bank's shareholders, controlling persons and administrators and any information concerning the bank's operations and transactions. In case these requirements are not fully observed sanctions set forth in Article 30 may be applied.

### CHAPTER VI. VIOLATIONS AND SANCTIONS

#### Article 30. Violations and Sanctions

1. The penalties provided for violations described in this Article shall be determined in particular cases by the National Bank. Any aggrieved party may seek review of such determination by a court of competent jurisdiction.

2. The National Bank shall be authorized to impose the following actions and sanctions with respect to banks, their administrators and controlling persons if a bank, any of its administrators or controlling persons is guilty of an violation consisting of:
  - a) a violation of a provision of this law or of any regulation, instruction, rule, decree, order or written guideline of the National Bank;
  - b) a violation of any condition or restriction attached to the banking license of a bank or to a regulation issued by the National Bank;
  - c) failure to meet a timeframe for the submission of reports or the submission of incorrect reports or of other inaccurate information.
3. When the above-mentioned violations are revealed, the National Bank has the right, with increasing severity depending on the seriousness of such violation and any actual or potential risk it poses to the assets of the bank, to impose on banks the following sanctions:
  - a) issue written warnings;
  - b) carry out special actions or issue instructions requiring that a bank cease certain current practices and desist from future ones and other violations and take measures to eliminate violations within a specified period.
  - c) impose fines according to rules and amounts established by the National Bank, but not in excess of a bank's capital resources;
  - d) to impose civil money penalties in such amounts and pursuant to such procedures as are established by the National Bank if any action of the bank's administrators has caused financial loss to the bank or permitted the violation of regulations and requirements of the National Bank;
  - e) suspend the signing authority of the bank's administrators and to require the bank's Supervisory Council to dismiss him or her temporarily or permanently;
  - f) require the Supervisory Council and Management Board to call a special meeting of the bank's shareholders to discuss the violations and to take all necessary measures to eliminate them;
  - g) suspend or terminate asset growth, distribution of profits, payment of dividends and bonuses, and salary increases and the reception of deposits;
  - h) in special cases, when the interests of the bank's depositors and other creditors are jeopardized, to suspend active operations and to place the bank in Temporary Administration;
  - i) to request from the controlling persons of a bank to divest or reduce their control in case of failure to provide financial or other information to the National Bank or in cases where a violation has been discovered. Such divestiture or reduction shall be undertaken in accordance with such terms and conditions the National Bank shall deem necessary in the particular circumstances;
  - j) to cancel the bank's license.
4. (Eliminated)
5. (Eliminated)
6. Sanctions shall correspond with the seriousness of the violation and the loss or potential danger for the bank's assets.
7. Amounts of fines imposed in accordance with this Article shall be transferred to the income of the National Bank.

## CHAPTER VII. TEMPORARY ADMINISTRATION AND LIQUIDATION

Article 31. (Eliminated)

Article 32. Decisions Ordering the Appointment of a Temporary Administration

A decision ordering the appointment of a Temporary Administrator, shall indicate:

- a) the reasons for the appointment of the Temporary Administrator;
- b) the name of the Temporary Administrator (s);
- c) the duration of the Temporary Administration;
- d) a warning about possible freezing of deposits or other customer funds in the bank;
- e) actions to be taken against the administrators of the bank.

Article 33. Effects of Temporary Administration

1. A decision of the National Bank to appoint a Temporary Administrator shall be published in an appropriate publication.
2. Upon the date of its approval of the decision ordering Temporary Administration, no action is permissible on behalf of or for the account of the bank without the prior approval in writing of the Temporary Administrator.
3. The Temporary Administrator shall succeed to the full authority of all bodies (including the General Meeting of Shareholders and of all administrators) of the bank.
4. The Temporary Administrator shall be given as soon as possible the list of authorized officials of the bank maintained current by the National Bank and shall apply for changes in that list.
5. If the financial condition of a bank is aggravated due to the wrongdoing of the Temporary Administrator, the National Bank shall fully reimburse the bank for losses.

Article 34. Powers of Temporary Administrator

1. The Temporary Administrator appointed by the National Bank has the power to take all necessary actions required to remedy the condition of the bank, including the sale or closure of branches, representative offices and any other offices, making or suspending of payments and the dismissal of employees of the bank. In addition, the authority of the Temporary Administrator shall include the power to arrange a merger of the bank under administration with another bank and to arrange for its recapitalization or for the acquisition of all or a substantial portion of its assets and the assumption of its liabilities by another bank.
2. For the purpose of rehabilitating the bank, the Temporary Administrator shall have the right to partially or fully block any funds of individuals and legal entities during the period of the Temporary Administration but only in order to maintain the stability of the bank.

Article 35. Cessation of Temporary Administration

Temporary Administration shall cease:

- a) upon the expiration of its term, which shall be published in an appropriate publication of general circulation;
- b) upon the reasoned decision of the National Bank;
- c) in case the license of the bank is revoked.



Article 36. (Eliminated)

Article 37. Liquidations

1. A bank shall be liquidated when its banking license is revoked. Liquidators shall be appointed by the National Bank. Liquidations shall be carried out pursuant to rules established by the National Bank. The National Bank may not appoint a person associated with a bank as a Liquidator.
2. A Liquidator shall prepare within a period of 3 months after his or her appointment a list of the bank's assets and liabilities and submit a copy to the National Bank for publication for the purpose of public awareness. A Liquidator is accountable to the National Bank under rules set by the National Bank.
3. A Liquidator shall be authorized to sell fixed assets of the bank at public auction, to transfer its assets to another bank and to arrange for the assumption of its liabilities by such bank or another institution.
4. A Liquidator, within 3 months after his or her appointment is hereby empowered to terminate:
  - a) employment agreements of any employee of the bank;
  - b) service agreements, to which the bank is a party;
  - c) lease liabilities of the bank, if the landlord, is given 60 days notice that the bank will terminate the lease and claims no other occupancy related fees other than the last rentals and does not assert any damages caused by such termination.
- 4<sup>1</sup>. A Temporary Administrator or Liquidator shall have the power to challenge by applying to a court any action or transaction by an administrator of the bank done or entered into during a period of one year before the appointment of the Temporary Administrator and may demand their cancellation if persons related to the bank or the guilty administrator benefited at the expense of the bank, or took advantage and abused privileges or allowances which caused damages to the bank, its depositors or other creditors .
5. Within 2 months after his or her appointment, a Liquidator shall:
  - a) take all necessary measures for the termination of all trust functions being undertaken by bank, the return to their owners of all assets and valuables which have been entrusted to the bank and the settlement of all trustees' accounts;
  - b) send by means of registered notice letters, to the addresses listed in the records of the bank, to depositors, creditors and customers, whose valuables are safekept in the vault of the bank and also to those customers, whose property is managed by the bank, statements of their accounts. The statement shall indicate that the Liquidator will receive all claims within 1 month after receiving the notice letter to repossess their valuables kept in the vaults of the bank.
6. All personal property maintained for safekeeping on the bank's premises and which is not demanded within the specified claim period set forth in a notice letter and all other unclaimed amounts of cash and property, held by the bank under agreements shall be considered as abandoned property and shall become the property of the National Bank for the purpose of seeking their rightful owners.
7. During the liquidation period, all claims on collateral shall be satisfied first in accordance with the terms of their security agreements (up to the value of such collateral), and all other lawful claims shall be allowable in the following order:
  - a) claims of the National Bank and other lenders to whom the bank became liable after revocation of its license;

- b) deposits of individuals equal to a sum one-hundred times the statutorily minimum amount exempt from income tax;
  - c) deposits of individuals, which have not been paid in accordance with (b) above;
  - d) other deposits of any type;
  - e) other claims against the bank;
  - f) necessary and reasonable costs incurred by the National Bank.
8. If all available amounts are insufficient to fully meet all of the payment distributions set forth in subsections (b) (c), (d) and (e) above, all the claims shall be paid on a pro rata basis.

## CHAPTER VIII. TRANSITIONAL PROVISIONS

### Article 38. Operating Banks' Licenses

1. After the effective date of this law, the National Bank shall notify each bank in writing as to any limitations which this law shall have imposed on its operations. These limitations shall then be considered as conditions attached to the banks' licenses.
2. Banks in operation as of the effective date of this law shall be considered as validly licensed for a period of one year following the effective date of this law. During this period all banks shall bring their activities into conformity with this law.

President of Georgia                      Eduard Shevardnadze  
Tbilisi  
As Amended - October 23, 2001  
Effective - November 7, 2001



## 19. Law of Georgia on Securities Market

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The purpose of the present Law is to develop securities market in Georgia, to protect the investors' interests on securities market, to ensure the transparency of issuers information during the securities offering and public trading in securities as well as to establish fair and transparent public trading in securities and free competition.

## **Chapter I. General Provisions**

### **Article 1. Scope of Application**

1. Transactions connected with securities are regulated by the present Law, Georgia's Civil Code and other legislation acts of Georgia.
2. The regulations for issuance or public offering of government securities on behalf of the State of Georgia, as well as the public trading of government securities off a Stock [Amendment, April 30, 1999] Exchange by banks shall be defined separately.
3. Disposal of government property is regulated by the Law on Privatization of State Owned Property;
4. The present Law regulates transactions connected with the securities' public offering and circulation, defines the rules of activities and responsibilities of Stock Exchanges, Central Depository, other Self-Regulated Organizations, Securities Registrars, Brokerage Companies, brokers on the securities market, as well as additional requirements regarding rules of activities and responsibilities of those enterprises, whose securities are publicly offered and sold;
5. This Law establishes the rules for formation of the National [Amendment, April 30, 1999] Securities Commission and its responsibilities.

### **Article 2. Definitions of Terms**

Wherever used in this Law, the following terms shall have the following meanings:

**Advertisement** means advertising done in any publication by way of display of notices, signs, labels or business cards; by means of circulars, catalogues, price lists or other documents; by an exhibition of pictures or photographic or cinematography films; by way of sound broadcasting or television or computer; by the distribution of recordings; or in any other similar manner.

**Auditor** means an independent auditor regulated under the Law on Audit Activity. The auditor and any audit company with which he is affiliated shall be independent within the meaning of Article 21 of that law.

**Bank** means a banking enterprise organized under the Law of Georgia on Entrepreneurs and licensed under the Law of Georgia on the Activities of Commercial Banks.

**Beneficial owner** means any person who satisfies one of the following requirements:

- is the registered owner of securities;
- has authorized, pursuant to a written agreement, a nominee holder, to act on his behalf;
- receives a monetary benefit from ownership of a security;
- has the power to direct the voting rights of a security;
- has the right to acquire beneficial ownership of a particular security;

but shall not include a nominee holder or a fiduciary/trustee who has entered into a written agreement with a registered owner of the securities.

**Brokerage Company** means a person, other than an investment fund regulated under the legislation on securities of Georgia, engaged in one or more of the activities involving the public trading of securities set forth in Article 23 of this Law, except a persons exempted under 23.5, a bank or a licensed Central Depository doing the activity set forth in 23.1.f.

**Broker** means a natural person who, on behalf of his Brokerage Company employer, executes transactions in securities and/or provides other related services.

**Central Depository (Depository)** means a person that provides for the central clearance and settlement of securities pursuant to instructions of nominee holders, or performs other services defined by the Commission's regulations.

**Commission** means the National [Amendment, April 30, 1999] Securities Commission of Georgia.

**Control** means the situation, in which one person, or a group of related persons, holds more than 5% of voting rights in a company, unless the context indicates otherwise.

**Fiscal year** means continuous period beginning January 1 and ending December 31.

**General license** means a license granted to a Brokerage Company or Broker to engage in all permitted activities involving the public trading of securities set forth in Articles 23 or 25 of this Law.

**Government security** means any security issued by the Government of Georgia.

**Gross violation** means a violation which is not of a technical nature and involves deliberate disregard of a requirement under the legislation on securities or SRO rules.

**Issuer** means any legal person, subject to public or private Law, that issues securities.

**Legislation on securities** means this Law, other laws and regulations administered and supervised by the Commission in terms of its competence.

**Managing body** means the Directors and/or the Supervisory Council, elected or appointed under the established rules.

**Material (fact or event) means** a fact or event that a reasonable investor or potential investor would consider important in a decision to buy or sell securities.

**Newspaper** means any newspaper, which is recognized by the Commission to be applicable for the purposes of this Law.

**Nominee holder** means a legal person, which is a Securities Market Intermediary, bank or a Central Depository, authorized under a written agreement by the beneficial owner of securities to register securities in the nominee's name and engage in other transactions in connection with securities (e.g. disseminating information to beneficial owners) on behalf of the beneficial owner or other nominee holder.

**Offer** means any attempt to sell or dispose of for value any security interest in a security that has been issued or is to be issued, but shall not include an invitation by or to any Brokerage Company to enter into a securities offering contract with respect to such security or interest therein.

**Offering Application** means the application required to be filed with the Commission under Article 4.2 of this Law and includes any amendment thereto and any prospectus, report, or document filed as part of such application or incorporated therein by reference.

**Person** means a legal or natural person.

**Prospectus** means any written communication, or communication by way of electronic or print medium, the purpose of which is to offer for sale any security.

**Preliminary Prospectus** means a prospectus, which has been filed with the Commission but has not yet been approved.

**Approved Prospectus** means a prospectus which has been approved by the Commission.

**Final Prospectus** means a prospectus which has been approved by the Commission and which contains the exact number of securities to be offered, the exact price at which they will be offered and, where a Brokerage Company/ies have agreed to sell securities on behalf of the issuer and/or its securities holders, information about securities offering contracts.

**Records** means accounts, correspondence, tapes, computer discs and other documents or transcribed information of any type, whether ex-pressed in ordinary or machine-readable form.

**Registered holder** means an owner or nominee holder of securities registered in a Securities Register.

**Related person** means a person who meets the definition set forth in Article 24 of the Tax Code except as otherwise provided in Commission regulations.

**Reporting company** means a company which is regulated under Chapter III of this Law.

**Sale** means a contract for sale or any other type of disposition of a security.

**Secondary public trading** means buying or selling of a security that is a) not selling conducted on behalf of an issuer or as part of a public offering pursuant to articles 3-8 and b) open to participation, directly or through a representative, to more than 100 persons or to an unspecified numbers of persons

**Security (securities)** means a transferable financial instruments and rights that may be offered to the public in the form of equity securities, debt securities, any security which can be convertible into a security, or which carries the right to subscribe for or purchase such security, investment contracts, and other instruments and rights connected with securities, provided however, that the following instruments shall not be treated as securities under this Law and shall not be regulated under it:

- obligations of banks which are connected with the reception of deposits or other fixed-term financing if they arise when services are provided to clients directly, without any intermediary, and are not the subject of public circulation;
- insurance policy or annuity contracts issued by a legal person operating according to the Law on Insurance;
- checks regulated under the Law of Georgia on Checks;
- contracts or financial instruments exempted by Commission regulation based upon adequate regulation under this or other laws.

**Debt security** means any security evidencing a right to receive payment of a stated principle amount with or without interest but, unless otherwise provided herein, shall not include government securities.

**Equity security** means a security evidencing an ownership interest in a company.

**Investment contract** means a contract under which the investor grants funds or other property rights to another person for investment in economic activity with the goal to get the possible income.

**Publicly Held Security** means a security, which is either admitted for trading on a Stock Exchange and/or held of record by more than 100 security holders under Article 9.2 of this Law.

**Class of security** means all securities of an issuer, which have identical rights and obligations, subject to Commission regulations.

**Issue of securities** means the procedure by which an issuer distributes its securities.

**Dematerialized security** means a security that does not exist in paper form but as a book entry in a Securities Register or a Central Depository, whether in the name of the beneficial owner of securities or the name of the nominee holder.

**Securities Market Intermediary** means a Brokerage Company, Broker, or other intermediary whose activities are supervised by the Commission under the established rule.

**Securities Market Participant** means an investor, issuer, Regulated Securities Market Participant and auditor.

**Regulated Securities Market Participant** means a Stock Exchange, the Central Depository and other SROs, Securities Registrars, and Securities Market Intermediaries.

**Securities Offering Contract** means a contract between an issuer making an offering of securities and one or more Brokerage Companies pursuant to which the Brokerage Company/ies agrees to distribute the securities being offered on a guaranteed or non-guaranteed basis, which complies with Commission regulations.

**Guaranteed basis**, in connection with a securities offering contract, means the purchase of an entire issue of securities by a Brokerage Company/ies with a commitment to resell or retain ownership of the total offering.

**Non-guaranteed basis**, in connection with securities offering contract, means the conditional purchase from an issuer of the securities issue by a Brokerage Company/ies without any commitment to resell or retain ownership of the total offering.

**Securities Register** means the register, maintained by the Issuer or Securities Registrar, which identifies the registered holders of the securities and the number and class of securities owned and contains other related information.

**Securities Registrar** means a person which maintains a Securities Register for an issuer and performs such other functions as are specified in the agreement between the issuer and the Securities Registrar. This definition shall not include persons in their capacity as employees of an issuer or of an entity licensed under Article 29 of this Law.

**Self-Regulatory Organization or SRO** means a Stock Exchange, a Central Depository and any other organizations which make and enforce rules approved by the Commission relating to its members or participants under Article 41 of this Law.

**Sophisticated Investor**- means person sophisticated in the theory and practice of investing except as otherwise provided in Commission Regulations.

**Special License** means a license granted to a Brokerage Company or a Broker, which limits the permitted activities, such licensed person may engage in.

**Stock Exchange** means an organized securities market which provides facilities enabling the collection of offers to buy and sell securities, executes trades pursuant to rules or procedures, and disseminates information on completed transactions and other price information.

Written shall include printed, lithographed or any means of graphic communication.



## **Chapter II. Public Offering of Securities**

### **Article 3. Concept of Public Offering of Securities**

1. The public offering of securities is an offer to sell securities directly or indirectly on behalf of the issuer to at least 100 persons or to unspecified numbers of persons (herein “public offer or offering”). Similar offerings on behalf of persons other than the issuer shall be considered public offers when made with respect to securities of a non-reporting company. Public offering of a non-issuer shall be prohibited except as provided in this Law or under regulations prescribed by the Commission.
2. An issuer may enter into securities offering contract/s with a Brokerage Company to distribute the securities being offered.
3. Security holders of an issuer making a public offering under Article 5 may request such issuer to include such holders’ securities in the public offer, pursuant to established rules.
4. Public offering of securities by non-government issuers, including local appointed and elected organs shall be subject to this Law.
5. The public offer and disposal of investment fund securities shall be subject to this Law, unless otherwise regulated under the Georgia’s legislation on securities.
6. The offer and sale of securities only to sophisticated investors, as defined and regulated under regulations adopted by the Commission, shall not be considered a public offering under this Chapter.

### **Article 4. Requirements of a Prospectus**

1. Public offering of securities shall be made by any person either contemporaneously or after the publication of an Approved Prospectus, prepared by the issuer, that fulfils all the requirements of this Law and regulations adopted by the Commission. If a Preliminary Prospectus, which differs materially from the Approved Prospectus, has been disseminated to investors under Article 6 of this law, the issuer shall disseminate the Approved Prospectus in the same manner as the Preliminary Prospectus or as otherwise provided for in regulations adopted by the Commission.
2. An issuer shall apply for approval of a prospectus for the securities which it will publicly offer for sale by filing the following documents, which shall constitute the Offering Application, with the Commission;
  - a. an application in the form prescribed by Commission regulations;
  - b. three copies of a Preliminary Prospectus signed by the Chairman and a majority of the issuer’s Supervisory Council, by CEO, where the issuer is a company, and with respect to other issuers, signed by persons recognized under the legislation as responsible for management of the issuer (responsible persons), containing information set forth in Commission regulations, including:
    - (i) background information about the issuer including, but not limited to, its name, registered address and the location of its principal office; date and manner of establishment; object of corporate activity; number and kinds of securities outstanding and the rights they provide; securities owned by the issuer; name of each security holder who controls the issuer; the names of the members of the supervisory council, the principal officers of the company and, where applicable, the name of the Securities Registrar



- appointed by the issuer, any potential conflicts of interests of the foregoing persons, and other background information set forth in Article 10.5 of this Law which has not otherwise been disclosed;
- (ii) description of the commercial activity of the issuer for the preceding two years and the main risks involved in that activity;
  - (iii) forward looking statements, including reasonable projections regarding expected earnings, revenues and other financial items may be made provided that they are based on relevant facts which are clearly set forth. Statements may be made as to management's plans and objectives as to future operations, financing or acquisitions by the issuer;
  - (iv) financial statements, as specified in Commission regulations, for the last two fiscal years certified by an auditor, and similar data about any legal person in which the issuer owns more than 50%. A letter shall be obtained from the auditor that he has certified the accounts of the issuer and consented to the use of the reports prepared by him within the prospectus;
  - (v) information about the securities, including:
    - kind of securities being issued and their rights in comparison to other securities of the issuer;
    - aggregate total offering price of the securities (such aggregate total offering price shall include an indicative or approximate number of securities to be issued, and an indicative or approximate offering price for the securities to be issued);
    - details about the subscription procedures, or if a Brokerage Company has entered into a securities offering contract under which it has agreed to purchase all or part of the entire issue of securities, approximate details about such arrangement;
    - whether any securities are being offered on behalf of security holders; and if so, their names and the number of securities being offered for each named person;
    - for debt securities, the amount of interest and methods of calculation if the securities are interest bearing, maturity date and terms of any redemption allowed;
    - the proposed use of proceeds from the offering.
- c. For an issuer's first public offering, copies of founding documents certified by a notary and registered in the Georgia Enterprise Registry or, where the issuer has already issued a Final Prospectus under this Article, copies of amendments to founding documents introduced over the period since the last Final Prospectus, certified by a notary and registered in the Georgia Enterprise Registry;
  - d. Copies of decisions authorizing the issuance of securities on behalf of the issuer and/or the filing of the Offering Application and, where the offer is being made on behalf of security holders of the issuer, copies of the decision authorizing the inclusion of such securities in the public offering;
  - e. Reorganization documents if the securities are being offered by reason of the issuer's reorganization;
  - f. Signed copies of conclusions by experts that have provided or verified information that is presented in the prospectus.
3. Banks making a public offering of securities shall submit to the Commission an Offering Application under this Article only after receiving an expert valuation report

- from the National Bank of Georgia. A summary of this report shall be included in this prospectus. A copy of the valuation report shall be filed as part of the Offering Application.
4. The Commission may, under regulations approved in advance, set different requirements for furnishing information, depending up the type of already issued or planned to be issued securities, the type of issuer (e.g non-resident issuer, investment fund (company) issuer, non-company issuers), and where applicable, the maturity of a debt security.
  5. The Commission may, by regulation, prescribe the form and content of financial statements filed under this Article and the accounting principles and standards used in their preparation.
  6. If the issuer is a reporting company, and has filed all required reports for the preceding two years, the Commission may, under regulations approved in advance, permit a partial or full waiver of the obligation to prepare a full prospectus.
  7. If any information required in a prospectus has already been filed with the Commission, such information may be incorporated by reference pursuant to Article 11.8 of this Law.
  8. Within thirty days of the date that an Offering Application is filed with the Commission, the Commission shall review the Offering Application and:
    - a. where it finds that the Preliminary Prospectus included therein does not comply with this Law and Commission regulations, and/or is not textually clear and consistent, provide a written response to the issuer requesting additional information necessary to explain or revise the furnished data, and/or submission of evidence in support of the authenticity of information included therein. Upon correcting the specified deficiencies, the issuer may file amendments to the Offering Application which shall be reviewed anew;
    - b. where requested in writing by the issuer, agree in writing to approve the prospectus within the thirty day period; or
    - c. where the Commission finds that data provided by the issuer is not in conformity with this Law or regulations issued by the Commission, or if the issuer refuses to present documents, data or explanations requested under this Article, the Commission may refuse in writing to approve the prospectus, provided the Commission justifies its decision;
    - d. unless the issuer is otherwise notified in writing under paragraphs a, b or c of this Article, the prospectus shall be deemed approved (effective) after expiry of the thirty day period.
  9. Current financial information contained in the Final Prospectus shall not be more than nine months old. Textual descriptions should contain information as of the latest practical date.
  10. Within five days or such longer period as the Commission may by rule prescribe, after the prospectus has been deemed approved by the Commission, the issuer shall file with the Commission three copies of the Final Prospectus setting forth on the first page thereof precise information concerning the exact number of securities to be offered, the exact price at which they will be offered and, where Brokerage Companies will be selling securities on behalf of the issuer and/or its securities holders, the terms of the securities offering contract/s. Subject to Article 4.13 below, the Final Prospectus shall be used in sales of the securities pursuant to the public offering.

11. The filing of the Final Prospectus with the Commission shall not be treated under Article 4.8.a as an amendment, provided however, if the aggregate offering price or price per security varies by more than 20% from the indicative price contained in the Approved Prospectus, the Final Prospectus shall be treated as an amendment to the Approved Prospectus and filed pursuant to the procedures set forth in Article 4.8a.
12. Commission approval of the prospectus confirms that the information furnished by the issuer is in formal compliance with this Law and regulations adopted hereunder. Commission approval does not confirm the truthfulness of disclosed information, neither may the Commission approval be considered as a recommendation of the Commission. Each Preliminary, Approved and Final Prospectus shall prominently display the following words on its front page: "Commission approval of the prospectus relates to its form and is not a finding as to the accuracy of its contents or the value of the investment described therein".
13. Except as provided in Article 4.14 below, sanctions may be imposed on the following persons under Article 55 of this Law and Administrative Code, for any untrue statement of material fact in the Final Prospectus and for failure to disclose a material fact required to be stated therein, or necessary to make the statements therein not misleading:
  - a. the issuer, CEO, chairman and each member of its Supervisory Council which has signed the prospectus jointly and severally;
  - b. every Brokerage Company, and Broker, which acts on behalf of the issuer under a securities offering contract;
  - c. every auditor and other expert who has consented to being named as having prepared part of the prospectus, with respect to material misstatements or omissions in the portion of the prospectus which such expert has prepared.
14. No person other than the issuer shall be liable under Article 4.13 if they can show:
  - a. that before the Final Prospectus becomes effective, he resigned or ceased to act in the capacity or relationship in which he was described in the Final Prospectus as acting or agreeing to act and has provided prior written notification to the Commission and issuer that he has undertaken such act and shall not be part of the Final Prospectus; or
  - b. that if such part of the Final Prospectus became effective without his knowledge, upon becoming aware of such fact he immediately acts and advises the Commission in accordance with Article 4.14.a above and provides written notification in a newspaper that such part of the Final Prospectus became effective without his knowledge; or
  - c. as regards any part of the Final Prospectus, he had, after reasonable investigation, reasonable ground to believe and did believe, at the time such Final Prospectus became effective that the statements contained therein were true and not misleading, or such part of the Final Prospectus did not fairly represent a statement made by such person or was not a fair copy of or extract from a report prepared by such person.
15. Subject to Article 3.3, an agreement, which limits the liability of the persons named herein for the losses, caused to security holders by submission or publication in the prospectus of material misstatements or omissions shall be considered invalid. The issuer shall, subject to the limits of Article 5.2-3, be liable to persons purchasing the securities sold in the public offering for losses arising from the purchase and attributable to material misstatements or omissions in the Final or Approved Prospectus. The other persons listed in article 4.13(a)-(c) shall similarly be liable to

such purchasers for such losses if sanctioned under article 4.13. Sales of securities offered in violation of the requirements of Article 4.1 or 5.1 are subject to rescission at the demand of the purchaser, subject to such time and procedural limitations as the Commission regulations may prescribe.

16. Upon approval of the prospectus, a national identification number shall be assigned by the Commission to an issue of securities pursuant to procedures established by Commission regulation.

#### **Article 5. Offering Procedures**

1. The Final Prospectus shall be delivered to investors prior to or contemporaneous to any sale of securities which are the subjects of a public offering.
2. If during a public offering of securities it is necessary to change material terms within the prospectus, including but not limited to the number of securities offered, the price thereof, closing date(s) for the offering, an issuer shall commence the following procedures:
  - a. file an amendment to the prospectus with the Commission pursuant to Article 4.8a explaining all changes being made to the prospectus;
  - b. publish a notice in a newspaper, and/or by such other means as the Commission may by rule prescribe, that the offering in its current form has been cancelled and offer to rescind all transactions that have been completed for sale of securities to date, without making any deductions, pursuant to Article 5.3 of this Law;
  - c. and wait thirty days for purchasers to respond to the rescission offer before initiation of the modified offering. In the event the issuer is a bank, the filing of amendments to the prospectus shall be carried out in agreement with the National Bank of Georgia.
3. Where amendments concerning material events have been made to the prospectus pursuant to Article 5.2 above, subscribers shall have the right to renounce their purchase of such securities, whereas the issuer shall, within ten days, return the contributions paid by them without making any deductions. Subscribers who decide not to renounce their purchase of securities shall be subject to terms of the modified offering.
4. If after commencement of a public offering the Commission becomes aware that the prospectus contains a material misstatement of fact or there is a material omission, the Commission may require the issuer to comply with the procedures set forth in Articles 5.2 and 5.3 of this Law.
5. If during a public offering, other information in the prospectus changes, the issuer shall file a copy of a document containing such new information/changes with the Commission, prior to making such changes in the prospectus pursuant to procedures set forth in Commission regulations.

#### **Article 6. Publicity of a Public Offering Prior to Commission Approval of the Prospectus**

1. Prior to approval of a prospectus that has been filed with the Commission, the Preliminary Prospectus may be disseminated as follows:

- a. by the issuer and Brokerage Companies acting on behalf of the issuer to generate public interest in the issuer and its securities that are going to be issued upon approval of the prospectus by the Commission;
  - b. to potential investors, as long as no offers to sell and no acceptances of offers to buy any securities are made prior to Commission approval of the Prospectus, and provided that only information contained in the Preliminary Prospectus is provided to such investors.
2. Prior to the filing of a Preliminary Prospectus, attempts by the participants therein to generate public interest in an offering shall be deemed violations of this law;
3. Prior to the approval of a Preliminary Prospectus, an offer by the issuer or Brokerage Companies acting on behalf of the issuer to sell or any acceptance by such persons of an offer from any person to buy a security that is the subject of such prospectus, shall constitute a violation of this Law.
4. A Preliminary Prospectus that is disseminated under this Article shall contain the following statement prominently displayed on the cover page, in bold type face:
5. No securities are being offered by this Preliminary Prospectus. A Prospectus regarding these securities has been filed with the Securities Commission of Georgia for approval and will be published after such approval has been given. Prior to such approval, no offers or sales of any securities mentioned herein may be made – any such offers and sales shall be penalized under the law.

#### **Article 7. Suspension and Revocation of Approved Prospectus**

1. If the issuer or a Brokerage Company which acts on the behalf of the issuer, does not comply with Articles 4-6 of this Law, or if the prospectus contains material misstatements or omissions, the Commission may suspend approval of the prospectus and set a time limit for elimination of such violations. If the violations are not eliminated within the set period, the Commission shall revoke its approval of the prospectus
2. Securities may not be publicly offered if the Commission suspends or cancels approval of the prospectus, and purchasers may rescind their purchases in accordance with Article 4.15.

#### **Article 8. Report on Securities Issuance and other Reports Required to be Filed by Issuers**

1. Within one month after completing public securities offering the issuer shall submit a report on the results of issue and distribution of the securities with the Commission.
  - a. Issuers which are banks/credit institutions shall submit their reports to the Commission and the National Bank of Georgia.
  - b. The list of documents to be submitted for approval of the report and the procedure for their formation shall be established by the Commission pursuant to regulations.
  - c. The review of the report shall be carried out by the Commission within fourteen calendar days from receipt of such report. The Commission may request explanations and/or changes to the information submitted which shall be provided and made by the issuer.
  - d. In case of an incomplete distribution, the issuer shall submit a report on the actual distribution of securities and the documents for approval of the actually distributed issuance.

2. Issuers which are not companies which have more than 100 security holders of record of a particular class, as defined by the Commission under Article 9.2, shall prepare and submit to the Commission and publish or distribute to securities holders for each fiscal year that such securities are outstanding, beginning the first fiscal year after the issuer publicly offers securities, a report containing such financial and other information that the Commission may require pursuant to regulations.

### **Chapter III. Reporting Companies**

#### **Article 9. Scope of Regulation**

1. Except as provided in Article 9.3 of this Law, a company which has a class of Publicly Held Securities shall be deemed to be a reporting company.
2. The Commission may, for purposes this Article, define by regulation the term “held of record” to prevent circumvention of Article 9.
3. A Stock Exchange, Central Depository and Securities Registrar, which are regulated by the Commission under this Law, shall be exempt from the definition of reporting company.
4. The Commission may under regulations exempt reporting companies from execution of requirements set forth in Articles 11.1, 14, 15 and 17 of this Law based upon the company’s own capital (as defined in regulations) and number of securities holders and a determination that the cost to such companies of providing such reports outweighs the public interest.

#### **Article 10. Publicly Held Securities**

1. Publicly Held Securities shall be dematerialized. This requirement shall not be mandatory for securities issued prior to the enactment of this law until the transfer of such securities has been recorded in a Securities Register.
2. Within 60 days from the date a company is deemed to be a reporting company, a reporting company shall appoint a licensed Securities Registrar to maintain the registered holder records of all Publicly Held Securities.
3. Proof of ownership of Publicly Held Securities shall be corresponding records of a Securities Registrar or, where securities are held by a nominee holder, the records of such nominee holder.  
The National Securities Commission may by regulation prescribe the application of rights and duties, described in the Law on Entrepreneurs, to persons who own publicly held securities through one or more level of nominee holder. [Amendment, June 9, 1999].
4. In appointing a Securities Registrar, the reporting company and the Securities Registrar shall conclude a written agreement in the form approved by the Commission under regulations. Within 15 days after execution of such agreement, the reporting company shall provide the Securities Registrar with all documents and information required for maintaining the Securities Register under Commission regulations. The reporting company shall terminate the contract if notified by the Commission or the Securities Registrar that the Securities Registrar’s license has been terminated.



5. A reporting company shall notify the Commission in writing immediately upon the appointment of a Securities Registrar. Such notification shall include the following information:
  - a. Name, address and telephone number of the reporting company;
  - b. Name, address and telephone number of Securities Registrar;
  - c. Date of appointment of Securities Registrar;
  - d. Registration number of the reporting company and date and place of registration;
  - e. Chartered capital, par value, type and number of securities of the reporting company;
  - f. Name of reporting company's representative who is responsible for dealing with the Securities Registrar.
6. A reporting company shall inform the Commission and its Securities Registrar of all changes submitted in the notification filed under this Article within 7 days of making these changes.
7. The obligations of a licensed Securities Registrar are set forth in Article 40 of this Law.
8. The National Securities Commission may by regulation allow for the establishment of Record Dates on which ownership must be recorded for exercise of owner's rights. [Amendment, June 9, 1999].
9. The National Securities Commission may by regulation restrict the transfer of publicly held shares for whose issuance full payment has not been made. The Commission is also allowed to regulate the issues, considered in Articles 3.3-3.7 and 53<sup>1</sup> of the Law on Entrepreneurs, for reporting companies. [Amendment, June 9, 1999]

#### **Article 11. Periodic Reporting Requirements**

1. All reporting companies shall prepare and submit to the Commission and publish or distribute to registered owners:
  - a. annual reports;
  - b. semi-annual reports; and
  - c. current reports.
2. The annual report shall be prepared for each fiscal year of the company and contain data about the issuer, its activities, members of its managing body, persons who hold or control more than 5% of the votes in the general meeting, financial statements that are certified by an auditor, and other information and in such form, as may be specified by the Commission in regulations. The obligation to file such reports shall begin with the first fiscal year that the company becomes a reporting company. The first such report shall be filed within 90 days after the end of the fiscal year during which the company becomes a reporting company. Thereafter the report shall be filed within 90 days after the end of the fiscal year.
3. Semi-annual reports shall be prepared for the first six months of the fiscal year. If the company becomes a reporting company during the first six months of the fiscal year, then a semi-annual report covering that six-month period shall be filed within 45 days after the end of that period. Thereafter, the company's semi-annual report shall be filed within 45 days after the end of the six-month period. Semi-annual reports shall contain financial statements of the reporting company, information about material

- events which occurred during the accounting period, and such other information and in such form, as may be specified by the Commission in regulations.
4. A current report shall be filed with respect to any material event, as defined in Commission regulations which occurs after a company becomes a reporting company. The Current Report shall be filed within 15 days of the event that is the subject of the report and shall be on such form and contain such information, as may be specified by the Commission in regulations.
  5. The Commission may, by regulation, prescribe the form and contents of financial statements filed under this Article and the accounting principles and standards used in their preparation.
  6. Where the Publicly Held securities are traded on a Stock Exchange the company shall submit reports specified in this Article to such Stock Exchange at the same time such reports are submitted to the Commission.
  7. At any time, the Commission may request supplemental information regarding a company or any report required to be filed pursuant to this Article. Such information may be requested in order to verify disclosures made in a report, to clarify certain items or to provide further relevant information. The Commission may request an amendment to a filed document to reflect information contained in additional documents submitted to the Commission.
  8. Information required by this Article may be incorporated by reference from any document that has been filed with the Commission, except as otherwise provided in Commission regulations. The document from which the information is being incorporated, the page number, paragraph or other specification shall be clearly described in the reference. If the information is not readily accessible, it shall be filed directly.
  9. Any report filed pursuant to this Article shall be signed by the chief executive officer of the company, the chief financial officer and at least a majority of the Supervisory Council (or directors if there is none), all on behalf of the company.
  10. Subject to Article 16.3 of this law, every person who signs a report filed under this Article, shall be liable for material misstatements or omissions contained therein.

**Article 12. Disclosure of Securities Ownership by Members of the Managing Body of a Reporting Company**

1. Every person who is a member of a managing body of a reporting company shall file with the Commission a report regarding the percentage of this company's securities of which he is the beneficial owner.
2. If the securities of such company are traded on a Stock Exchange, the report shall also be filed with the Stock Exchange.
3. Any changes in information filed under Article 12.1 shall also be filed with the Commission (Stock Exchange).
4. The form and content of the report will be determined by Commission regulations.
5. The report shall be filed within 10 days after:
  - a) such company becomes a reporting company; or
  - b) such person becomes a member of the managing body.



### **Article 13. Confidential Information Concerning Reporting Companies**

1. Where a reporting company deems information to be confidential, it may, pursuant to Article 13.2, remove such information from the report that is filed with the Commission. Under this Law and Commission regulations the Commission may require disclosure of information that a reporting company deems to be confidential. Confidential information shall include, but is not limited to, such matters as trade secrets, commercial or financial information that has been prepared by analysts within or outside the company for strategic purposes.
2. The company shall separately file with the Commission a report, which is labeled confidential and which in addition to the main report, contains the confidential information. The Commission shall maintain the confidentiality of the information contained in these filings, pending a determination by the Commission as to the validity of a request for confidential treatment. Within one week from receipt of the special report the Commission shall make such determination pursuant to regulations setting forth factors that should be considered.
  - a. If pursuant to regulations, the Commission makes a determination that the information has been improperly removed from a filing, the reporting company may request in writing that the Commission reconsider its determination based on additional factors. Upon receipt of such written request, the Commission shall, within 15 business days reconsider its last determination. The Commission may only reconsider its determination once.
  - b. If the Commission makes a final determination that information was improperly removed from a filing, the reporting company that submitted the request/s shall make an amended filing with the Commission containing the information.

### **Article 14. Disclosure of Substantial Acquisition of Reporting Company's Securities**

1. A person, acting independently or together with other persons (a "group"), shall inform the Commission about the substantial acquisition of securities in the manner prescribed in regulations adopted by the Commission, the issuer whose securities are being acquired, and any Stock Exchange where the securities are traded.
2. Substantial acquisition of securities means beneficial ownership of securities, which provide 5% or more of the voting rights in a reporting company and also when level of beneficial ownership changes by more than five percent from that originally reported.
3. Notification about substantial acquisition of securities shall be submitted to the Commission, within 15 days, or such shorter time period as may be prescribed in Commission regulations, from the date the level of beneficial ownership is exceeded.
4. Persons shall be deemed to be acting in a group when they have agreed:
  - a. to pursue a common policy regarding acquiring, holding or disposing of Publicly Held Securities of a reporting company, or
  - b. to exercise any rights or ownership, including voting, regarding such securities.
5. Such agreement shall be presumed, without the need for written confirmation, between members of the managing bodies of a reporting company.
6. Persons acting in group shall be responsible before the Commission for the fulfillment of obligations established in this Law and Commission regulations.

7. A person who fails to inform the Commission, the issuer or relevant Exchange about substantial acquisition of securities, shall, upon discovery of such failure by the Commission or Exchange, lose at the next general meeting of security holders all voting rights attached to such securities.

#### **Article 15. Tender Offers**

1. A person who intend to acquire such a part of securities of a reporting company which may lead to control of that company may do so by means of a tender offer. Tender offer means the statement that a person is willing to make rapid acquisition of the securities of a company for the purposes of acquiring control, if otherwise is not provided by the Commission regulations.
2. It shall be unlawful for any person (an “offeror”) to make a tender offer for any class of Publicly Held Securities, if after consummation thereof, such person would be the beneficial owner of more than 10% of the securities of such class, unless:
  - a. at the time copies of the offer or request are first published or sent to security holders, such person has filed a report with the Commission on the form and containing such information that the Commission may by regulation prescribe, and
  - b. such person has published in a newspaper information about the offering in compliance with Commission regulations.
3. Any solicitation or recommendation to security holders to accept or reject a tender offer or to request for invitation to tender shall be made in accordance with Commission regulations.
4. Conditions of the tender offer and information presented by the offeror shall be the same for all owners of the respective securities.
5. A security holder who has accepted the terms of the offer during the stated offering period may revoke his acceptance at any time after the offer is first published and/or amended, except as otherwise provided in Commission regulations.
6. In the event that within the term of the tender offer, the offeror has received acceptances to sell a number of securities which exceeds the number indicated in the tender offer, the offeror shall purchase securities on a pro rata basis. This requirement shall also apply to acceptances received after notice of an increase in consideration offered to security holders is first published under Article 15.7 of this Law.
7. Where any person varies the terms of a tender offer before the expiration thereof by increasing the consideration offered to security holders, such person shall pay the increased consideration to each security holder who has accepted the terms of the offer whether or not such acceptance was received before the variation of the tender offer was published.
8. During the tender offer, the offeror and related persons shall not:
  - a. by any means differing from the tender offer, purchase or negotiate the purchase of securities subject to the tender offer, or securities which can be converted into such securities;
  - b. sell any securities of the issuer specified in the tender offer.
9. The Commission may impose other requirements in regulations governing the preparation and execution of tender offers and the conduct of offerors, including requirements governing release by a Securities Registrar of the names of the security holders of the target company to the offeror.

## **Article 16. Responsibilities of Members of Reporting Company's Managing Body to Securities Holders**

1. Members of the managing body of a reporting company shall exercise their rights and perform their duties: a) in good faith, b) with the care that an ordinary prudent person in a similar position would exercise under similar circumstances, and c) in a manner that they believe to be in the best interest of the company and its security holders.
2. The Commission shall adopt regulations clarifying the rights of security holders and duties to security holders under this Article.
3. Except as provided in Articles 4.14 and 16.4 of this Law, and other laws, Members of the managing body of a reporting company who voted in favor of a decision which resulted in a breach of any duty under this Article shall be jointly and severally liable for losses caused to the company.
4. In discharging his duties, a member of the managing body may rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by:
  - a. one of more officers or employees of the company whom such member reasonably believes to be reliable and competent in the matters presented;  
or
  - b. legal counsel, auditors or other persons as to matters such member reasonably believes are within the person's professional or expert competence,
  - c. provided however, that a member shall not be acting in good faith if he has knowledge concerning the matter in question that makes reliance on experts or others unwarranted.
5. Upon a finding by the Commission that a member of the managing body has engaged in conduct prohibited under Commission regulations and from which he gained a benefit at the expense of the reporting company's security holders, the Commission may:
  - a. prohibit such person from being a member of the managing body of a reporting company or being a Regulated Securities Market Participant for a stated period of time;
  - b. petition the court to invalidate any related transaction/s;
6. where such conduct has resulted in monetary damages to the company or its security holders, require such person to compensate the company and its security holders for such losses.
7. A security holder of a reporting company has the right to file suit against the member of a managing body for violations of the duties specified in this Article.

## **Article 17. Proxy Solicitation**

1. A person who solicits or permits the use of his name to solicit proxies (voting right, consent, or authorizations) in respect of any Publicly Held Security from a security holder of a reporting company shall comply with Commission regulations. Registrars and nominee holders of securities shall make available necessary shareholder information in accordance with Commission regulations.
2. If a person who wishes to solicit proxies does not have access to a current list of security holders, he may request such information in writing from the reporting company's Securities Registrar. The Securities Registrar shall either furnish a current list of security holders to such person in accordance with Commission regulations or

agree to promptly mail the soliciting materials to security holders at the expense of the person making the solicitation.

## **Chapter IV. Public Trading in Securities**

### **Article 18. Transactions on Stock Exchange**

1. A Stock Exchange shall be the exclusive organizer of secondary public trading in securities, subject to such exceptions as the Commission may by regulation determine, having due regard to the desirability of transparent, liquid and competitive markets; prices accurately reflecting supply and demand; and safe and accurate settlement of transactions in accordance with their agreed terms.
2. The following items may be traded on a Stock Exchange:
  - a. Securities of Georgian and foreign issuers the circulation of which is allowed in Georgia in accordance with procedures established by the Commission;
  - b. Securities which evidence the debt of the state and/or are issued by the National Bank of Georgia, including short term government securities as defined in the State Debt Law, provided that trading does not contravene the legislation regulating the issue and trading in these securities.
3. Public trading of securities on a Stock Exchange shall be carried out in accordance with this Law, Commission regulations, and the rules of the Stock Exchange.
4. A Brokerage Company intending to consummate a transaction on a Stock Exchange shall submit an order in its name and guarantee payment for securities or delivery thereof to the other party at the date agreed for settlement of the transaction.

### **Article 19. Transactions in Publicly Held Securities**

1. Unless otherwise regulated under the legislation on securities and/or permitted under Commission regulation, all purchases and sales of Publicly Held Securities shall be concluded through a licensed Brokerage Company.
2. Unless permitted under Commission regulations (e.g. tender offers, gifts, inheritance, block sales), trading in Publicly Held Securities which are traded on a Stock Exchange is not permitted outside the Stock Exchange where the securities are traded; provided however, that they may be admitted for trading on more than one Stock Exchange.
3. Unless otherwise regulated under legislation, a binding contract to purchase or sell publicly held securities shall be deemed to be created if such transaction is being executed on a Stock Exchange. Ownership shall be deemed to be transferred at the time such transfer is recorded in the name of the purchaser according to Article 10.3.

## **Chapter V. Licensing**

### **Article 20. Licensing Required**

Any person who is carrying on, or intends to carry on, or holds himself out as engaging in the business of operating a:

- a. Brokerage Company;
- b. Broker;
- c. Stock Exchange;
- d. Securities Registrar; or

e. Central Depository  
shall obtain a license from the Commission under Articles 24, 25, 27, 28 or 29 of this Law.

### **Article 21. False or Misleading Statements in License Application**

A person shall not, in connection with an application for licensing, willfully make a untrue statement of a material fact or fail to disclose a material fact required to be stated therein or necessary to make the statements therein not misleading.

### **Article 22. Licensing Procedures Generally**

1. Applicants for a license shall file the information required under Articles 24, 25, 27, 28 or 29 of this law with the Commission pursuant to procedures, and on forms prescribed, in Commission regulations.
2. Subject to Articles 22.3 and 22.4 below, upon receipt of an application for a license as a Brokerage Company, Broker or Securities Registrar, the Commission shall, within 30 days, issue a license, request in writing revisions or explanations, or present to the applicant substantiated written refusal. In the case of a Stock Exchange or the Central Depository, the Commission shall, within 60 days, issue a license, request in writing revisions or explanations, or present to the applicant justified written refusal. If, within the above stated time period, the Commission does not reply to the application in writing, the applicant shall be considered licensed.
3. Where the Commission requests revisions or explanations to the application, the counting of the relevant review period shall commence anew from receipt of the amended filing.
4. If the Commission refuses to license the applicant based upon deficiencies in the application, including documents submitted, the Commission shall notify the applicant in writing and set a period of time during which the discrepancies shall be rectified, which period shall not be less than 30 days. In the event applicant fails to rectify the discrepancies within this period, the Commission shall reject the license application with justified decision.
5. The Commission shall refuse to issue the license if:
  - a. the data in the application is incomplete or untrue;
  - b. any submitted document is not in compliance with this Law, legislation of Georgia, or Commission regulations;
  - c. the requirements under Articles 24, 25, 27, 28 or 29 have not been complied with.
6. The Commission may by regulation require updating of information in a licensing application after the license has been granted.

### **Article 23. Activities of a Brokerage Company**

1. Subject to compliance with initial capital requirements and other terms and conditions of licensing set forth in Article 24 of this law, a Brokerage Company may be licensed to engage in one or more of the following activities permitted in accordance with this Law and Commission regulations:
  - a. providing direct consultations to investors on investments to clients, including issues concerning the price of securities, investment in

- securities, buying and selling of securities, as well as related foreign exchange transactions;
- b. consulting on securities issuance and money arising services;
  - c. arranging and carrying out the distribution of the issuer's securities on a non-guaranteed basis;
  - d. receiving and transmitting clients orders in connection with securities, effecting transactions in securities for clients' accounts, with clients' funds;
  - e. managing clients' investment portfolios and funds allocated for operations in securities;
  - f. holding clients' investment funds and/or securities, providing safekeeping, custody and nominee services for securities;
  - g. effecting transactions in securities for their own account with their own funds(proprietary trading);
  - h. arranging and carrying out the distribution of the issuer's securities on a guaranteed basis;
  - i. loaning securities to and borrowing securities from clients as well as using their own funds for the acquisition of securities for clients, engaging in short selling as defined in Commission regulations.
2. A person may be the owner or employee of only one Brokerage Company, provided that this prohibition on ownership does not apply to a Brokerage Company that is or becomes a reporting company. If a person becomes a partner in a several Brokerage Companies other than Brokerage Companies that are reporting companies, as a result of reorganization or some other reason, he shall immediately inform the Commission in writing thereof and take measures to rectify the situation. Until the situation is rectified, such person may not participate in the management and activities of more than one Brokerage Company.
  3. An employee of a Stock Exchange, Registrar or Central Depository, who has access to confidential information, at the same time can not conduct such activity at the brokerage company for which broker's license is required, and vice versa[Amendment, July 20, 1999].
  4. This law permits the participation of banks in the securities markets only through a subsidiary (Brokerage Company) as provided in Article 10.2 of the Law of Georgia on the Activities of Commercial Banks which shall not restrict bank activity within the scope of Article 1.2 hereof.
  5. Non-bank entities shall not be excluded from regulation hereunder on the ground that their activity, otherwise within the scope of Article 23.1, relates solely to government securities.
  6. The Commission may by regulation determine activities specified in Article 23.1 which shall not result in an entity becoming a brokerage company or requiring a license as such, based upon the entity's subjection to regulation by appropriate legislation.
  7. Brokerage Companies may not engage in activities which are not set forth in this Article, provided however, that Brokerage Companies may engage in the above-referenced activities with respect government securities.

#### **Article 24. Licensing of Brokerage Companies**

1. Applicant for a license as a Brokerage Company shall satisfy the following conditions:



2. shall be registered as a limited liability company or joint stock company;
3. shall become a conditional Member of a Stock Exchange or designated SRO during the period its application is reviewed by the Commission[Amendment, July 20, 1999].:
  - a. initial capital and borrowing complies with requirements set forth in Commission regulations;
  - b. at least one Director of the company is licensed as a broker under Article 25 of this Law;
  - c. none of the members of its managing body have: been deprived of the right under law to be a member of the managing body; during the past 10 years been convicted for crimes involving property, business conduct or finance; or during the past five years been subject to administrative sanction/s for a gross violation/s;
  - d. all employees who with respect to the activities in Article 23.1 will be dealing with clients and prospective clients on behalf of the applicant are licensed brokers.
4. An application for the license of a Brokerage Company shall be made in writing to the Commission in such form as shall be prescribed by regulation of the Commission and be accompanied by the following information:
  - a. name and legal address of the Brokerage Company;
  - b. full name of persons who own more than 5% of the stock of the Brokerage Company, their addresses, share of capital and votes, and information concerning their participation in the activities and control of other enterprises;
  - c. activities for which the applicant wishes to obtain a license;
  - d. amount of its initial capital and borrowed capital which is planned to be used for the organization of the activities referred to in the license, as well as sources of borrowing;
  - e. the charter, registered in the court, and notarized constitutive documents;
  - f. balance sheet from the last year, or semi-annual balance sheet, whichever is later, prepared by an auditor;
  - g. a model client agreement prepared in accordance with Commission regulations;
  - h. and such other information and documents as the Commission may require for the protection of investors in accordance with its regulations.
5. The Commission may establish requirements for the initial capital based upon the types of permitted activities the Brokerage Company is licensed to engage in and risk considerations and the maximum amount of borrowing provided for in Article 24.2.d.
6. Based on initial capital requirements set forth in Commission regulations, the Commission may issue a General License, entitling the Brokerage Company to engage in all permitted activities, or a Special Licenses entitling Brokerage Companies to carry out only some of the permitted activities, specified in Article 23.1 of this Law, including the right to accept money for acquiring securities, to open cash accounts for clients, and to trade on their own account. Special Licenses may be also be issued at the request of the Brokerage Company itself.
7. Where a Special License is granted to a Brokerage Company, such company, in its literature, contracts with clients, and advertising materials shall prominently disclose the activities for which it is licensed. The license certificate which will be issued by the Commission shall also prominently state the activities for which the Brokerage Company is licensed.

8. Persons which do not have a license to operate as a Brokerage Company shall not promote themselves with, nor do business under a name that includes the words “Securities Brokerage Company” or any other words or their combination designating or suggesting such activity.

#### **Article 25. Licensing of Brokers**

1. A natural person may be licensed by the Commission to be a broker. The Commission may issue a General License entitling a person, on behalf of his Brokerage Company employer, to buy and sell securities, consult on issues of trading in securities, and manage investment portfolios, or a Special License entitling him/her to perform only one or more of these permitted activities, depending on his skills and qualifications.
2. An applicant for a license as a broker shall meet the following conditions:
  - a. shall not have been convicted during the past 10 years for crimes involving property, business conduct or finance, or during the past 5 years been subject to administrative sanctions for gross violations of the legislation on securities or SRO rules;
  - b. shall have passed the required examination organized by the Commission or another qualification examination recognized by the Commission, within 30 days from the date the application was submitted.
3. An applicant for a broker’s license shall file with the Commission an application containing the following information and documents:
  - a. name and address of the applicant;
  - b. activities for which the applicant wishes to obtain the license;
  - c. such other information that the Commission may require pursuant to regulations;
  - d. documentation that the applicant has passed the Commission examination or such other recognized examination and the date thereof.
4. Where a Special License is granted to a broker, the license certificate, which will be issued by the Commission shall also prominently state the activities for which the broker has received a license.
5. The Commission shall refuse to issue the license if the conditions set forth in this Article are not met or the application does not meet the requirements set forth in this Article.
6. A licensed broker may only engage in brokerage activities on behalf of the Brokerage Company where he is employed.
7. The Commission may re-evaluate the broker’s qualifications on the basis of clients’ justified complaints, as well as reports, findings, and other documents of a Stock Exchange or other SRO which may evidence the broker’s inadequate qualifications. According to the qualification re-evaluation results and examination the number of activities the broker is licensed to engage in may be reduced and, if it is established that the broker is no longer qualified, his license may be revoked under Article 30 of this Law.
8. Persons who do not have a license to operate as a broker and/or are not currently employed as a broker by a licensed Brokerage Company shall not promote themselves with, nor do business under a name that includes the words “Securities Broker” or any other words or their combination suggesting such activities.



## **Article 26. Amendment of a Brokerage Company or Broker's License**

1. Licensed Brokerage Companies and licensed brokers may at any time apply to the Commission to amend their license to decrease or increase the activities in which they are permitted to engage in by using the forms prescribed by the Commission pursuant to regulations.
2. Upon receipt of such application, the Commission shall review the application, request additional information or clarification where needed, and inform the applicant of its decision no later than 30 days from receipt of the application or any amendment thereto.
3. The Commission, based on a licensed Brokerage Company's inability to comply with capital or other requirements set forth in Commission regulations, may amend the Brokerage Company's license pursuant to this Article in order to limit the types of permitted activities.
4. The Commission, based upon customer complaints or failure of a broker to pass subsequent qualification examinations, may amend a broker's license and limit the types of permitted activities.
5. Once amendments to the license are approved by the Commission, a new license certificate shall be issued by the Commission indicating the activities for which the Brokerage Company or broker has been licensed, provided that Brokerage Companies whose license has been amended shall be subject to the requirements regarding advertising and displaying a list of their permitted activities set forth in Article 24.5 of this Law.

## **Article 27. Licensing of a Stock Exchange**

1. An applicant for a license to operate a Stock Exchange shall satisfy the following conditions:
  - a. the Stock Exchange shall be registered as a limited liability company or joint stock company;
  - b. all partners (shareholders) shall be at least conditional owner-members of the Stock Exchange according to 34.3;
  - c. it shall be managed and liquidated in the manner established under the Law on Entrepreneurs and the rules provided in Article 37 of this Law;
  - d. none of the members of its managing body have: been deprived of the right under law to be a member of the managing body; during the past 10 years been convicted for crimes involving property, business conduct or finance; or during the past 5 years been subject to administrative sanctions for gross violations of the legislation on securities or SRO rules;
  - e. the owner-members have adopted rules regulating the procedure and conditions for admitting securities for trading, Trading Rules, and other rules in conformance with this Article;
  - f. the applicant is engaged solely in the business of operating a Stock Exchange;
  - g. its Charter/inner regulations and rules:
    - only permits partners (shareholders) to become members and incorporates the restrictions on owner-members of a Stock Exchange set forth in Article 34 of this Law;
    - sets forth the purposes and objects of a Stock Exchange under this Law;

- do not permit the distribution of profits to owner-members;
  - require fair, reasonable and non-discriminatory treatment of all owner-members and applicants for owner-membership;
  - set forth the structure of Exchange management in compliance with Article 35 of this Law; and
  - the conditions and procedures of its liquidation comply with Article 37 of this Law.
- h. its capital shall not be less than the amount determined by commission regulations.
  - i. its rules, technical and organizational facilities and staff are adequate in accordance with Commission regulations to not impair the development of liquid, competitive and transparent securities markets in Georgia or the settlement of transactions on those markets.
2. The application shall contain the following information and documents:
    - a. the name of the Exchange and its legal address;
    - b. names of conditional owner-members;
    - c. types of activities which the Exchange plans to engage in;
    - d. the charter and inner regulations and rules of the Exchange adopted by owner-members;
    - e. financial statements specified in Commission regulations;
    - f. names and addresses of the persons who will serve as officers of the Exchange and will represent it, and their relevant experience;
    - g. information about facilities of the Exchange and their ownership;
    - h. the names of no less than 10 Brokerage Companies which are committed to become owner-members of the Stock Exchange which is being established;
    - i. copies of all Exchange Rules regarding owner-members of the Exchange, trading, admission for trading, dispute resolution, and other rules necessary for compliance with this Law and Commission regulations; and
    - j. such other information that the Commission may, pursuant to regulations, require.
  3. The Stock Exchange Trading Rules shall establish:
    - a. the methods and procedure of settling disputes arising because of the Exchange transactions;
    - b. the procedures of trading in securities on the Exchange and provide the terms and procedures for halting temporarily or permanently the trading in such securities in accordance with Article 36 of this Law;
    - c. the days and hours of organizing trading sessions of the Exchange;
    - d. the rights and duties of persons participating in trading on the Exchange and the penalties for violating such requirements;
    - e. the procedure for determining and announcing quotations and the form and content of quotations and related market data arising from trading in securities. Such rules shall be designed to produce fair and informative quotations, prevent fictitious or misleading quotations, and promote orderly procedures for collecting and disseminating quotations.
    - f. the information facilities of the Exchange;
    - g. the procedures of accounting for Exchange transactions that are necessary to produce a record of completed trades between owner-members for subsequent settlement processing;

- h. the procedures for admitting brokers to trade on the Exchange, including qualification/testing requirements, supervision of their activities and the temporary or permanent removal of trading privileges;
  - i. also the rules shall be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and foster cooperation and coordination with persons engaging in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities; and
  - j. prohibit unfair discrimination between customers, issuers, Brokerage Companies and brokers.
4. Other rules of the Exchange shall establish:
- a. the kinds of services offered by the Exchange and their prices;
  - b. the procedures for resolving complaints of customers of owners-members regarding matters subject to the Exchange Rules;
  - c. sanctions applied to the owner-members of the Stock Exchange and their brokers for violations of this Law, rules and relevant regulations, or the rules of the Exchange by expulsion, suspension, limitation of activities, functions, and operations, fines, censure and other appropriate sanctions;
  - d. high ethical standards for owner-members and their employees in conducting their business and provide guidance as to what these standards are.
  - e. persons who do not have a license to operate as a Stock Exchange shall not promote themselves with, nor do business under a name that includes the words “Stock Exchange” or any other word or their combination designating or suggesting such activity.

**Article 28. Licensing of [a] Central Securities Depository**

1. A Central Depository may also be licensed as a Securities Registrar under Article 29 of this Law, pursuant to regulations governing dual licensing adopted by the Commission.
2. An applicant seeking a license as a Central Depository shall satisfy the following conditions:
  - a. shall be registered as a limited liability company or joint stock company under the Law on Entrepreneurs;
  - b. none of the members of its managing body have: been deprived of the right under law to be a member of the managing body; during the past 10 years been convicted for crimes involving property, business conduct or finance; or during the past 5 years been subject to administrative sanctions for gross violations of the legislation on securities or SRO rules;
  - c. it has prepared rules in accordance with Articles 28.3, 38 and 39, and Commission regulations;
  - d. its charter/inner regulations and rules:
    - prohibit the Central Depository from carrying on any other activity except to act as the Central Depository and an Securities Registrar under this Law and to carry on activities incidental thereto as set forth in Commission regulations;
    - do not permit the distribution of profits to owners;
    - only permit a licensed Stock Exchange, Securities Registrar and persons eligible to become participants under Article 28.3, to

- become owners, provided however that each such participant and their related persons may not own more than 10% of the Central Depository;
  - specify the rights and duties of participants;
  - require fair, reasonable and non-discriminatory treatment of participants and applicants for participation;
  - require the name of the Central Depository to contain the words “Central Securities Depository,” unless otherwise determined by the Commission.
- e. The application shall contain the following documents and information on the form prescribed in Commission regulations:
    - Name of the Central Depository and its legal address;
    - Names of its owners;
    - Names and addresses of persons who will serve as officers and their relevant experience;
    - Information about the Depository’s technical capabilities;
    - Copy of its charter, inner regulations and rules;
    - Names of employees responsible for overseeing compliance with this Law, Commission regulations, and rules adopted by the Central Depository; and
    - Such other information that the Commission may require pursuant to its regulations.
  - f. its capital shall not be less than the amount determined by Commission regulations.
  - g. it shall have adequate technical means, organization and personnel, in accordance with Commission regulations for assuring the prompt, efficient and reliable settlement of securities transactions.
3. The rules of a Depository shall provide:
    - a. that Stock Exchanges, banks, insurance companies, issuers, investment companies/funds, pension funds, and Brokerage Companies may become participants pursuant to procedures set forth in rules adopted by the Depository;
    - b. the fair representation of its owners in the selection of its management and administration of its affairs;
    - c. for the equitable imposition of reasonable dues and other charges among its participants;
    - d. the prompt and accurate clearance and settlement of securities transactions;
    - e. that its participants shall be appropriately disciplined for violation of any rules of the Depository by expulsion, suspension, limitation of activities, functions and operations, fine, censure or other sanction;
    - f. high ethical standards for employees in conducting their business and provide guidance as to what these standards are.
  4. Supervisory council of the Central Depository may include representatives of any Securities Market Participant.
  5. Persons who do not have a license to operate a Central Depository shall not promote themselves with, nor do business under a name that includes the words “Central Securities Depository”, or any other word or their combination designating or suggesting such activity.

## Article 29. Licensing of Securities Registrars

1. An applicant seeking a license as a Securities Registrar shall satisfy the following conditions:
  - a. shall be registered as a limited liability company or joint stock company under the Law on Entrepreneurs;
  - b. it shall have adequate technical means, organization and personnel, in accordance with Commission regulations, for conducting securities registers that assure the clear, prompt and reliable recording of securities ownership and the changes therein;
  - c. none of the members of its managing body have: been deprived of the right under law to be a member of the managing body; during the past 10 years been convicted for crimes involving property, business conduct or finance; or during the past 5 years been subject to administrative sanctions for gross violations of the legislation on securities or SRO rules;
  - d. it has prepared rules in accordance with this Article and in compliance with Commission regulations;
  - e. neither the Securities Registrar nor members of its managing body are beneficial owners of an issuer for which the Registrar acts as a Securities Registrar; provided that securities held by the Registrar in the execution of its duties as a central depository shall not disqualify it under this paragraph and that as to members of the managing body of the Registrar, the Commission may by regulation allow for limited holdings subject to procedures to insure the integrity of the register;
  - f. its charter, inner regulations and rules shall:
    - prohibit the Securities Registrar, unless licensed as a Central Depository under Article 28, from carrying on any other activity except acting as a Securities Registrar, pursuant to which it shall only act as an agent for issuers;
    - prohibit an issuer for whom a Securities Register is being kept, Regulated Securities Market Participants (other than Licensed Stock Exchanges, a Central Depository or a Securities Registrar which is also licensed as a Central Depository), and their related persons, from owning more than 10% of the Securities Registrar or otherwise dominating the economic activity of such Registrar as defined in Commission regulations;
    - Prohibit any governmental body from owning more than 10% individually or collectively of a Securities Registrar.
  - g. its capital shall not be less than the amount determined by commission regulations.
2. The application shall be in the form prescribed by Commission regulation and contain the following information:
  - a. Name of the Securities Registrar and its legal address;
  - b. Names of partners (shareholders) and the number of securities held by each; current occupations (name of employer, title, etc.) and former occupations for the last 5 years, and any security holdings in reporting companies;
  - c. Names and addresses of persons who will serve as officers and their relevant experience;
  - d. Information about its charter capital deposited and its structure;

- e. Information about its premises and technical facilities;
  - f. Copy of a sample contract between the Securities Registrar and an issuer prepared in accordance with Commission regulations;
  - g. Copy of its rules;
  - h. Name of an employee responsible for overseeing compliance with this Law, relevant regulations, and rules adopted by the Securities Registrar;
  - i. Such other information as the Commission may require pursuant to its regulations.
3. Securities Registrar rules shall:
    - a. specify the information to be included in the Securities Register for each issuer whose securities are registered in compliance with Commission regulations;
    - b. set forth procedures for validating and entering transactions into the Securities Register, information required therein, and the timing of such entry, in compliance with Commission regulations;
    - c. set forth the information to be specified in every securities account opened in the name of a security holder or nominee holder and require such account holders to notify the Securities Registrar promptly in writing of any changes in information previously provided, in compliance with Commission regulations;
    - d. require employees to adhere to standards of conduct in compliance with Commission regulations.
  4. Employees and members of the managing body of a Securities Registrar shall be prohibited from disclosing, other than to the Commission, non-public confidential information received while working at the Securities Registrar or trading on such information.
  5. Person who do not have a license to operate a Securities Registrar shall not promote themselves with, nor do business under a name that includes the words “Securities Registrar or Registrar or any other word or their combination designating or suggesting such activity.

**Article 30. Suspension and Revocation of Licenses of Brokerage Companies and Brokers**

1. The Commission may suspend the license of a broker where the broker has not been employed by a Brokerage Company for more than 6 months. If the broker is not employed by another Brokerage Company within an additional 6 month period, the Commission may extend such suspension or revoke the license pursuant to Article 30.4. If the broker is employed within the suspension period and so notifies the Commission in writing of information regarding such employment (date of hire, name of Brokerage Company employer), the Commission shall revoke such suspension.
2. The Commission may suspend the license of a Brokerage Company for up to three months and/or its broker if its broker or other employee/s are sanctioned for a gross violation, or in case of other violations may direct such licensed Brokerage Company or broker to take whatever action the Commission may consider appropriate to rectify the condition resulting from such contravention under Article 55 of this Law, including compliance with this Law or Commission regulations or desisting from continuing such violation.



3. During the suspension of a Brokerage Company license, the Commission shall decide whether to renew or revoke the license. The accounts of the Brokerage Company may be frozen during such suspension and an administrator may be appointed under Article 30.8 of this Law.
4. The Commission may suspend or revoke a license issued to a Brokerage Company or a broker if the holder of the license:
  - a. applies in writing for the revocation of its license on the form and pursuant to procedures prescribed in Commission regulations;
  - b. fails to commence licensed activities within 12 months or stops such activities for more than 12 months;
  - c. has obtained the license by presenting false information or by other illegal means;
  - d. no longer meets the requirements on the basis of which the license was issued;
  - e. is a Brokerage Company that does not meet capital requirements or is unable to fulfill its obligations to creditors, particularly if this poses a threat to the security of the property entrusted to it;
  - f. if the license has been suspended under Article 30.2 and the conditions for lifting such suspension have not been met within 3 months;
  - g. does not comply with this Law or Commission regulations.
5. The giving of a direction by the Commission under Article 30.2 shall not prejudice the prosecution against such licensed Brokerage Company or broker for a violation of this Law.
6. Before passing a decision to revoke or suspend the license, the Commission shall notify the Brokerage Company or the broker and provide them, or their representative, with an opportunity to provide an explanation.
7. Upon suspension or revocation of a license, the broker shall lose the right to continue professional activities, irrespective of whether it is disputable. The suspension or revocation of the broker's license shall cause the suspension or revocation of the Brokerage Company's license where the broker is employed only if the company no longer qualifies for the license that it has been issued.
8. The Commission may appoint an administrator for the period of suspension of a Brokerage Company's license for supervision of the company's activities. After the appointment of the Administrator, managers and brokers of the company must obtain the Administrator's approval for all the decisions relative to the activities of the company. The Commission shall define in regulations other rights and duties of the Administrator.
9. The revocation of Brokerage Company license shall become effective from the moment such decision is passed, irrespective of whether it is disputable.
10. Upon the revocation of its license, a Brokerage Company shall be liquidated or reorganized in accordance with the Law on Entrepreneurs and regulations adopted by the Commission concerning management of securities and money accounts.

### **Article 31. Revocation of Licenses of Stock Exchanges, a Central Depository and Securities Registrars**

1. Subject to Article 31.2, the Commission may revoke a license issued to a Stock Exchange, the Central Depository or a Securities Registrar (hereinafter referred to as "Licensee") if:



- a. false information has been provided which served as grounds for issuing the license or the licensee no longer meets the requirements on the basis of which the license was issued;
  - b. the requirements of this Law have not been complied with or repeat violations of these requirements have been committed;
  - c. the Commission finds under Article 41.11 of this Law that the Exchange or Central Depository is not adequately supervising compliance with this Law, Commission regulations, or Exchange or Central Depository rules, respectively;
  - d. the Commission determines that the management and operational control of a Securities Registrar has been compromised.
2. In the event that violations of the requirements specified in Article 31.1 are found the Commission shall notify the Licensee and set a period of time in which the discrepancies should be rectified, which period shall not be less than 30 days.
  3. In the event that the Licensee fails to rectify the discrepancies within the period of time under Article 31.2 of this Law, the Commission may revoke the license based upon justified decision and appoint an administrator.
  4. As of the time of entry into force of the decision to revoke the license of a Stock Exchange, no new transactions may be made, except as necessary for the protection of investors;
  5. An administrator appointed under Article 31.3 shall exercise the powers of management and take all measures necessary for the protection of investors.

## **Chapter VI. Regulated Securities Market Participants**

### **Article 32. Accounts and Records, Reports and Examinations**

1. Every licensed Stock Exchange, Brokerage Company, and Securities Registrar, shall make and keep for such periods, such records, and furnish copies thereof and make and disseminate such reports, as the Commission by regulation may prescribe.
2. The licensed Central Depository shall make and keep for such periods, such records, furnish such copies thereof, and make and disseminate such reports, as the Commission may by regulation prescribe as necessary or appropriate for the safeguarding of securities and funds in the custody or control of such Central Depository.
3. The Commission shall prescribe regulations regarding records, reports and procedures for nominee holders of securities. Enforcement of these regulations for banks that are not licensed by the Commission shall be the responsibility of the National Bank of Georgia.
4. In accordance with Article 52 of this Law, all records of persons listed in this Article are subject according to Commission regulations at any time to such reasonable, periodic, special or other examination by authorized employees of the Commission as the Commission deems necessary or appropriate in furtherance of compliance with this Law.
5. The Commission may, by regulation, prescribe the form and content of financial statements filed under this Article and the accounting principles and standards used in their preparation.

### **Article 33. Duties of Brokerage Companies and Brokers**

1. In buying or selling securities, consulting on issues of trading in securities and in providing portfolio management services, a Brokerage Company shall be represented by licensed brokers.
2. A Brokerage Company shall maintain separate accounts that segregate its own assets from the securities and cash funds of its clients. The Commission shall adopt regulations governing such accounts.
3. All contracts between a Brokerage Company and its clients shall be executed in writing in compliance with Commission regulations.
4. Brokerage Companies and brokers shall assure the execution and priority of their clients' orders under the best terms existing in the market – they shall not to compete against or manipulate the execution of clients orders or determine the execution of such orders under price and cost terms less advantageous for the clients than for the Securities Market Intermediary involved, subject to regulation of the Commission. If several clients offer the same price, priority shall be given to the orders capable of execution which have been sent first unless the trading rules of the Exchange to which the order is sent provide otherwise.
5. A broker, on behalf of a Brokerage Company, shall be prohibited from giving knowingly misleading recommendations and information to clients. A brokerage company shall provide such information as the Commission may by regulation prescribe regarding the suitability of investments, potential conflicts of interest for a brokerage firm or the broker, and the financial condition of the brokerage company.
6. Brokerage Companies shall comply with the capital requirements set forth in Commission regulations, maintain accounting and other documents required under Article 32 of this Law and Commission regulations, present to their clients documents verifying securities transactions, statements of account, and reports on their financial position, and prepare annual and periodical reports on their activities and financial position pursuant to Commission regulations.
7. Pursuant to Commission regulations, a Brokerage Company shall record transactions in securities in the order in which they were conducted by the end of every business day. For each transaction the name of the parties to the transaction shall be listed as well as the time of the transaction and other terms required in Commission regulations.
8. Brokerage Companies licensed to perform activities specified in Articles 23.1.e and 23.1.i of this Law shall comply with Commission regulations.
9. In addition to its obligations under Article 32, a Brokerage Company shall notify the Commission in writing, within 7 days of the relevant decision or event, whichever is earlier, of:
  - a. the opening and closing of branch offices;
  - b. insofar as reasonably available to it the name, passport/registration number, and other particulars of a person who has acquired directly or through related persons over 5% of the voting stock of the Brokerage Company, or some other business participation that would permit it to control the Brokerage Company as well as subsequent acquisitions by such person;
  - c. changes in the individuals who manage the Brokerage Company, as well as the names of brokers who work for the Brokerage Company and the reasons for dismissal of any broker;

- d. amendments to the documents that served as grounds for issuing the license to the Brokerage Company;
  - e. a change in the name entered in the license.
10. A Brokerage Company shall obtain prior Commission consent to change its form of business (a “reorganization”). The Commission may refuse to give its consent to reorganization of the Brokerage Company if, after reorganization, the company would not meet capital requirements imposed by this Law and Commission regulations, or the reorganization threatens the security of client’s money and/or securities entrusted to the Brokerage Company.
11. Brokerage Companies shall establish, maintain and enforce written policies reasonably designed, taking into consideration the nature of such Brokerage Company’s business, to prevent violations of this Law, relevant regulations and the rules of any SRO of which the Brokerage Company is a member. The Commission may, in furtherance of this Law, adopt regulations to require specific policies and procedures reasonably designed to prevent violations of this Law.

#### **Article 34. Owner-Members of a Stock Exchange**

1. Only licensed Brokerage Companies may be owner-members of a Stock Exchange.
2. A Brokerage Company may be an owner-member of more than one Stock Exchange. No owner-member may own directly, or through related persons, more than 10 % of the voting rights of a Stock Exchange.
3. If owners of more than 50 % of a charter capital of Brokerage Companies, i.e. owner-members of a Stock Exchange are licensed for special activities by the same authority other than the Commission, then these brokerage companies, in the aggregate, shall not own more than half of the total voting rights in the Stock Exchange.
4. An Exchange shall deny owner-membership in a Stock Exchange to any person which is not licensed as a Brokerage Company. If such person has applied for such licensing, owner-membership in a Stock Exchange may be conditional upon licensing.
5. An Exchange shall deny or condition owner-membership in a Stock Exchange on compliance with capital adequacy requirements imposed by the Commission pursuant to regulations, or where brokers who will be trading on the Exchange on behalf of the applicant do not meet such standards of training, experience or competence as are prescribed in Exchange rules. An Exchange shall bar a Brokerage Company from becoming an owner-member of the that Stock Exchange if such company does not agree in writing to permit the examination of its books and records to verify the accuracy of any information so supplied.
6. A Brokerage Company which has been refused owner-membership in a Stock Exchange may appeal such decision to the Commission.
7. A Stock Exchange shall terminate the owner-membership of a Brokerage Company in a Stock Exchange under Articles 34.10 and 34.11 of this Law if its Brokerage Company license is revoked by the Commission.
8. Owner-members of a Stock Exchange shall comply with this Law and the rules of the Exchange.
9. Where an owner-member of a Stock Exchange violates the rules regulating the activities of the Exchange, the Stock Exchange shall have the right to suspend for up to 3 months the owner-member’s right to take part in the trading on the Exchange. The list of such violations shall be contained in the Trading Rules of the Exchange. If an owner-member who has violated a rule regarding the activities of the Exchange

- participates in the management of the Exchange (either directly or through his representative), the Exchange may suspend the owner-member's powers for the above-specified period or remove the owner-member from Exchange management.
10. If an owner-member of a Stock Exchange repeatedly commits violations specified in this Law, the Exchange may propose to the general meeting of owner-members to expel such owner-member from the Exchange, suspending until the meeting the owner-member's rights to participate in the trading on the Exchange.
  11. If a Brokerage Company is expelled from the Exchange, the Brokerage Company's owner-membership shall be sold to another Brokerage Company and monies received shall returned to such owner-member less monies paid to settle the owner-member's outstanding claims and liabilities to customers and the Exchange.
  12. An owner-member of a Stock Exchange, upon terminating its activities as a Brokerage Company, shall within 30 days sell its owner-membership to another person entitled to be an owner-member of the Stock Exchange. If the Brokerage Company fails to dispose the owner-membership right within the specified period, the owner-member shall address the Stock Exchange which shall mediate in selling the owner-membership at the market price ruling at that time.
  13. An owner-member of a Stock Exchange may appeal to court against the decisions of the Board of the Exchange and the general meeting concerning the suspension or termination of its owner-membership.

#### **Article 35. Managing Body of a Stock Exchange**

1. Supervisory Council of a Stock Exchange may include representatives of any Securities Market Participant.
2. The management of a Stock Exchange shall:
  - a. adopt, amend and repeal Stock Exchange Rules in compliance with Article 42 of this Law;
  - b. issue orders and make decisions it deems appropriate;
  - c. ensure the observance of this Law, its inner regulations, Charter and Stock Exchange Rules and, in furtherance thereof, examine the business conduct and financial condition of owner-members of the Exchange;
  - d. delegate such of its powers to such officers, employees and committees as it may authorize, provided however that a party affected by such decision may require review of such decision with the managing body of the Exchange;
  - e. interpret the rules of the Exchange. Any such interpretation shall be final and conclusive;
  - f. approve securities for trading and suspend or stop trading in certain securities pursuant to Stock Exchange Rules;
  - g. admit owner-members to the Stock Exchange pursuant to Exchange Rules and Article 34 of this Law and remove their brokers temporarily or permanently from the floor under the provisions of Stock Exchange Rules;
  - h. ensure legal and accurate business and publication of quotations, prices, and related market information;
  - i. organize and provide, on a daily basis, a list of matched trades to its owner-members or to an entity designated by its owner-members;

- j. impose sanctions on its owner-members for violation of this Law, Commission regulations, its charter, inner regulations and Stock Exchange rules;
- k. exercise any other rights bestowed on it under this Law, its charter, inner regulations and Stock Exchange Rules;
- l. elect a Chief Executive Officer of the Exchange who shall: be solely responsible and accountable to other members of the managing body for administration and operation of their decisions;
- m. be the official representative of the Exchange in all public matters; appoint employees of the Exchange and expert advisers, and fix their duties, responsibilities, terms and conditions of employment and termination of employment.

### **Article 36. Regulation of Trading on a Stock Exchange**

1. A Stock Exchange may suspend trading in securities admitted for trading on that Exchange if:
  - a. trading in these securities on the Exchange has not been conducted for more than 6 months;
  - b. the issuer of the securities no longer meets the Exchange's admission for trading requirements, provided that at least 60 days prior notice of such deficiencies have been provided in writing by the Exchange and have not been rectified;
  - c. the Exchange or the Commission finds that the suspension of trading is necessary for the protection of investors.
  - d. Upon suspension of trading in a security, the Exchange shall on the same day notify the Commission and the issuer of those securities. The suspension shall be lifted upon demonstration to the Exchange that the reasons for suspension have been eliminated. In the event that the reasons underlying the above decision are not eliminated within three months of the suspension of trading, the Exchange may remove trading privileges for the securities.
  - e. An Exchange shall provide written notice to the Commission of its decision under this Article to lift a suspension and/or to remove trading privileges.
  - f. An Exchange shall publicly announce each trading day the total daily trade turnover, price, and related market information regarding traded securities.

### **Article 37. Reorganization and Liquidation of a Stock Exchange**

1. A licensed Stock Exchange may not be reorganized or liquidated without the prior consent of the Commission.
2. An Exchange shall be reorganized or liquidated in accordance with the procedure established by the Law on Entrepreneurs, this Law, Commission regulations, and its charter/inner regulations and rules.
3. An Exchange shall be liquidated when the Commission revokes the license to engage in the activities of an Exchange under Article 31 of this Law.

4. An Exchange which decides to liquidate itself or suspend its activity shall immediately notify the Commission in writing thereof.
5. At least one liquidator of the Exchange shall be appointed by the Commission.

#### **Article 38 . Obligations of a Central Depository**

1. A licensed Central Depository shall perform the following functions:
  - a. open, operate and close securities accounts of participants in accordance with its rules;
  - b. prepare and implement measures which ensure the integrity and security of the system of securities accounting set forth in the rules of the Depository adopted in accordance with Article 39 of this Law;
  - c. verify whether participants comply with the rules and instructions of securities accounting;
  - d. provide other services related to the servicing of securities accounts by participants;
  - e. issue a statement of securities account to participants in accordance with its rules;
  - f. facilitate the settlement of securities transactions without physical delivery of securities certificates and, in furtherance thereof, provide facilities for comparison of data respecting the terms of settlement of securities transactions.
2. In accordance with rules approved by the Commission, a licensed Central Depository may summarily suspend or close the accounts of a participant who:
  - a. is suspended from any SRO;
  - b. is in default of any delivery of funds or securities;
  - c. is in such financial or operating difficulty that the Central Depository determines and so notifies the Commission that such suspension and closing of accounts are necessary for the protection of the Depository, its participants, creditors or investors.

#### **Article 39. Securities Accounts in a Central Depository**

Participants in a Central Depository open, manage and close securities accounts pursuant to rules adopted by the Central Depository.

#### **Article 40. Obligations of a Securities Registrar**

1. A Securities Registrar shall ensure that it shall abide by its rules and regulations adopted by the Commission.
2. A Securities Registrar shall not refuse to perform required activities if the presented documentation meets the provisions established in the issuer's charter and inner regulations, this Law, Commission regulations, and rules of the Securities Registrar. Any such refusal may be appealed to the Commission.
3. A Securities Registrar shall have an agency relationship to an issuer based upon the terms and conditions of a written agreement between the two that conforms to the regulations of the Commission. At a minimum, such agreement shall require the Securities Registrar to provide the issuer with an accurate, current list of registered owners for each issue in a timely manner for purposes of holding annual and special



- meetings, issuing dividends, paying interest, redeeming principal amounts on debt, also for purposes of Articles 15 and 17 of this Law and for other authorized corporate actions. Fees for such services shall be fair, reasonable and non-discriminatory and shall comply with regulations adopted by the Commission.
4. If so requested in writing by a registered owner of securities, the Securities Registrar shall provide such registered owner with a copy of an extract of his account.
  5. The extract provided by a Securities Registrar shall:
    - a. prominently state that such extract is not a security, it need not be presented to the Registrar, and only records that the person mentioned in the extract is the registered owner of the securities as of the date mentioned in the Extract;
    - b. include the following information: full name of the account holder/s; date and time of issue of the extract; name of the issuer of the securities, legal address of the issuer, identification number of the class; number of securities in the account; any relevant obligations or restrictions on the securities; and any other information required by the rules of the Registrar or pursuant to Commission regulations.
  6. A Securities Registrar may require the payment of certain compensation from account holders for providing additional copies of the extract. Such tariffs established by the Registrar shall be fair, reasonable, non-discriminatory, reflecting real costs and disclosed to the Commission in advance.

#### **Article 41. Designation of SROs**

1. Licensed Stock Exchanges and a Licensed Central Depository shall be designated SROs under this law.
2. Any group of Securities Market Participants organized as a legal person under the Law on Entrepreneurs or Civil Code may apply to become a designated SRO under Article 41.4 of this Law.
3. The main objective of such an organization, as an SRO, shall be to:
  - a. prepare rules for its members and supervise compliance with such rules;
  - b. apply sanctions provided for in its inner regulations and rules or charter against members for non-compliance with its rules.
4. Applicants for designation as an SRO shall satisfy the following conditions:
  - a. none of the members of its managing body have: been deprived of the right under law to be a member of the managing body; during the past 10 years been convicted for crimes involving property, business conduct or finance; during the past 5 years been subject to administrative sanctions for gross violations of the legislation on securities or SRO rules;
  - b. its owners have adopted rules:
    - governing dispute resolution;
    - providing discipline of members for violation of the legislation on securities and SRO rules by expulsion, suspension, limitation of activities, functions and operations, fines, censures and other appropriate sanctions;



- requiring members to adhere to high ethical standards in conducting their business and providing guidance as to what these standards are.
  - its charter/inner regulations and rules;
  - sets forth the purposes and objectives of the SRO;
  - do not permit the distribution of profits to owners; and
  - require fair, reasonable and non-discriminatory treatment of all members.
5. To become a designated SRO, the organization shall file an application on the form prescribed by the Commission, containing the following information:
    - a. Its name and registered address;
    - b. The name of its members;
    - c. A copy of its charter/inner regulations and rules;
    - d. And such other information that the Commission may require pursuant to regulations.
  6. An organization shall not be designated as an SRO unless the Commission determines that:
    - a. by reason of the number and geographical distribution of its members and the scope of their transactions, such organization will be able to carry out its functions;
    - b. such organization is organized and has the ability to carry its functions under this Law and enforce compliance with its rules and the legislation on securities by its members;
    - c. there are no other designated SROs which perform the same role and there is economic justification for such organization.
  7. The procedures set forth in Article 22 shall apply to review of an application for designation under this Article.
  8. The procedures and conditions for membership in the organization shall be set forth in its charter. The organization's charter and any amendments thereto shall require Commission approval prior to designation.
  9. The organization may pass a decision to recognize and comply with the rules of an existing SRO.
  10. An SRO may impose money penalties and other sanctions for violation of its rules and shall notify the Commission of any gross violations and penalties imposed. The Commission by regulation may require more detailed reports and provide procedures for appeal of sanctions to the Commission.
  11. The Commission may suspend or revoke the designation granted to an SRO, including a Stock Exchange or the Central Depository, if it finds that such SRO:
    - a. is violating Article 42 of this Law; or
    - b. is not adequately supervising compliance with this Law, Commission regulations and its own SRO rules.

#### **Article 42. Rules of a Designated SRO**

1. The rules, charter and inner regulations (collectively "rules") of a designated SRO, which have been approved by the Commission, shall not be amended, varied or rescinded without the prior approval of the Commission.
2. A designated SRO shall not adopt a new rule without the prior approval of the Commission. The Commission may deem to be a new rule any interpretation of a rule which substantially departs from the grounds for the Commission's initial approval.

3. Where a designated SRO decides to adopt or amend a rule, it shall forward, by written notice to the Commission, the proposed rule or amendment, whether by adoption, recession, or amendment.
4. The Commission shall, within 30 days of receipt of a notice under Article 42.3 either provide written notice to the SRO that such rule or amendment are disallowed, including justified reasons for such disallowance, or approve such rule or amendment. If in the above referenced time period, the Commission does not disallow such rule or amendment, they shall be considered as approved.
5. Unless the SRO receives written notice under Article 42.4, after the expiry of such 30 day period the SRO shall give immediate effect to such rules/amendments.
6. Notwithstanding Articles 42.1 above, amendments to rules of an SRO, of such categories as may be specified by the Commission in regulations, shall take effect immediately upon forwarding of a written notice referred to in Article 42.3 above, subject to the condition that the Commission may, within 30 days of such amendment taking effect, disallow such amendment under Article 42.4 of this law.
7. For violation of Commission rulemaking procedures, the Commission may, invalidate the rule or amendment thereto and any transaction in reliance thereon where the public interest so required.

#### **Article 43. Additional Powers of the Commission over SROs**

1. In an emergency the Commission may take such action to alter, supplement, suspend or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or an SRO under this Law, as the Commission determines is necessary in furtherance of this Law in order to:
  - a. maintain or restore a fair and orderly public securities market;
  - b. ensure prompt, accurate and safe clearance and settlement of transactions in securities.
2. An order issued under this Article shall continue in effect for the period specified by the Commission and may be extended, except in no event shall the Commission's action continue in effect for more than 30 days or such shorter period as the President of Georgia may direct.

### **Chapter VII. Prohibitions against Fraud and Manipulation in Securities Transactions**

#### **Article 44. Fraud and Manipulation**

1. It shall be unlawful for any person, for the purpose of creating a false or misleading appearance of active trading in any Publicly Held Security, or a false or misleading appearance with respect to the organized market for such security, to:
  - a. effect any transaction in such security which involves no change in the beneficial ownership thereof;
  - a. enter any order(s) for the purchase or sale of such security with the knowledge that a corresponding opposite order(s) has been or will be entered by or for the same or different parties.
2. It shall be unlawful for any person to use or employ, in connection with the purchase or sale of a security, including the purchase or sale through a Securities Market Intermediary of government securities, any manipulative or deceptive device in contravention of such regulations as the Commission may prescribe for the protection of investors. The Commission may indicate in any such regulation whether and under

what circumstances it shall give rise to liability to persons damaged by its violation, beyond such remedies as are otherwise provided by law.

#### **Article 45. Inside Information and Its Unfair Using**

1. Inside information means non-public material information relating to one or more reporting companies or any of their Publicly Held Securities.
2. Insider means any person who, by virtue of his membership in the managing body of a reporting company, his holdings in the capital of such company, or based upon his access to such information by virtue of the exercise of his employment, profession or duties, possesses inside information. Other persons obtaining inside information that evidently originated with an insider shall be likewise considered insiders.
3. It shall be unlawful for any insider, and any person who knowingly receives inside information from an insider, to:
  - a. acquire or dispose of, for his own account, or the account of a third party, either directly or indirectly, Publicly Held Securities of the reporting company or companies to which that inside information relates;
  - b. disclose inside information to any third party unless such disclosure is made in the normal course of the exercise of his employment, profession or duties;
  - c. recommend to or procure a third party, on the basis of inside information, to acquire or dispose of Publicly Held Securities.

#### **Chapter VIII. Supervision of the Securities Market**

##### **Article 46. National Securities Commission [Amendment, April 30, 1999]**

1. The Georgian Securities Market is regulated by the Securities Commission of Georgia. The Commission is a legal person subject to the public law and is not subordinated in any way in its activity to any other State agency or institution and acts pursuant to the Constitution of Georgia, this Law and other legal acts. The Commission may be empowered to be an investigation body on the basis of the Criminal Procedure Legislation.
2. Nobody is allowed to influence the Commission in any way or to interfere in Commission's activities with an intention to make an impact on Commission's decisions [Amendment, April 30, 1999].
3. The Commission uses the Georgian state symbols, has its own seal, bank account, emblem and forms.
4. The Commission shall be located in Tbilisi.

##### **Article 47. Funding of the Commission [Amendment, April 30, 1999].**

The Commission shall be financed from the State Budget in accordance with the established rules [Amendment, April 30, 1999].

##### **Article 48. Members**

1. The Commission shall be comprised of five members. They shall have experience or expertise in governmental, legal, financial or business matters. They, and one of them

- as a Chairman, shall be appointed or removed by the President and approved by the Parliament. The Chairman appoints one of the members as a deputy chairman. [Amendment, July 20, 1999].
2. The Chairman and the members shall be appointed for a term of 5 years. Members may be reappointed once after their initial term. If a member is appointed for a partial term, he/she may be appointed for a 5 year term only once after the expiration of the partial term.
  3. Subject to Article 51.6, during their term of office the Chairman and other members of the Commission may be removed from their posts according to this Article only at their own written request, upon the coming into effect of a court sentence convicting them of commission of a crime or upon their gross violation of the Rules on the Conduct of Members and Employees of the Commission (Ethics Rules) provided in Article 51 of this Law, or where they are incapacitated to discharge their duties for more than six months.
  4. If the chairman or a Commission member resigns prior to the expiry of their term of office on the basis provided in Article 48.3 of this Law, the President shall appoint another person, upon the approval of Parliament, to fill the vacancy for the remaining term of office.
  5. A member of the Commission may not hold any other post, or be employed in any business, with the exception of educational or creative work. Neither may he receive remuneration other than the salary of a Commission member and payment for educational or creative activities.
  6. The remuneration of the Commission members are determined by the decree of the President of Georgia [Amendment, April 30, 1999].
  7. A member of the Commission shall not participate, directly or indirectly in any securities market operations or transactions of a character subject to regulation by the Commission under this Law.
  8. A member of the Commission who is directly or indirectly interested in any decision that is to be taken on any matter by the Commission shall disclose the nature of such interest at a meeting of the Commission where such decision is being taken. The disclosure shall be recorded in the minutes of the meeting and such member shall not take part in any deliberation or decision of the Commission with regard to that matter, and shall withdraw from such meeting while such deliberation is in progress or such decision is being made.

#### **Article 49. Functions of the Commission**

1. In furtherance of the objectives of this Law, the Commission shall perform the following functions:
  - a. prepare, approve, amend or repeal Commission regulations as provided under this Law, and provide guidance on and supervise compliance with such regulations;
  - b. approve prospectuses for public offerings of securities and ensure compliance by issuers with the terms and obligations stipulated therein;
  - c. present official explanations and recommendations on issues concerning the securities market, advise the President, the Parliament, the National Bank of Georgia and other State bodies and institutions regarding all aspects of the securities market and propose legislation and amendments thereto that will further the development of the securities market;
  - d. issue, amend, suspend or revoke licenses of Regulated Securities Market Participants;

- e. monitor, inspect, investigate and supervise the activities of Regulated Securities Market Participants for compliance with the legislation on securities;
  - f. within its jurisdiction, provide for the security of Commission activities and protection of its employees in the execution of official duties;
  - g. designate legal persons as Self Regulatory Organizations and revoke such designations;
  - h. recommend and establish accounting standards that may be required for the securities market in consultation with any other institutions set up for the purpose of establishing such standards;
  - i. approve and repeal rules and amendments thereto adopted by Self Regulatory Organizations;
  - j. impose sanctions under the established rules for the violations of legislation on securities, and publish findings of such violations and sanctions;
  - k. organize training courses, publish or take part in the publishing of publications of general character and special publications concerning the functioning and regulation of the securities market;
  - l. organize examinations and qualification tests with the purpose of evaluating the knowledge and competence of brokers;
  - m. assist in the creation of a data base on reporting companies, on Securities Market Intermediaries and on the functioning of the securities market;
  - n. promote the establishment and development of a special compensation scheme to protect investors in the event a Regulated Securities Market Participant is unable to meet its obligations to investor clients;
  - o. exercise powers provided in the Law on Non-State Pension Coverage or in other laws concerning investments, securities or the rights of securities holders;
  - p. issue a regular bulletin;
  - q. develop relationships with foreign securities market regulatory bodies under Memorandum of Understandings and agreements for information sharing purposes;
  - r. identify, avoid and eliminate any violations with regards to issuance and circulation of securities and any other violations for this purpose; conduct inspections in compliance with Commission regulations; and
  - s. participate in the development and incorporation into Georgian law of international standards of securities regulation.
2. The Commission shall prepare and present to the President, the Parliament and the public an annual report on the securities market and principal events which took place during each fiscal year.

#### **Article 50. Organization of the Work of the Commission**

1. The work of the Commission shall be managed by the chairman and, in his absence, by the deputy chairman.
2. The chairman of the Commission shall:
  - a. ensure that meetings of the Commission are called regularly, determine issues to be considered at every meeting, submit reports on the activities of the Commission and, in the period between meetings, give instructions to members and control their implementation;
  - b. organize and manage the administration of the Commission, including development of the structure of the administration of the [Amendment, April 30, 1999] Commission, appoint and dismiss the employees of the Commission.

- c. confirm by signing the decisions of the Commission;
  - d. serve as a representative of the Commission in relations with other persons;
  - e. control the implementation of the decisions of the Commission.
3. Meetings of the Commission are held according to corresponding regulations. The Commission shall organize open and closed meetings. Closed meetings are open only to Commission members, and employees and other persons where their presence is requested by a Commission member. Issues concerning violations of this Law and Commission regulations and redetermination of decisions regarding confidential treatment of information concerning a reporting company shall be considered at closed meetings. Other issues concerning the interest of only a single participant in the market shall be considered at closed meetings where at least two thirds of the members present at a meeting so decide. Other decisions shall be discussed at open meetings.
  4. A meeting of the Commission may take place if attended by at least three members of the Commission. Decisions shall be taken by a simple majority of votes of those attending the meeting, except in cases where Commission regulations are adopted, amended or recognized as invalid. In such cases, a decision shall be deemed passed if voted in favor of by at least three members of the Commission. Commission members shall have equal voting rights. In the event of a tie vote, the chairman of the Commission has the casting vote. The decisions of Commission meetings shall be adopted by open ballot voting if requested by at least one Commission member. Decisions made by the Commission shall be signed by the Chairman and, in his absence, by the Deputy Chairman. Members of the Commission have the right to have their individual opinions included in the minutes of the meeting.
  5. According to Commission rules, Commission shall publish regularly its final decisions.

#### **Article 51. Duties of Members and Employees of Commission**

1. In order to avoid conflicts of interest, the Commission shall prepare Rules on the Conduct of Members and Employees of the Commission, which shall regulate the activities of present and former members and employees of the Commission in the areas regulated by the legislation on securities. These Rules shall take effect upon adoption by the Commission.
2. Present and former members and employees shall have no right to use for their own benefit or to disseminate confidential information disclosed to them in the course of their work at the Commission.
3. Persons set forth in Article 51.1 shall be prohibited from divulging confidential information received while working at the Commission to other persons. Such information, according to regulations, may be disclosed only to:
  - a. Employees and members of the Commission for the purpose of carrying out their official duties;
  - b. SRO officials in connection with enforcement of the legislation on securities;
  - c. Law enforcement bodies to prosecute persons for law violations;
  - d. Courts;
  - e. Securities regulatory bodies in foreign countries in accordance with Memorandum of Understandings or international agreements.



4. Any person who, in cases provided by this Law, has the right to receive any confidential information from members or employees of the Commission shall comply with Articles 51.1, 51.2 and 51.3 of this Law.
5. Present members and employees shall disclose to the Commission information regarding their ownership of securities to avoid any perceived conflict of interest on the forms specified by the Commission.
6. For failure to execute or improper execution of official duties, an employee or member of the Commission shall incur responsibility envisaged by the legislation of Georgia.
7. The damage caused to a Securities Market Participant through the illegal action of an employee or member of the Commission shall be compensated from the State Budget on the basis of court's decision.

## **Article 52. Inspections**

1. The Commission may carry out inspections of the activities of Securities Market Participants to determine whether they are operating in conformance with the requirements of legislation on securities.
2. In carrying out an inspection, pursuant to procedures adopted by the Commission and other laws of Georgia, and upon producing an official certificate, an employee of the Commission may visit the premises of a Regulated Securities Market Participant or Reporting Company[Amendment, July 20, 1999], review all books and records relating to its business, make copies thereof, request the participant to request from any bank where records are maintained, copies of such records, and receive from officials and other employees of such participant information and oral and written explanations on questions arising in respect to such information.
3. If during an inspection, the Commission finds any violation of the legislation on securities, it may:
  - a. require the Regulated Securities Market Participant or Reporting Company[Amendment, July 20, 1999] to eliminate such violation and, in furtherance thereof, give special orders and directives and oversee their compliance;
  - b. prepare a protocol on the facts of the violation and impose administrative sanctions, including penalties under the legislation on securities, on those persons who violate legislation on securities;
  - c. conduct an investigation under the established rules in the cases specified by the Law.
4. Failure of a Regulated Securities Market Participant to comply with a request by the Commission during an inspection shall be grounds for suspension or revocation of its license.
5. If during an inspection of the activities of Regulated Securities Market Participant or Reporting Company[Amendment, July 20, 1999] the Commission finds the facts of violation, the Commission shall send the materials of inspection to the investigation or preliminary criminal examination bodies.
6. The Commission may transmit the inspection materials to other appropriate authorized State bodies.



### **Article 53. Delegation of Powers**

1. The Commission may adopt a decision to authorize a member or employee of the Commission to perform any of its functions, except the adoption, amendment, suspension or cancellation of its rules, reconsideration of its determination that certain information filed by reporting companies should not be treated as confidential, authorization of investigations, and the imposition of sanctions provided by this Law.
2. The Commission shall retain a discretionary right to review and remedy any action delegated. The vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review. If the right to exercise such review is declined, or if no such review is sought within the time stated by regulations adopted by the Commission, then the action of such person to whom authority was delegated shall be deemed to be the action of the Commission.

### **Article 54. Maintenance of Public Records and Publication of Commission Actions**

1. The Commission shall maintain the following records:
  - a. All documents filed by reporting companies which have issued an approved prospectus or have publicly circulated securities
  - b. All documents filed by reporting companies with respect to disclosure obligations, including but not limited to, prospectuses, material disseminated to security holders in connection with meetings (proxy materials), and periodic financial reports. Also the documents submitted according to Articles 12, 14 and 15.
  - c. All documents filed by Stock Market Participants regarding their qualification to obtain licenses and their compliance with Commission regulations.
2. The records shall be made available to any member of the public for inspection and copying at the offices of the Commission during regular business hours.
3. The Commission shall publish a list of all sanctions issued under Chapter nine of this Law on a regular basis pursuant to procedures set forth in Commission regulations.

## **Chapter IX. Sanctions Imposed for the Violations of the Legislation on Securities**

### **Article 55. Administrative and Criminal [Amendment, July 20, 1999] Sanctions Imposed for the Violations of the Legislation on Securities**

1. The types of violations of legislation on securities of Georgia, penalties and rules for imposition of administrative sanctions shall be determined by the Administrative Code of Georgia.
2. Where it is established that persons have violated the requirements of this Law, Commission regulations or legislation on securities, or are about to do so such that the interests of investors is at risk, the Commission based on its order may:
  - a. put such person under an obligation to undertake specific measures needed to comply with the applicable law or regulation within the time period specified by the Commission;
  - b. notify the public of the violation and any sanction imposed;
  - c. discontinue for a period of up to 6 months or permanently the sale or deals in certain securities which violate this Law;

- d. fail to approve the prospectus for a new issue of securities, or suspend or revoke such approval;
  - e. require a Regulated Securities Market Participants to discharge temporarily or permanently from their office persons authorized to manage and represent such Participants;
  - f. amend a license issued to a Brokerage Company or a Broker by the Commission;
  - g. suspend or revoke in whole or in part a license issued by the Commission;
  - h. suspend a participation in the securities market for a stated time period; or
  - i. revoke an SRO designation given to an SRO under this Law.
  - j. impose other sanctions as provided in the Administrative Code.
3. For a violation of legislation of securities of Georgia committed in an aggravated circumstances a criminal responsibility may be established [Amendment, July 20, 1999].

## **Chapter X. Transitional Provisions**

### **Article 56. Succession. The Rules of Activities of the Commission and Securities Market Participants in Transitional Period**

1. The National [Amendment, April 30, 1999] Securities Commission of Georgia shall be created on the basis and shall be the successor of the Securities Inspection Board within the Ministry of Finance of Georgia.
2. The Securities Inspection Board within the Ministry of Finance of Georgia shall continue its activities in accordance with the statute approved by the Minister of Finance of Georgia until the Securities Commission is created pursuant to Articles 46 and 48 of this Law.
3. Powers shall be granted to the three members of the Commission for the period of 5, 4 and 3 years. In order the Commission to start functioning, before it is up to full strength, that member of the Commission who is appointed for 5 years term becomes acting Chairman of the Commission. The Commission starts functioning as soon as 3 members are appointed[Amendment, July 20, 1999].
4. The President of Georgia has a right, as a temporary arrangement, to appoint directly in the first Commission for 2 and 1 year two members, selected on the basis of tender, citizens of foreign countries with at least 5 years experience in highly developed financial and capital markets regulation[Amendment, July 20, 1999].
5. As soon as all 5 members of the Commission are appointed the Commission takes decision on the election of the Chairman from its members. The decision has to be approved by the President of Georgia[Amendment, July 20, 1999].
6. Issuers making a public offering of securities shall, within 6 months from the entry into effect of this Law, comply with Articles 3 through 8 of this Law, provided that the requirement to provide certified financial statements for the last two years shall not become effective until 18 months from the entry into effect of this Law.
7. Persons shall, within 6 months from the entry into effect of this Law, comply with Articles 10, 11.2[Amendment, April 30, 1999], 11.3 and 16 of the Law; within 3 months from the entry into effect of the Law comply with Articles 11.4, 12, 13, 14 and 15 of the Law; and within 1 year after entry into effect of this Law, comply with Article 17 of this Law.
8. Any Stock Exchanges, Brokerage Companies, or Brokers licensed prior to the entry into force of this Law shall, within one year, obtain a new license under this Law, provided however, that a bank which has been licensed as an Institutional Participant

of the Securities Market before this Law was enacted, may continue its licensed activities within the jurisdiction of the Securities Commission during the time period specified in the license.

9. Any Securities Registrar shall, within 6 months from the entry into effect of the Law, obtain a new license under this Law.
10. Any owners of a Stock Exchange licensed prior to the entry into effect of this Law, that do not meet the provisions of Article 27, shall, if the exchange chooses to remain licensed, within 1 year, either obtain a license as a brokerage company under the Law or dispose of their ownership interest; however, they may only transfer said interest to persons that qualify under Article 27.

## **Chapter XI. Final Provisions**

### **Article 57. Final Provisions**

1. This Law shall become effective after 15 days from its publishing.
2. Upon the entry into force of this Law, the following legislation becomes invalid: On Some Organizational Measures about Formation of Share Registrars System approved by the #412 decree of the President of Georgia on 9 August 1997.
3. Upon the approval of the regulations on maintenance of securities registers by the Securities Commission of Georgia the Temporary Regulations on Maintenance of Securities Registers and the #375 decree of the President of Georgia on June 18, 1998 on the Approval of the Temporary Regulations On Maintenance of Securities Registers become invalid.

President of Georgia

Eduard Shevardnadze

## **20. Tax Code (Article 41)**

### Article 41. Obligations of Tax payers

A tax payer shall:

h) ensure keeping of those documents on the basis of which registration of entities subject to taxes and completion of tax declarations are carried out, as well as keeping documents proving received income and profit, expenses and paid or/and withheld taxes for the period of six years.

## **21. Decree N. 100 on Approving the Regulation on Receiving, Systemizing and Processing the Information by the Insurance Organizations and Founders of Non-State Pension Scheme and Forwarding to the Financial Monitoring Service of Georgia**

Approved by the Decree N 100 of the Head of FMS on August, 3, 2004

### REGULATION

#### Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, Decree of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” and other relevant normative acts of Georgia.
2. This regulation shall apply to Insurance Organizations and Founders of Non-State Pension Scheme licensed by the Insurance State Supervision Service of Georgia.
3. This regulation shall apply to Georgian resident and non-resident entities, their representatives, missions and branches, as well as to departments, institutions and organizations.
4. This regulation shall regulate general principles and rules of financial monitoring conducted for the purpose of preventing illicit income legalizationlegalisation and terrorism financing by the Insurance Organizations and Founders of Non-State Pension Scheme, specifically, terms and procedures for identification of the clients of Insurance Organizations and Founders of Non-State Pension Scheme and other relevant persons, and rules for receiving, systemizing, processing and filing the relevant information and forwarding to the Financial Monitoring Service of Georgia.

#### Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- b) Property – property as considered under the Civil Code of Georgia: all property (movable as well as immovable) and immaterial property, which can be owned, used and disposed of by physical and legal persons;
- c) LegalizationLegalisation of illicit income –legalizationlegalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or

concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;

- d) Monitoring – identification of persons involved in a transaction subject to monitoring by the Insurance Organizations and Founders of Non-State Pension Scheme, recording and systemizing the information on transactions subject to monitoring and forwarding to the Financial Monitoring Service of Georgia in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, this regulation and procedure prescribed by the other normative acts adopted on the basis of the Law;
- e) Suspicious transaction – a transaction (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained etc.), or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the person taking part in the transaction is located in the non-cooperative area, or transaction amount is being transferred to or from such area;
- f) Person – any resident or non-resident physical person, legal entity as well as organizational formation considered under legislation, which does not represent a legal entity (non-registered union, partnership, partnership of apartment owners).
- g) Insurance organization – insurer defined under the Law of Georgia on Insurance;
- h) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity (organizational formation considered under the legislation, which does not represent legal entity) and its representational authority by means of the registration- and establishment-confirming documents.
- i) Person involved in a transaction – insurer, insurant, insured, beneficiary, insurance agent and insurance broker defined under the Law of Georgia on Insurance. Also, founder of the non-state pension scheme, subscriber of pension scheme, participant of the pension scheme as well as their representatives and agents as determined by the Law of Georgia on Non-State Pension Insurance and Security.
- j) Founder of non-state pension scheme – legal entity as defined under “the Law of Georgia on Non-State Pension Insurance and Security”, who establishes pension scheme and provides physical persons with non-state pensions according to the procedure set by the pension scheme.

- k) Amount of the operation (transaction) – amount of transaction for certain type of insurance, except life insurance, shall be the amount of insurance premium defined under insurance agreement concluded for the certain insurance period or/and amount of damages repaid by the insurance organization; the amount of transaction concluded (implemented operation) in the field of accumulated life insurance and non-state pension security shall be the sum of insurance premium/pension contribution or/and amount/pension payable. Operation (transaction) amount also shall be any settlement undertaken on the basis of reinsurance agreement or related to insurance activities.
- l) Employee in charge of monitoring – employee of the Insurance Organizations and Founders of Non-State Pension Scheme, who on the basis of the relevant document is charged with duties and responsibilities related to the monitoring process. If the special structural unit is established at the Insurance Organizations and Founders of Non-State Pension Scheme for performing monitoring activities, Supervisor of such unit shall be the employee responsible for conducting monitoring. Duties and responsibilities of the employee in charge of monitoring shall be defined under the internal regulation of Insurance Organizations and Founders of Non-State Pension Scheme, developed and approved on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation” and this Regulation.
- m) Insurance contribution (premium) - amount paid to the insurance organization by the insurant, as well as by intermediation of a broker or agent, on the basis of insurance agreement.
- n) Pension contribution – contribution defined under the pension scheme for the purpose of providing physical persons with non-state pension, paid by subscribers;
- o) Implemented operation or concluded transaction (operation (transaction) or transaction (operation)) by Insurance Organizations and Founders of Non-State Pension Scheme – receipt of insurance premium and/or pension contribution by Insurance Organizations and Founders of Non-State Pension Scheme, also payment of damages upon insurance case and payment pension/amount (accumulated life insurance and non-state pension security), as well as any operation and transaction related to reinsurance and insurance activities;
- p) Franchise – non-payable minimum, which is not repaid by insurance organization in case of inflicted damages.
- q) Insurance amount – maximum amount to be paid in insurance case (defined under insurance agreement).
- r) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia, based on the information from the competent international organization;



### Article 3. Transactions (Operations) Subject to Monitoring

1. For purposes of this Regulation, subject to monitoring shall be an implemented operation or concluded transaction, or the series of transactions (operations) aimed at partition of the insurance/pension contribution, if one or both of the following provisions exist:
  - a) The amount of the transaction or the series of transactions exceeds GEL 30,000, or its equivalent in other currency (in case of cash as well as non-cash settlements);
  - b) Transaction is suspicious according to Subsection “e”, Article 2 of this Regulation.
2. Subject to monitoring shall be any operation (transaction), if there is a supposition that any party of the transaction is related to the terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be sent to Insurance Organizations and Founders of Non-State Pension Scheme (or shall be published in the newspaper - “Sakartvelos Sakanonmdeblo Macne”) by the FMS.
3. Subject to monitoring also shall be concluded or attempted transaction and other fact (circumstance), which, according to the written instructions of the FMS, may be related to legalizationlegalisation of illicit income or financing terrorism.
4. Pursuant to Section 5, Article 5 of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, the Financial Monitoring Service of Georgia shall have the authority to define the list of specific transactions (operations, or their characteristics, such as type of the business activities of persons involved in operation (transaction), geographic area of their location (place of registration), subject of transaction (operation) and etc.), on which the Financial Monitoring Service of Georgia shall be informed according to the rule for submitting reports set by this regulation.

### Article 4. Obligations of Insurance Organizations and Founders of Non-State Pension Scheme with Respect to Implementation of Internal Control

1. For preventing cases of illicit income legalizationlegalisation, Insurance Organization and Founder of Non-State Pension Scheme shall exercise internal control in accordance with the Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”.
2. Implementation of internal control shall include the following:
  - a) Identification of all persons having business relationship with the Insurance Organization and Founder of Non-State Pension Scheme, their representatives and agents, persons involved in operation (transaction); if operation (transaction) is concluded in favor of the third person, identification of the relevant person shall be carried out;

- b) Analyzing the information obtained through identification process and revealing operations (transactions) subject to monitoring;
  - c) Documenting, systemizing and filing the information;
  - d) Submission of the information on operations (transactions) subject to monitoring to the Financial Monitoring Service of Georgia in the special reporting form;
  - e) Implementation of training programs for employees (with respect to avoiding and revealing cases of illicit income legalizationlegalisation and terrorism financing).
3. For the purpose of defining internal control procedures, the Insurance Organizations and Founders of Non-State Pension Scheme shall develop and approve internal regulation on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation” and this Regulation. The internal regulation shall set terms for: identification of clients, persons willing to establish business relationship and other relevant persons; systemizing, analyzing and filing the information obtained through the identification process; revealing operations (transactions) subject to monitoring and submission of special reporting forms to the Financial Monitoring Service of Georgia.
4. Internal regulation, developed and approved by the Insurance Organization and Founder of Non-State Pension Scheme, for conducting monitoring shall define:
- a) Terms and procedures for identification of clients, persons willing to establish business relationship, their representatives, agents, as well as the relevant person if the transaction (operation) is being concluded (has been concluded) in favor of the third person;
  - b) Procedure for transferring information obtained through the identification process and other information existing at Insurance Organization and Founder of Non-State Pension Scheme to an employee (special structural unit) in charge of monitoring;
  - c) Procedures for recording, systemizing and filing information related to the monitoring, as well as employees authorized to have access to such information.
  - d) Rule for submission of special reporting forms and other materials to the Financial Monitoring Service of Georgia (including completion of special reporting forms and granting authority for certifying these documents with signature and/or seal and other issues);
  - e) Functions, authority and responsibility of the employee in charge of monitoring (in case of the special structural unit – functions, authority and responsibility of the supervisor and each employee);

- f) Functions, authority and responsibility of other employees (structural units) of Insurance Organization and Founder of Non-State Pension Scheme, including administrators responsible for monitoring, as well as the supervisor of Insurance Organization and Founder of Non-State Pension Scheme who is directly charged with supervision of the monitoring process;
  - g) Administrators, responsible employees and/or employees of Insurance Organization and Founder of Non-State Pension Scheme, who shall be granted the authority under the internal regulation to keep confidential information related to the monitoring process.
5. Internal regulation for conducting monitoring developed and approved by the Insurance Organization and Founder of Non-State Pension Scheme shall address the following issues:
- a) Decision on considering the operation (transaction) as suspicious and/or aimed at partition of the transaction, and forwarding the special reporting form to the Financial Monitoring Service of Georgia in each particular case shall be made by the employee in charge of monitoring (supervisor of the special structural unit), on the basis of the information obtained through identification as well as servicing clients and other relevant persons by the corresponding departments, and existing information (after establishing overall network, information stored therein shall be used). In addition, guidelines and other information sent by the Financial Monitoring Service of Georgia to the Insurance Organization and Founder of Non-State Pension Scheme shall be considered. For the purpose of revealing suspicious and/or disintegrated operations (transactions) the Insurance Organization and Founder of Non-State Pension Scheme shall be obligated to develop electronic data base (system).
  - b) Revising (renewing if needed) identification details of permanent clients of the Insurance Organization and Founder of Non-State Pension Scheme as needed, with a frequency defined under the internal regulation;
  - c) Monitoring process shall be conducted in a way that the clients of Insurance Organization and Founder of Non-State Pension Scheme, persons involved in operations (transactions) and other relevant persons shall not be aware that their activities are considered as suspicious;
  - d) Insurance Organizations and Founders of Non-State Pension Scheme shall be obligated to ensure confidentiality of information obtained through monitoring process (including information received through identification of clients and other relevant persons, materials on examination and analysis of the information), as well as information on completion of special reporting forms related to transactions (operations) subject to monitoring and submission to the FMS.
  - e) One of the major principles of financial monitoring shall be participation of all employees of the Insurance Organization and Founder of Non-State

Pension Scheme (within their competence) in facilitating disclosure of illicit income legalizationlegalisation and terrorism financing.

6. Rules and procedures established by the internal regulation shall facilitate preventing participation of employees of Insurance Organization and Founder of Non-State Pension Scheme in the processes of illicit income legalizationlegalisation and terrorism financing.

#### Article 5. Functions and Obligations of the Employee in Charge of Monitoring

1. For the purpose of conducting monitoring process, the Insurance Organization and Founder of Non-State Pension Scheme under the relevant document shall designate an employee (or special structural unit) in charge of monitoring.
2. Functions, authority and responsibility of the employee (or special structural unit) in charge of monitoring shall be defined under the internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme, also if its provided by the Charter of Insurance Organization and Founder of Non-State Pension Scheme – under the relevant service instruction (in case of special structural unit – instructions).
3. Employee (or special structural unit) in charge of monitoring shall follow the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, this regulation, internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme, FMS guidelines as well as the relevant normative acts issued by the Insurance State Supervision Service of Georgia.
4. Employee (or special structural unit) in charge of monitoring shall perform the following functions:
  - a) Organize the monitoring process and ensure performance of tasks defined under the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, this Regulation and internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme;
  - b) Analyze information (including identification details, information on operations (transactions) received from employees (structural units) defined under the internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme; make decision on considering operation (transaction) as suspicious; ensure completion, certification and submission of special reporting forms on operations (transactions) subject to monitoring to the Financial Monitoring Service of Georgia; systemize and file information (documents) related to the monitoring process (internal regulation may define that the final decision on considering the operation (transaction) as suspicious should be made by the administrator of the insurance organization or founder of the non-state pension scheme. In such case forms shall be signed by this officer);

- c) Consult other employees of the Insurance Organization and Founder of Non-State Pension Scheme with respect to issues of preventing illicit income legalizationlegalisation and terrorism financing and organize special training programs;
  - d) With the frequency defined under the internal regulation, prepare and submit written report on the monitoring process (elaboration of the internal regulation of Insurance Organization and Founder of Non-State Pension Scheme, if necessary) to the management of Insurance Organization and Founder of Non-State Pension Scheme.
5. Employee (or special structural unit) in charge of monitoring shall be granted authority to obtain any information from other employees of Insurance Organization and Founder of Non-State Pension Scheme necessary for fulfillment of his functions and shall be obligated to ensure observance of confidentiality of any information related to his activities.
  6. In performing functions related to monitoring, the employee (or special structural unit) in charge of monitoring shall be subordinated and reporting only to the administrator of the Insurance Organization and Founder of Non-State Pension Scheme, defined under the internal regulation.
  7. If employee (or special structural unit) in charge of monitoring reveals that any of employees of the Insurance Organization and Founder of Non-State Pension Scheme does not observe rules set by the internal regulation and within his/her competence does not participate in the monitoring process, he shall immediately inform the administrator of Insurance Organization and Founder of Non-State Pension Scheme who supervises monitoring issues according to the internal regulation.
  8. In case of absence of the employee (or special structural unit) in charge of monitoring his/her functions shall be transferred to another employee of the Insurance Organization and Founder of Non-State Pension Scheme, which shall be documented and immediately submitted to the FMS.

Article 6. Obligations of Insurance Organization and Founder of Non-State Pension Scheme with respect to Identification and Registration of Identification Details (Documents)

1. Pursuant to the Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation” Insurance Organization and Founder of Non-State Pension Scheme shall be obligated to identify all clients and persons willing to establish business relationship, persons involved in an operation (transaction), their representatives, agents, as well as the third person on whose behalf transaction is being concluded (is concluded) or operation is implemented.
2. Identification process shall be conducted in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, this regulation, the relevant internal regulation of the Insurance Organization and

Founder of Non-State Pension Scheme and guidelines and recommendations of the FMS.

3. Insurance Organization and Founder of Non-State Pension Scheme shall not be authorized to provide the client with services (conclude agreement, write out insurance certificate etc.) without preliminary identification of this person.
4. In spite of supposition on equivocacy and amount of the transaction, the Insurance Organization and Founder of Non-State Pension Scheme shall not suspend implementation of the transaction (providing services to the person (client) having the business relationship with the Insurance Organization and Founder of Non-State Pension Scheme), except for the following cases:
  - a) Person (client) willing to establish business relationship with the Insurance Organization and Founder of Non-State Pension Scheme can not be identified;
  - b) Any party of the transaction is on the list of terrorists or persons supporting terrorism.
5. In cases indicated in Subsections “a” and “b”, Section 4 of this Article, the Insurance Organization and Founder of Non-State Pension Scheme shall be obligated not to serve the client (establish business relationship with the person), and in the case considered in Subsection “b”, Section 4 of this Article, immediately submit the special reporting form and/or the relevant information to the FMS.
6. The following information, on all persons taking part in the transaction, shall be obtained through the identification process:
  - a) in case of physical person:
    - a.a) First name, last name;
    - a.b) Citizenship;
    - a.c) Date of birth;
    - a.d) Place of residence;
    - a.e) Number of ID (Passport) and citizen’s personal number by ID (Passport);
    - a.f) If the physical person is registered as an individual entrepreneur – the relevant registration date, number, registering authority, identification code of tax payer;
  - b) In case of legal person:
    - b.a) Full name;
    - b.b) Business activity;

b.c) Legal address (in case of the branch or representation the legal address of the head office also);

b.d) Registering authority, Date and number of registration;

b.e) Identification number of tax payer;

b.f) Identification details of persons authorized for management and representation (in conformance with Subsection “a” of this Section);

c) In case of organizational formation considered under the legislation, which does not represent a legal entity:

c.a) Full name;

c.b) Legal address;

c.c) Legal act, based on which this formation has been established (or has been functioning);

c.d) Identification details of persons authorized for management and representation (in compliance with Subsection “a” of this Section).

7. Documents necessary for identification process shall be:

a) if the physical person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; if the physical person is registered as an individual entrepreneur – document confirming registration;

b) if the physical person is a foreign citizen – passport issued by the corresponding authority of the relevant State.

c) in case of resident legal entity (or organizational formation which does not represent a legal entity) – a court resolution (or resolution of any other organ as determined by the Georgian legislation, or other relevant legal act) on registration of a legal entity, or/and a record from a business register (or other relevant register).

d) Documents issued by the relevant authorities of foreign countries, presented by non-resident legal person for identification, shall be legalized in compliance with the procedure set under the Georgian legislation.

8. Identification documents other than Citizen Identity Card and Passport shall be used only in cases when the physical person can not have ID or Passport (in case of insuring a person under age).



9. For documenting, systemizing and better examining identification details of the permanent clients of Insurance Organization and Founder of Non-State Pension Scheme (persons that periodically apply to Insurance Organization and Founder of Non-State Pension Scheme for insurance services) the Insurance Organization and Founder of Non-State Pension Scheme shall use procedure of form (questionnaire) filling. In parallel with this process, the Insurance Organization and Founder of Non-State Pension Scheme shall ensure setting up of the relevant data base.
  
10. Procedure of form (questionnaire) filling shall also be allowed for identification of persons, that apply to the Insurance Organization and Founder of Non-State Pension Scheme for implementing single (irregularly), or represent second or third persons (if operation (transaction) is implemented in favor of third person) involved in operation (transaction).
  
11. If documents (information) stored in or presented to the Insurance Organization and Founder of Non-State Pension Scheme allow, in addition to the information listed in Subsections “a”, “b” and “c”, the following details shall be documented:
  - a) In case of physical person:
    - a.a) Patronymic;
    - a.b) Place of birth;
    - a.c) Date of issuing ID (Passport) and the issuing authority;
    - a.d) Temporary (real) place of residence (in Georgia as well as abroad), if different from registered place of residence;
    - a.e) Main business activity and position held;
    - a.f) Bank account (accounts) details;
    - a.g) Tel/fax, e-mail.
    - a.i) If the person is registered as individual entrepreneur – identification number of tax payer;
  - b) In case of legal entity (as well as organizational formation, which does not represent a legal entity):
    - b.a) Identification details on physical persons and legal entities owning 20% and more of the stock, share and etc.
    - b.b) Date of appointing persons authorized for management and representation;
    - b.c) Bank account (account) details.

12. Detailed procedures for identification of clients and filling forms (questionnaire) and functions of the relevant employees shall be defined under the internal regulation of Insurance Organization and Founder of Non-State Pension Scheme.

Article 7. Obligations of Insurance Organization and Founder of Non-State Pension Scheme to Record Information (Documents) on Operations (Transactions) Subject to Monitoring

1. Pursuant to the Section 4, Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, the Insurance Organization and Founder of Non-State Pension Scheme shall be obligated to record information on operation and/or transaction subject to monitoring.
2. In the process of recording information on operation (transaction), the Insurance Organization and Founder of Non-State Pension Scheme shall document the following information:
  - a) Content of operation (e.g. insurance transaction, type of insurance, area of activities etc.);
  - b) Date of implementation of operation (insurance transaction), amount of insurance, amounts of insurance premium and pension contribution, amount of repaid damages (if it has been repaid) and pension amount;
  - c) Identification details of a person involved in operation;
  - d) Identification details of the person on whose behalf the insurance intermediary implements operation (insurance transaction);
  - e) Identification details of the person who is acting on behalf of the client (representative, agent), as well as content, issuer, date of issuance and period of validity of power of attorney or procuracy, person certifying power of attorney or procuracy (e.g. notary), date and place of certification;
  - f) If transaction is implemented in favor of the third person – identification details of the relevant person;
  - g) If insurance transaction is implemented through insurance intermediary - identification details of the respective physical and juridical persons;
  - h) Purpose and/or basis (if information exists) for operation (transaction) implementation. Entrepreneurial agreement concluded by the client, commercial transaction, property, liability and etc. may be considered as the basis for operation (transaction) implementation.
3. If the insurance organization and founder of non-state pension scheme has the information, which represents the basis for implementation of the insurance operation, the Insurance Organization and Founder of Non-State Pension Scheme shall document the following information:

- a) Type of transaction (e.g. acquisition, usufruct, rent, lease etc.);
  - b) Subject of transaction (specific item, property or incorporeal right, which represents a subject of transaction, or service, work that shall be performed according to the transaction);
  - c) Form of transaction (e.g. written agreement, verbal transaction);
  - d) Purpose of transaction (e.g. commercial activities, receive profit, charity, payment of debt etc.);
  - e) Identification details of persons involved in a transaction according to Section 6, Article 6;
  - f) Date and place of concluding transaction as well as validity period, amount and currency in which transaction shall be implemented;
  - g) In case transaction is subject to registration (certification) – name of the registering authority, registration date, place and number (e.g. in the event of notarial certification of transaction).
4. For the purpose of documenting, systemizing and filing the information indicated in Sections 6 and 11 of Article 6 and Sections 2 and 3 of this Article, the Insurance Organization and Founder of Non-State Pension Scheme shall develop the relevant system.

Article 8. Obligations of the Insurance Organization and Founder of Non-State Pension Scheme to Keep Information (documents) Related to the Monitoring Process

- 1. If operation (transaction) concluded or implemented by a person meets requirements of Article 3 of the present Regulation, the Insurance Organization and Founder of Non-State Pension Scheme shall be obligated to keep information (documents) presented for identification of the person for the period of not less than 5 years from the moment of breaching business relationship with the person, while other information (documents) about operation (transaction) subject to monitoring - for no less than 5 years from the day the operation (transaction) has been implemented, unless the Georgian legislation sets a longer term for the retention of such information (documents). In addition, information shall be retained in documentary, as well as electronic form (respective data bases etc.).
- 2. Information (documents) on operation (transaction), including those presented for the identification of the person shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by a notary or an authorized employee of the Insurance Organization and Founder of Non-State Pension Scheme shall be maintained. For the purpose of complying with this requirement, the Insurance Organization and Founder of Non-State Pension Scheme shall designate the employee (employees) authorized under the relevant document to certify copies. The copy shall be certified in a way that it is clear who and when certified the copy.
- 3. In addition to the information indicated in Section 1 of this Article, subject to retention for the period of five years shall be special reporting forms (hard copies

as well as electronic) submitted to the Financial Monitoring Service of Georgia pursuant to Article 9 of this regulation and Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”. Also, hard copies of reports retained in the Insurance Organization and Founder of Non-State Pension Scheme shall be certified with the signature of an employee in charge of monitoring, and if it is provided by the internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme - with the seal of the Insurance Organization and Founder of Non-State Pension Scheme.

4. The information (documents) retained at the Insurance Organization and Founder of Non-State Pension Scheme shall fully reflect the implemented operation and/or transaction and persons involved. In addition, information (document) shall be systemized, recorded and maintained in a way, that when needed (to be used as an evidence in criminal proceedings or criminal persecution) it can be found and retrieved in a shortest period of time.
5. Documents (information) shall be stored in a way that could be accessed only by persons authorized under the internal regulation and the current legislation.

#### Article 9. Obligations of Insurance Organization and Founder of Non-State Pension Scheme to Present Reporting Forms on Operations (Transactions) Subject to Monitoring

1. Pursuant to the Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, the Insurance Organization and Founder of Non-State Pension Scheme shall be obligated to submit written notices to the Financial Monitoring Service of Georgia, related to transactions subject to monitoring (Article 3 of the Regulation, Article 5 of the Law).
2. Written notices submitted to the Financial Monitoring Service of Georgia shall be compiled in compliance with the special reporting form approved with this regulation (Annex N1 of this Regulation).
3. Special reporting forms shall be presented to the FMS in documentary, as well as electronic form.
4. The following time periods shall be set for submission of special reporting forms to the Financial Monitoring Service of Georgia:
  - a) If the amount of operation (transaction) exceeds GEL 30,000 or its equivalent in other currency, the report shall be submitted within three working days from the moment of implementing operation or concluding transaction (or from the moment of receiving information on such transaction);
  - b) If the operation (transaction) is considered as suspicious, the report shall be submitted no more than within three working days from the moment supposition on suspiciousness arose (i.e. if supposition on suspiciousness originated after implementing operation (concluding transaction), as a result of better analyzing or receiving additional information).
  - c) If the supposition exists that any person involved in operation (transaction) is related to terrorists or terrorism-supporting persons, the

report shall be submitted on the day the information is received. In addition, all relevant materials and documents available to the Insurance Organization and Founder of Non-State Pension Scheme shall be forwarded to the FMS.

5. If due to objective reasons the special reporting form cannot be presented within the set period of time, defined under Section 4 of this Article, information available to the Insurance Organization and Founder of Non-State Pension Scheme shall be submitted through existing communication means (telephone, fax and e-mail). However, no later than the next working day from the moment the information is received, the Insurance Organization and Founder of Non-State Pension Scheme shall be obligated to submit completed special reporting form indicating communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.
6. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Financial Monitoring Service of Georgia in a sealed envelope by the authorized employee of the Insurance Organization and Founder of Non-State Pension Scheme. If it is impracticable, documents shall be sent as registered mail. Name and address of the sender Insurance Organization and Founder of Non-State Pension Scheme shall be written on the envelope, as well as the addressee – Financial Monitoring Service of Georgia. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
7. Electronic version of the special reporting form, as well as initial information on operations (transactions) subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.
8. Information on operations (transactions) subject to monitoring shall be sent to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.
9. Decision on completion of the special reporting form and submission to the FMS shall be made by the employee of the Insurance Organization and Founder of Non-State Pension Scheme who, according to the internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme, is in charge of monitoring (in case of special structural unit, its supervisor).
10. Special reporting forms shall be completed only by those employees of the Insurance Organization and Founder of Non-State Pension Scheme, who are authorized under the internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme.
11. Special reporting forms shall be prepared in two copies and each of them certified with the signature of the employee (employee in charge of monitoring, in case of special structural unit – its supervisor, or administrator of the Insurance

Organization and Founder of Non-State Pension Scheme supervising monitoring issues) designated under the internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme, and if provided by the internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme – with a seal. One copy of the form shall be presented to the Financial Monitoring Service of Georgia, and the other copy shall be retained in compliance with the rule and time period set by the Article 8 of this Regulation.

12. The Insurance Organization and Founder of Non-State Pension Scheme shall maintain register of special reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of special reporting forms shall be consistent during each year and reflected in a special journal, pages of which are numbered.
13. Reporting form shall be filled completely. If the Insurance Organization and Founder of Non-State Pension Scheme do not have any information required in the form, the following shall be written in: “we do not have information.” If due to peculiarities of the specific operation (transaction), it is not necessary to fill in any of the boxes, “----“ shall be written in.
14. If there is not sufficient space for writing full information available to the Insurance Organization and Founder of Non-State Pension Scheme, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet form and box numbers shall be indicated, to which report the information should be attached. Each additional sheet shall be certified with a signature of the employee (supervisor of the structural unit) in charge of monitoring.
15. For organizational formations considered under legislation, which do not represent legal entities (including state departments), boxes allocated for legal entities shall be filled in.
16. In the event of revealing suspicious operation (transaction) and submitting related special reporting form to the FMS, the Insurance Organization and Founder of Non-State Pension Scheme shall be obligated to focus special attention on other operations (transactions), implemented by persons involved in this particular operation (transaction).
17. Pursuant to Subsection “a”, Section 4, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, the Financial Monitoring Service of Georgia shall be authorized to request additional information from the Insurance Organization and Founder of Non-State Pension Scheme and available documents (including confidential) in relation to any operation (transaction) and persons involved therein, including those operations (transactions) on which special reporting forms have not been presented to the Financial Monitoring Service of Georgia. The Insurance Organization and Founder of Non-State Pension Scheme shall be obligated to submit requested information to the FMS within two working days from the moment of receiving the request.



18. If the Insurance Organization and Founder of Non-State Pension Scheme reveal any additional information, with respect to the operation (transaction) or parties thereto, after the report is sent, it shall immediately forward this information to the Financial Monitoring Service. Also, the additional information shall contain number and submission date of the special reporting form, to which the information should be added. The additional information shall be presented in the special reporting form if necessary.
19. The Insurance Organization and Founder of Non-State Pension Scheme are obliged to strictly observe confidentiality of form completion, submission to the FMS and the related information. In case of suspicion regarding the operation, transaction or parties thereto, and in the event of completion of the special reporting form and submission to the FMS, persons involved in the operation (transaction), their representatives and any other persons shall not be informed. The employee of the Insurance Organization and Founder of Non-State Pension Scheme, who reveals suspicious operation (transaction) or completes the special reporting form, shall disclose this information only to those employees that are authorized to keep such information according to the internal regulation of the Insurance Organization and Founder of Non-State Pension Scheme.

Article 10. Loading Information on the Insurance Organizations and Founders of Non-State Pension Scheme to the Data Base of the Financial Monitoring Service of Georgia

1. For the purpose of systemization and analysis of the information received by the FMS on operations (transactions) subject to monitoring and pursuant to the Subsection “a”, Section 5, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation”, the Financial Monitoring Service of Georgia shall establish an electronic database. For inputting the information to the database on each Insurance Organization and Founder of Non-State Pension Scheme, Insurance Organization and Founder of Non-State Pension Scheme shall submit “form for registration of Insurance Organization and Founder of Non-State Pension Scheme in the Financial Monitoring Service of Georgia” (Annex N2 of the regulation). The form shall be fully completed and certified with a signature of the administrator of Insurance Organization and Founder of Non-State Pension Scheme.
2. In the event of changes in information (as well as replacement of the employee in charge of monitoring) presented in the form for registration of the Insurance Organization and Founder of Non-State Pension Scheme in the FMS, the Insurance Organization and Founder of Non-State Pension Scheme` shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

Article 11. Responsibilities Related to Monitoring

1. State Insurance Supervision Service of Georgia shall supervise compliance of the Insurance Organization and Founder of Non-State Pension Scheme with norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation” and this Regulation.



2. For violation of norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income LegalizationLegalisation” and this Regulation, the sanctions shall be used against the Insurance Organization and Founder of Non-State Pension Scheme in compliance with procedure set by the National State Insurance Supervision Service of Georgia.

## **22. Decree N 96 on Approval of the Regulation on Receiving, Systemizing and Processing the Information by Currency Exchange Bureaus and Forwarding to the Financial Monitoring Service of Georgia**

FINANCIAL MONITORING SERVICE OF GEORGIA

Tbilisi, 30 July 2004

Pursuant to the Articles 10, 15 of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” I Decree:

1. Approve the attached Regulation “On Receiving, Systemizing and Processing the Information by Currency Exchange Bureaus and Forwarding to the Financial Monitoring Service of Georgia”.
2. Regulation “On Receiving, Systemizing and Processing the Information by Currency Exchange Bureaus and Forwarding to the Financial Monitoring Service of Georgia” shall become effective from September 1, 2004.
3. Regulation on Approving the Regulation on Receiving, Recording and Processing the Information by the Georgian Currency Exchange Bureaus and Forwarding to the Financial Monitoring Service of Georgia approved under Decree #25 of December 29, 2003 shall become null and void from the effective date of this regulation.
4. Currency Exchange Bureaus shall :
  - a) Submit “Form on registration of Currency Exchange Bureaus in the Financial Monitoring Service of Georgia” (Attachment 2), considered under Regulation “On Receiving, Systemizing and Processing the Information by Currency Exchange Bureaus and Forwarding to the Financial Monitoring Service of Georgia”, to the Financial Monitoring Service of Georgia within 30 days from the effective date of this Decree.
  - b) Ensure putting in action of e-mail and an electronic data base containing identification details of clients and the relevant persons and information on transactions subject to monitoring within the set time frame; ensure implementation of the relevant software for revealing operations (currency trading) aimed at partition of the transaction.
5. Currency Exchange Bureaus, which commence their operation after the effective date of this Decree, shall take into consideration requirements of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” and the Regulation “On Receiving, Systemizing and Processing the Information by Currency Exchange Bureaus and Forwarding to the Financial Monitoring Service of Georgia” and submit “Form on registration of Currency Exchange Bureaus in

the Financial Monitoring Service of Georgia” to the FMS within one month period from the receipt of the License from the National Bank of Georgia.

6. This decree shall become effective upon promulgation.

N. Geguchadze

Approved under Decree # 96  
of the Head of the Financial  
Monitoring Service of Georgia,  
July 30, 2004

## REGULATION

On Approving the Regulation on Receiving, Systemizing and Processing the Information by Currency Exchange Bureaus and Forwarding to the Financial Monitoring Service of Georgia

### Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, Decree #354 of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” of July 16, 2003 and other relevant normative acts of Georgia.
2. This regulation shall apply to Currency Exchange Bureaus (hereinafter referred to as “Currency Exchange Bureau”) of physical persons and legal entities operating on the territory of Georgia.
3. Requirements of this regulation shall apply to Georgian resident and non-resident entities, their representatives, missions and branches.
4. This regulation shall regulate general principles and rules of financial monitoring conducted for the purpose of preventing illicit income legalisation and terrorism financing by the Currency Exchange Bureaus, specifically, terms and procedures for identification of clients of the Currency Exchange Bureau and other relevant persons, and rules for receiving, systemizing, processing and filing the respective information and forwarding to the Financial Monitoring Service of Georgia.

### Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;

- b) Legalisation of illicit income –legalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;
- c) Monitoring – identification of clients and representatives by the Currency Exchange Bureau; recording, systemizing and processing the information on currency trading transactions subject to monitoring, and forwarding to the Financial Monitoring Service of Georgia;
- d) Suspicious transaction – a foreign exchange trading transaction (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income, or the clients of the Currency Exchange Bureau is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the client (his/her representative) is located in the non-cooperative area;
- e) Person – any resident and non-resident physical persons and legal entities, as well as organizational formation considered under legislation, which does not represent a legal entity (unregistered union, partnership, partnership of apartment owners);
- f) Clients of the Currency Exchange Bureau – physical persons and legal entities (as well as organizational formations considered under legislation, which does not represent a legal entity), which apply to the Currency Exchange Bureau for implementing foreign exchange trading transaction.
- g) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity (organizational formation considered under the legislation, which does not represent legal entity) and its representational authority by means of the registration- and establishment-confirming documents.
- h) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia, based on the information from the competent international organization;
- i) Off-shore area – a country or a part of the territory thereof, where preferential taxation regime exists or/and where requirements for identification of parties to the transaction do not comply with international standards, which are recognized as such by the International Organizations.
- j) Financial Monitoring Service – legal entity of the public law established pursuant to the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, which exercises its authority granted under this Law and the respective normative acts.

- k) Employee in charge of monitoring – employee of the Currency Exchange Bureau, who on the basis of the legalized resolution of the owner of the Currency Exchange Bureau is charged with the responsibility to ensure conducting monitoring activities and the respective duties. If the owner of the Currency Exchange Bureau is a physical person, he may undertake activities related to monitoring. In such event the owner of the Currency Exchange Bureau shall be considered as an employee in charge of monitoring.

### Article 3. Foreign Exchange Operations (Transactions) Subject to Monitoring

1. For purposes of this Regulation, transaction subject to monitoring, shall be an implemented foreign exchange trading operation or the series of operations aimed at partition of the operation amount if one or both of the following provisions exist:
  - a) Foreign exchange trading operation (series of operations) is suspicious (regardless the amount) according to Subsection “d”, Article 2 of this regulation;
  - b) The amount of the foreign exchange trading operation implemented by the person or the series of operations aimed at partition of operation amount exceeds GEL 30,000, or its equivalent in other currency.
2. Operation, other than listed in Section 1 of this Article, shall be subject to monitoring, if there is a supposition that any party of the operation is on the list of terrorists and persons supporting terrorism or may be related to the terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be sent to Currency Exchange Bureau by the FMS and published in the newspaper - “Sakartvelos Sakanonmdeblo Macne”.
3. Subject to monitoring also shall be concluded or attempted operation and other fact (circumstance), which, according to the written instructions of the FMS, may be related to legalisation of illicit income or financing terrorism.

### Article 4. Obligations of Currency Exchange Bureaus with Respect to Implementation of Control

1. Procedure of control over enforcement of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and normative acts (including the present regulation) adopted on its basis by the Currency Exchange Bureaus shall be approved under the normative act of the National Bank of Georgia in accordance with the Section 7, Article 8 of the Law.
2. Implementation of control shall include the following:
  - a) Identification of clients (their representatives) of the Currency Exchange Bureau;
  - b) Analyzing the information obtained through identification and revealing operations subject to monitoring;
  - c) Documenting, systemizing and filing the information;

- d) Submission of the information on operations subject to monitoring to the Financial Monitoring Service of Georgia in the special reporting form;
3. The normative act considered under the Section 1 of this Article shall define: rules and conditions for recording, systemizing, analyzing and filing the information obtained through identification of clients (representatives) of the Currency Exchange Bureau, as well as rules and conditions for submission of special reporting forms related to foreign exchange trading operations subject to monitoring to the FMS; obligations and responsibilities of Currency Exchange Bureau; functions, authority and responsibility of the employee in charge of monitoring.

#### Article 5. Functions and Obligations of the Owner of Currency Exchange Bureau with Respect to Monitoring

The owner of the Currency Exchange Bureau shall be obligated to:

- a) Ensure fulfillment of norms set under the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation and the normative act of the National Bank of Georgia as well as of guidelines defined by the FMS by the Currency Exchange Bureau and created necessary conditions (including equipping the Currency Exchange Bureau with appropriate technical facilities and software, means for safe storing information and documents etc.);
- b) Designate an employee in charge of monitoring on the basis of appropriately legalized resolution and assign him/her to fulfill the respective functions (if the owner is a physical person, he may perform these functions himself);
- c) Under the appropriately legalized resolution define procedures for considering foreign exchange trading operations as suspicious and/or aimed at partition of the operation as well as procedures for decision-making on submission of reporting forms to the FMS and granting the authority to sign reporting forms and other materials related to monitoring process;
- d) Ensure conducting the monitoring process in a way that clients (their representatives) of the Currency Exchange Bureau are not aware that their activities are being monitored (with respect to suspicious or disintegrated operations).

#### Article 6. Obligations of Currency Exchange Bureau with respect to Identification of Clients

1. Pursuant to the Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” Currency Exchange Bureau shall be obligated to identify all clients and/or their representatives (if foreign exchange trading operation is implemented on behalf of other person).

2. Currency Exchange Bureau shall not be authorized to provide the client with services without preliminary identification.
3. In spite of supposition on equivocacy and amount of the transaction, the Currency Exchange Bureau shall serve the client, except for the following cases given in Section 4.
4. Currency Exchange Bureau shall not serve the client if:
  - a) Client and/or his/her representative can not be identified;
  - b) Client and/or his/her representative is on the list of terrorists or persons supporting terrorism.
5. In cases indicated in Subsection “b”, Section 4 of this Article, the Currency Exchange Bureau shall be obligated to immediately submit the relevant information and the respective reporting form, compiled in compliance with the Attachment 1 of this Regulation to the FMS.
6. Documents necessary for identification process shall be:
  - a) if the physical person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; if the physical person is registered as an individual entrepreneur – document confirming registration;
  - b) if the physical person is a foreign citizen – passport issued by the corresponding authority of the relevant State.
  - c) in case of resident legal entity or organizational formation which does not represent a legal entity (if foreign exchange trading operation is implemented on behalf of such organizational formation) – a court (or resolution of any other organ as determined by the Georgian legislation) resolution (or other relevant legal act or document) on registration (establishing) of a legal entity, or/and a record from a business register (or other relevant register).
7. Identification documents other than Citizen Identity Card and Passport shall be used only in cases when the physical person can not have ID or Passport.
8. Through the identification process the following details shall be documented on the client of the Currency Exchange Bureau :
  - a) In case of physical person:
    - a.a) Name;
    - a.b) Citizenship;



- a.c) Date of Birth;
- a.d) Place of residence;
- a.e) Number of ID (Passport) and citizen's personal number by ID (Passport);
- a.f) If the physical person is registered as individual entrepreneur – registration date, number, registering authority, identification number of tax payer.
  - b) In case of a legal entity (if foreign exchange trading operation is implemented on behalf of the legal entity):
    - b.a) Full name;
    - b.b) Subject of activities;
    - b.c) Legal address (in case of a branch or representative office, its address as well as address of head office);
    - b.d) Registering body, registration date and number;
    - b.e) Identification number of tax payer;
    - b.f) Identification details (in compliance with Subsection “a” of this Section) of persons authorized for management and representation (including person implementing foreign exchange trading operation on behalf of the legal entity);
      - c) In case of organizational formation considered under the legislation, which does not represent a legal entity (if the operation is implemented on behalf of such organizational formation):
        - c.a) Full name;
        - c.b) Legal address;
        - c.c) Legal act or other document based on which the organizational formation was created (has been operating);
        - c.d) Identification details (in compliance with Subsection “a” of this Section) of persons authorized for management and representation (including person who performs foreign exchange trading operation on behalf of the respective organizational formation).
- 9. I documents (information) presented to or existing in the Currency Exchange Bureau allow bank account details and actual address of the client shall be documented if different fro legal address (if the client is legal entity or organizational formation not representing legal entity).

Article 7. Obligations of Currency Exchange Bureau to Record Information (Documents) on Foreign Exchange Trading Operations Subject to Monitoring

1. Pursuant to the Section 4, Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Currency Exchange Bureau shall be obligated to record information on foreign exchange trading operation subject to monitoring.
2. Currency Exchange Bureau shall document the following information:
  - a) Date of implementation of operation;
  - b) Currencies in which foreign exchange trading operation is implemented and the corresponding amounts;
  - c) Exchange rate (if the operation is implemented in several currencies, the exchange rate shall be recorded by types of currencies);
  - d) If information is available – purpose and/or grounds for implementing the operation.
3. Identification details on clients (their representatives) of the Currency Exchange Bureau and information indicated in Section 2 of this article shall be recorded by means of a computer, and if Currency Exchange Bureau does not own computer, by making records in the special journal.

Article 8. Obligations of Currency Exchange Bureau to Keep Information (documents) Related to the Monitoring Process

1. Currency Exchange Bureau shall be obligated to keep identification details of their clients (their representatives) as well as information on foreign exchange trading operations subject to monitoring for the period of not less than 5 years from the moment of implementing the transaction, unless the Georgian legislation sets a longer term for the retention of such information (documents). In addition, information as well as documents (copies thereof) shall be retained in documentary, as well as electronic form (e.g. using electronic data base) for the above-noted period.
2. Subject to retention for the period of five years shall be:
  - a. Second copies of receipts for foreign exchange (operations subject to monitoring);
  - b. Reporting forms (printed or hand written, as well as electronic) submitted to the FMS in conformance with the Article 9 of this Regulation and Article 9 of the law of Georgia on Facilitating Prevention of Illicit Income Legalisation”
3. If the amount of foreign exchange trading operation exceeds GEL 30,000 or its equivalent in other currency, Currency Exchange Bureau shall be obligated to retain copies of the client’s identification documents for the period of five years from the moment of implementing the transaction. In addition, copies of documents shall be certified by the notary or the authorized employee of Currency Exchange Bureau so that it is clear who and when certified the copy. In order to ensure fulfillment of this requirement, the owner of the Currency Exchange Bureau shall designate an employee under appropriately legalized resolution who will be authorized to certify the copy.

4. The information (documents) retained in the Currency Exchange Bureau shall fully reflect the implemented foreign exchange trading operation and identification details of the respective clients (their representatives). In addition, information shall be systemized, recorded and maintained in a way, that when needed (to be used as an evidence in criminal, civil or arbitrary proceedings) it can be found and retrieved in a shortest period of time.
5. Currency Exchange Bureau shall ensure confidentiality of the retained documents and information.

#### Article 9. Obligations of Currency Exchange Bureau to Present Reporting Forms on Foreign Exchange Operations Subject to Monitoring

1. Pursuant to the Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Currency Exchange Bureau shall be obligated to submit written notices to the Financial Monitoring Service of Georgia, related to foreign exchange trading operations subject to monitoring.
2. Written notices submitted to the Financial Monitoring Service of Georgia shall be compiled in compliance with the “Reporting Form on Foreign Exchange Trading Operation Subject to Monitoring (hereinafter referred to as “Reporting Form”) (Annex N1 of this Regulation).
3. Reporting forms shall be presented (completed and sent) to the FMS in documentary, as well as electronic form if the Currency Exchange Bureau possesses the respective technical means.
4. The following time periods shall be set for submission of reporting forms to the Financial Monitoring Service of Georgia:
  - a) If the amount of foreign exchange trading operation or series of operations exceeds GEL 30,000 or its equivalent in other currency, the report shall be submitted within three working days from the moment of implementing the operation;
  - b) If the foreign exchange trading operation is considered as suspicious, or there is the grounded supposition that the operation represents a part of the series of operations aimed at partition, the report shall be submitted within three working days from the moment supposition on suspiciousness arose.
  - c) If the supposition exists that the client of the Currency Exchange Bureau is related to terrorists or terrorism-supporting persons, the report shall be submitted on the day the information is received. In addition, all relevant materials and documents available to the Currency Exchange Bureau shall be forwarded to the FMS.
5. If due to objective reasons the special reporting form cannot be presented within the set period of time, defined under Section 4 of this Article, information available to the Currency Exchange Bureau shall be submitted through existing communication means (telephone, fax and e-mail). However, no later than the

next working day from the moment the information is received, the Currency Exchange Bureau shall be obligated to submit completed special reporting form indicating communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.

6. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Financial Monitoring Service of Georgia in a sealed envelope by the authorized employee of the Currency Exchange Bureau, through mail or as a registered letter. Name and address of the sender Currency Exchange Bureau shall be written on the envelope, as well as the addressee – Financial Monitoring Service of Georgia. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
7. Electronic version of the special reporting form, as well as initial information on foreign exchange trading operations subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.
8. Information on foreign exchange trading operations subject to monitoring shall be sent to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.
9. Reporting forms shall be prepared in two copies and each of them certified with the signature of the person, who under the appropriately legalized resolution of the owner of the Currency Exchange Bureau is authorized to sign the reporting forms. One copy of the form shall be presented to the Financial Monitoring Service of Georgia, and the other copy shall be retained in the Currency Exchange Bureau for no less than five years.
10. The Currency Exchange Bureau shall maintain register of reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of reporting forms shall be consistent during each year.
11. Reporting form shall be filled completely. If the Currency Exchange Bureau does not have any information required in the form, the following shall be written in: “we do not have information.” If due to peculiarities of the specific operation (transaction), it is not necessary to fill in any of the boxes, “----“shall be written in.
12. If the client (his/her representative) of the Currency Exchange Bureau simultaneously performs purchase and sale of more than one kind of foreign currency and these operations are subject to monitoring, the part of the reporting form, which reflects information on purchase/sale (amount of currency exchanged and to be exchanged, type of currency, exchange rate etc.) of the currency shall be filled separately for exchangeable and/or exchanged currency (by components of currency purchase/sale operation).

13. If there is not sufficient space for writing full information available to the Currency Exchange Bureau, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which report the information should be attached. Each additional sheet shall be certified with a signature of the employee who is authorized under the appropriately legalized resolution of the owner of Currency Exchange Bureau.
14. For organizational formations considered under legislation, which do not represent legal entities, boxes allocated for legal entities shall be filled in.
15. Pursuant to Subsection “a”, Section 4, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall be authorized to request additional information from the Currency Exchange Bureau and available documents (including confidential) in relation to any foreign exchange trading operation and clients (representatives) of the Currency Exchange Bureau, including those operations on which special reporting forms have not been presented to the Financial Monitoring Service of Georgia. The Currency Exchange Bureau shall be obligated to submit requested information to the FMS within two working days from the moment of receiving the request.
16. If the Currency Exchange Bureau reveals any additional information, with respect to the relevant operation or clients of the Currency Exchange Bureau, after the report is sent, it shall immediately forward this information to the Financial Monitoring Service. Also, the additional information shall contain number and submission date of the reporting form, to which the information should be added. The additional information shall be presented in the special reporting form if necessary.
17. The Currency Exchange Bureau is obliged to strictly observe confidentiality of form completion, submission to the FMS and the related information. In case of suspicion regarding the foreign exchange trading operation, completion of the special reporting form and submission to the FMS, the client of the Currency Exchange Bureau or any other persons shall not be informed. The employee of the Currency Exchange Bureau, who reveals suspicious foreign exchange trading operation or completes the special reporting form, shall disclose this information only to those persons (employees of the Currency Exchange Bureau and/or its owner) that are authorized to keep such information according to the appropriately legalized resolution of the Currency Exchange Bureau.

#### Article 10. Inputting Information on Currency Exchange Bureaus in the FMS Database

1. For the purpose of systemization and analysis of the information received by the FMS on foreign exchange trading operations subject to monitoring and pursuant to the Subsection “a”, Section 5, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall establish an electronic database. For inputting the information to the database on each Currency Exchange Bureau, the Currency Exchange Bureau shall submit “form for registration of Currency

Exchange Bureaus in the Financial Monitoring Service of Georgia” (Annex N2 of the regulation). The form shall be fully completed and certified with a signature of the owner of Currency Exchange Bureau (if the owner is a legal entity- with the signature of its manager).

2. In the event of changes in information (as well as replacement of the employee in charge of monitoring) presented in the form for registration of Currency Exchange Bureaus in the FMS, the Currency Exchange Bureau shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

#### Article 11. Responsibilities Related to Monitoring

1. National Bank of Georgia shall supervise compliance of the Currency Exchange Bureau with norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation.
2. For violation of norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation, the sanctions shall be used against the Currency Exchange Bureau in compliance with procedure and at the amount set by the National Bank of Georgia.

## **23. Decree N. 101 on Approving the Regulation on Receiving, Systemizing and Processing the Information by Brokerage Companies and Forwarding to the Financial Monitoring Service of Georgia**

FINANCIAL MONITORING SERVICE OF GEORGIA

Tbilisi, 3 August 2004

On Approving the “Regulation on Receiving, Systemizing and Processing the Information by the Brokerage Companies and Forwarding to the Financial Monitoring Service of Georgia” and “Regulation on Receiving, Systemizing and Processing the Information by the Securities Registrars and Forwarding to the Financial Monitoring Service of Georgia”

Pursuant to the Articles 10, 15 of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” I Decree:

1. Approve the attached Regulation “On Receiving, Systemizing and Processing the Information by Brokerage Companies and Forwarding to the Financial Monitoring Service of Georgia”.
2. Approve the attached Regulation “On Receiving, Systemizing and Processing the Information by Securities Registrars and Forwarding to the Financial Monitoring Service of Georgia”.
3. These Regulations shall become effective from September 1, 2004.
4. Regulation on Approving the Regulation on Receiving and Processing the Information by the Brokerage Companies and Securities Registrars and Forwarding to the Financial Monitoring Service of Georgia approved under Decree 39 of January 30, 2004 shall become null and void from the effective date of this regulation.
5. Brokerage Companies and Securities Registrars shall :
  - a) Submit “Form on registration of Brokerage Companies in the Financial Monitoring Service of Georgia” and “Form on registration of Securities Registrars in the Financial Monitoring Service of Georgia” to the Financial Monitoring Service of Georgia within 10 days from the effective date of this Decree.
  - b) Ensure putting in action of an electronic data base containing identification details of clients and the relevant persons and information on transactions subject to monitoring and implementation of the relevant software for revealing suspicious transactions and transactions aimed at partition of transaction within timeframe set under the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation”.



6. Brokerage companies and securities registrars licensed after the effective date of this decree, shall take into consideration requirements approved under the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” and this regulation and submit to the FMS “Registration form of the brokerage company in the Financial Monitoring Service of Georgia” and “Registration form of the securities registrar in the Financial Monitoring Service of Georgia” within one month from obtaining the license.
7. This decree shall become effective upon promulgation.

N. Geguchadze

Approved under Decree 101  
of the Head of the Financial  
Monitoring Service of Georgia,  
August 3, 2004

## REGULATION

On Approving the Regulation on Receiving, Systemizing and Processing the Information by Brokerage Companies and Forwarding to the Financial Monitoring Service of Georgia

### Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” (hereinafter referred to as “the Law”), Law of Georgia “On Securities Markets”, Decree N354 of July 16, 2003 of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” and other relevant normative acts of Georgia.
2. This regulation shall apply to Brokerage Companies licensed by the National Commission of Securities of Georgia (hereinafter referred to as “Commission”).
3. This regulation shall regulate general conditions and rules for receiving, systemizing, processing and filing the relevant information by the brokerage company and forwarding to the Financial Monitoring Service of Georgia (hereinafter referred to as “the Service”).

### Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings defined under the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and legislation on securities:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade,

drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;

- b) Legalisation of illicit income –legalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;
- c) Monitoring – identification of transactions subject to monitoring, as well as identification of persons involved in operations by the brokerage company; recording, systemizing and processing the information on transactions and/or operations subject to monitoring and forwarding to the Financial Monitoring Service of Georgia in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation and procedure prescribed by the other normative acts adopted (issued) on the basis of the Law;
- d) Concluded transaction – agreement concluded between the brokerage company and person(s) having business relationship with the company such as client of the brokerage company, representative of the client, agent or/and third person in whose favor transaction is being concluded), for the purpose of implementing transaction(s) considered under the Law on Securities.
- e) Implemented transaction – Stock Exchange or Non-Stock Exchange transaction(s) implemented in compliance with the Law on Securities.
- f) Suspicious transaction – a transaction and/or operation (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained, person involved in transaction and/or operation can not be identified etc.), or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the person taking part in the transaction is located in the non-cooperative area; or amount is transferred to or from the non-cooperative area;
- g) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity (organizational formation considered under the legislation, which does not represent legal entity) and its representational authority by means of the registration- and establishment-confirming documents.
- h) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia, based on the information from the competent international organizations.

- i) Off-shore area – a country or a part of the territory thereof where preferential taxation regime exists or/and where requirements for identification of parties to the transaction do not comply with international standards, which are recognized as such by the International Organizations.

### Article 3. Transactions Subject to Monitoring

1. For purposes of this Regulation, transaction subject to monitoring, shall be an implemented or concluded transaction by the person and proceeding from this transaction operation related to securities or the series of transactions and/or operations aimed at partition of the transaction and/or operation, if one or both of the following provisions exist:
  - a) The amount of the transaction exceeds GEL 30,000, or its equivalent in other currency (in case of cash as well as non-cash settlements);
  - b) Transaction and/or operation is suspicious according to Subsection “f, Article 2 of this regulation;
2. Any transaction and/or operation other than transaction and/or operation listed in Section 1 of this Article shall be subject to monitoring, if there is a supposition that any party of the transaction is related to the terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be sent to the Brokerage Company (or shall be published in the newspaper - “Sakartvelos Sakanonmdeblo Macne”) by the FMS.
3. Pursuant to definition of terms set under the Law, for purposes of this Regulation, grounds for regarding the transaction as suspicious by brokerage companies may be the following:
  - d) Price of the transaction for securities quoted at stock exchange differs by 40% or more from officially quoted price;
  - e) Securities are given as a gift to a person not representing the kindred of the first degree (kindred of the first degree are: spouse, children, grandchildren, parents, grandmother, grandfather, sister, brother);
  - f) Person participating in the transaction is prohibited by the charter to carry out transactions with securities.
  - g) Buying broker can not ascertain origin of the money:
    - f.a) amount is transferred from a person registered in a non-cooperative or off-shore area;
    - f.b) it is not clear from whose account the amount is transferred from;
    - f.c) amount is deposited/transferred from a third person (not transaction participant), whose identification has not been conducted;
  - e) Origin of securities is impossible to ascertain for the selling broker:
    - e.a) securities are transferred from a person registered in a non-cooperative area;
    - e.b) it is not clear from whose account the securities are transferred from;

- e.c) deposited/transferred from a third person (not transaction participant) whose identification has not been carried out;
- f) The process of identification reveals that the transaction participant is on the list of terrorists and persons supporting terrorism sent to the Brokerage Company by the Financial Monitoring Service of Georgia;
- g) It is obvious that the transaction has been concluded and/or operation implemented for the purpose of disintegrating the transaction and therefore evading requirements of the Law.
- h) Subject to monitoring also shall be attempt to conclude or implement transaction and any other fact (circumstance), which, according to the written instructions of the FMS, may be related to legalisation of illicit income or financing terrorism.

#### Article 4. Obligations of Brokerage Companies with Respect to Implementation of Internal Control

1. Pursuant to the Section 7, Article 8 of the Law, terms and procedures of control over fulfillment of requirements of this Law and normative acts (including the present regulation) adopted on its basis shall be defined under the normative act of the Commission in agreement with the Service.
2. Implementation of internal control shall include the following:
  - a) Identification of all persons and participants involved in transaction subject to monitoring, which is related to the Brokerage Company;
  - b) Analyzing the information obtained through identification and revealing transactions subject to monitoring, recording, systemization and filing such information;
  - c) Submission of the information on transactions subject to monitoring to the Brokerage Company in the special reporting form;
  - d) Functions, responsibilities and duties of the person in charge of monitoring.
3. For the purpose of fulfillment of requirements of the law and normative acts adopted on its basis including duties and responsibilities defined under Section 1 of this law, General Director of the Brokerage Company shall issue correspondingly legalized act determining authority of the specific employees, if the Brokerage Company is able to allocate functions among two or more employees.
4. General Director (Director) of the Brokerage Company shall be responsible for fulfillment of duties defined under the law and Normative Acts adopted on its basis as well as for taking the respective measures.

5. If the responsible person is not present due to certain reasons (vacation, business trip and etc.), he/she shall be obligated to transfer his/her duties to the respective employee of the company under the legalized document and inform the Service according to the established procedure.

Article 5. Obligations of Brokerage Companies with respect to Identification and Registration of Identification Details (Documents)

1. Pursuant to the Article 6 of the Law, the Brokerage Company shall be obligated to identify all persons having the business relationship with the Company (their representatives, agents, as well as the third person in whose favor transaction is concluded).
2. Identification process shall be conducted in compliance with the Law, this regulation and guidelines of the Service.
3. Brokerage Company shall not be authorized to provide the client with services or establish business relationship with the person without preliminary identification of this person in conformance with the law and normative acts issued on its basis.
4. In spite of supposition on equivocacy and amount of the transaction, the Brokerage Company shall not suspend implementation of the transaction and/ or operation (providing services to the person (client) having the business relationship with the company), except for the following cases:
  - a) Person (client) willing to establish business relationship with the Brokerage Company can not be identified;
  - b) Any party of the transaction is on the list of terrorists or persons supporting terrorism.
5. In cases indicated in Subsections “a” and “b”, Section 4 of this Article, the Brokerage Company shall be obligated not to serve the person (establish business relationship with the person), and in the case considered in Subsection “b”, Section 4 of this Article, immediately submit the special reporting form and/or the available documents to the FMS.
6. The following information, on all persons taking part in the transaction, shall be obtained through the identification process:
  - a) in case of physical person:
    - a.a) First name, last name;
    - a.b) Citizenship;
    - a.c) Date of birth;
    - a.d) Permanent (registered) place of residence;

- a.e) Number of ID (Passport) and citizen's personal number by ID (Passport);
- a.f) If the physical person is registered as an individual entrepreneur – the relevant registration date, number, registering authority, identification number of tax payer;
  - b) In case of legal person:
    - b.a) Full name;
    - b.b) Business activity;
    - b.c) Legal address (in case of the branch or representation the legal address of the head office also);
    - b.d) Registering authority, Date and number of registration;
    - b.e) Identification number of tax payer;
    - b.f) Identification details of persons authorized for management and representation (in conformance with Subsection “a” of this Section);

7. Documents necessary for identification process shall be:

- a) if the physical person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; if the physical person is registered as an individual entrepreneur – document confirming registration;
- b) if the physical person is a foreign citizen – passport issued by the corresponding authority of the relevant State.
- c) in case of resident legal entity (or organizational formation which does not represent a legal entity) – a court resolution (or resolution of any other organ as determined by the Georgian legislation, or other relevant legal act) on registration of a legal entity, or/and a record from a business register (or other relevant register).
- d) Documents issued by the relevant authorities of foreign countries, presented by non-resident legal person for identification, shall be legalized in compliance with the procedure set under the Georgian legislation.

8. If documents (information) stored in or presented to the Brokerage Company allow, in addition to the information listed in Subsections “a”, “b” and “c”, Section 6 of this Article the following details shall be documented:

- a) In case of physical person:
  - a.a) Patronymic;

- a.b) Place of birth, ID issuing authority and date of issuance;
  - a.c) Temporary (real) place of residence (in Georgia as well as abroad), if different from registered place of residence;
  - a.d) Main business activity and position held;
  - a.e) Bank account (accounts) details (name of banking institution, type of account, number of account, date of opening (closing) account);
  - a.f) Tel/fax, e-mail.
- b) In case of legal entity:
- b.a) Founder and/or partner - Identification details on physical persons and legal entities owning 20% and more of the stock, share and etc;
  - b.b) Date of appointing persons authorized for management and representation;
  - b.c) Tel/fax, e-mail;
  - b.b) Bank account (accounts) details (name of banking institution, type of account, number of account, date of opening (closing) account).

Article 6. Obligations of Brokerage Companies to Record Information (Documents) on Transactions Subject to Monitoring

1. Pursuant to the Section 4, Article 6 of the Law, the Brokerage Company shall be obligated to record information on concluded and/or implemented transaction subject to monitoring.
2. Information on implemented or concluded transactions subject to monitoring with persons having the business relationship with the Brokerage Company shall be filled in the respective fields of the reporting form.
3. The Brokerage Company shall be obligated to record the following information (documents) on transaction concluded by the Company with the client:
  - a) Type of the concluded transaction according to the Law on Securities;
  - b) Form of transaction (verbal or written);
  - c) Subject of transaction concluded with securities (full name of issuer, class of securities, amount);
  - d) Value and currency of transaction;
  - e) Date and place of concluding transaction, transaction commencement and completion dates;
  - f) Purpose of concluded transaction;
  - g) Name (or first and last names) of the organ registering the concluded transaction, registration date and number (in case of registration in the state authority).



4. The Brokerage Company shall be obligated to record the following information (documents) on securities transactions (action provided for in the Law on Securities), proceeding from the transaction concluded with the client (under client's order):
  - a) Type of implemented transaction according to the Law on Securities;
  - b) Form of transaction;
  - c) Grounds for implementing transaction;
  - d) Subject of transaction implemented with securities (full name of the issuer, class of securities, amount);
  - e) Date of transaction implementation;
  - f) Value and currency of transaction;
  - e) Name of the registering authority (or first and last name), address; registration date and number (in case of registration in the state authority);
  - f) Identification details of all persons involved in a transaction, including:
    - f.a) Identification details of the person based on whose order Brokerage Company implements transaction. Including type, number and opening date (closing date if necessary) of the account, which is used for implementation of the specific transaction;
    - f.b) Information on the second party of the transaction, bank account details (e.g. in case of money transfer – name of the relevant banking institution, type and number of account);
    - f.c) Identification details of the person who acts under the order of the client (representative, agent) of the Brokerage Company, as well as content of the relevant power of attorney or procuracy, issuer, issuance date and validity period, person certifying power of attorney or procuracy (e.g. notary), date and place of certification;
      - g) If transaction is concluded in favor of the third person – identification details of the relevant person.
5. Brokerage Company shall be obligated to record information indicated in Sections 3 and 4 of this Article related to all those transactions and/or operations, which are subject to monitoring according to Article 5 of the Law and Article 3 of this regulation.
6. For the purpose of documenting, systemizing and filing the information indicated in Sections 3 and 4 of this Article, the Brokerage Company shall develop the relevant system.

#### Article 7. Obligations of Brokerage Companies to Keep Information (documents)

1. Brokerage Company shall be obligated to keep information (documents) presented for identification of a person for the period not less than 5 years from the moment of breaching business relationship with the person, while other information (documents) about transaction and/or operation subject to monitoring

- for no less than 5 years from the day the transaction and/or operation has been implemented, unless the Georgian legislation sets a longer term for the retention of such information (documents). In addition, information shall be retained in documentary, as well as electronic form (after establishing electronic data bases within the time frame set under the law).

2. Information (documents) on transaction and/or operation including those presented for the identification of an entity shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by a notary or an authorized employee of the Brokerage Company shall be maintained. For the purpose of complying with this requirement the Brokerage Company shall designate the person authorized under the relevant legal act to certify copies. The copy shall be certified in a way that it is clear who and when certified the copy.
3. In addition to the information indicated in Section 1 of this Article, subject to retention for the period of five years shall be special reporting forms (hard copies as well as electronic) submitted to the Financial Monitoring Service of Georgia pursuant to Article 9 of this regulation and Article 9 of the Law. Also, hard copies of reports retained in the Brokerage Company shall be certified with the signature of an employee in charge of monitoring, and if it is provided by the internal regulation of the Brokerage Company, with the seal of Brokerage Company.
4. The information (documents) retained in the Brokerage Company shall fully reflect the implemented transaction and/or operation and persons involved. In addition, information (document) shall be systemized, recorded and maintained in a way, that when needed it can be found and retrieved in a shortest period of time and in criminal cases used as evidence.

#### Article 8. Obligations of Brokerage Companies to Present Reporting Forms on Transactions and/or Operations Subject to Monitoring

1. Pursuant to the Article 9 of the Law, the Brokerage Company shall be obligated to submit written notices to the Financial Monitoring Service of Georgia, related to transactions and/or operations subject to monitoring defined under Article 3 of the Regulation, Article 5 of the Law.
2. Written notices submitted to the Financial Monitoring Service of Georgia shall be compiled in compliance with the special reporting attached to this regulation (Annex N1 of this Regulation).
3. Special reporting forms shall be presented to the FMS in documentary, as well as electronic form.
4. The following time periods shall be set for submission of special reporting forms to the Financial Monitoring Service of Georgia:
  - a) If the amount of transaction and/or operation exceeds GEL 30,000 or its equivalent in other currency, the report shall be submitted within three working days from the moment of implementing operation or concluding transaction (or from the moment of receiving information on such transaction);

- b) If the transaction and/or operation is considered as suspicious, the report shall be submitted within three working days from the moment supposition on suspiciousness arose.
  - c) If the supposition exists that any person involved in a transaction and/or operation is related to terrorists or terrorism-supporting persons, the report shall be submitted on the day the information is received. In addition to the reporting form, all relevant materials and documents available to the Brokerage Company shall be forwarded to the FMS.
5. If due to objective reasons the special reporting form cannot be presented within the set period of time, defined under Section 4 of this Article, information available to the Brokerage Company shall be submitted through existing communication means (telephone, fax and e-mail). However, no later than the next working day from the moment the information is received, the Brokerage Company shall be obligated to submit completed special reporting form indicating communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.
  6. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Service in a sealed envelope by the authorized employee of the Brokerage Company, by mail or as registered mail. Name and address of the sender Brokerage Company shall be written on the envelope, as well as the addressee – “Financial Monitoring Service of Georgia”. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
  7. Electronic version of the special reporting form, as well as initial information on transactions and/or operations subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.
  8. In cases considered in Section 5 of this Article, information on transactions and/or operations subject to monitoring shall be sent to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.
  9. Decision on completion of the special reporting form and submission to the FMS shall be made by the employee of the Brokerage Company, who, according to the resolution of the Company, is in charge of monitoring.
  10. Special reporting forms shall be prepared in two copies and each of them certified with the signature of the employee designated under the by-law of the Brokerage Company approved by the National Securities Commission of Georgia, and if provided by the by-law (or charter) of the Brokerage Company – with a company seal. One copy of the form shall be presented to the Financial Monitoring Service

of Georgia, and the other copy shall be retained in compliance with the rule and time period set by the Article 7 of this Regulation.

11. The Brokerage Company shall maintain register of special reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of special reporting forms shall be consistent during each calendar year and reflected in a special journal, pages of which are numbered. The sender Brokerage Company shall indicate in the respective fields the number of the form as well as the registration code of the Brokerage Company assigned by the FMS.
12. Reporting form shall be filled completely. If Brokerage Company does not have any information required in the form, the following shall be written in: “we do not have information.” If due to peculiarities of the specific transaction and/or operation, it is not necessary to fill in any of the boxes, “----“ shall be written in.
13. If there is not sufficient space for writing full information available to the Brokerage Company, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which report the information should be attached. Each additional sheet shall be certified with a signature of the employee in charge of monitoring and if the certification with the company seal is needed, the signature should be certified with the seal.
14. In the event of revealing suspicious transaction and/or operation and submitting related special reporting form to the FMS, the Brokerage Company shall be obligated to focus special attention on other transactions and/or operations, implemented by persons involved in this particular transaction and/or operation.
15. Pursuant to Subsection “a”, Section 4, Article 10 of the Law, the Service shall be authorized to request additional information from the Brokerage Company and available documents (including confidential) in relation to any transaction and persons involved therein, including those transactions on which special reporting forms have not been presented to the Service. The Brokerage Company shall be obligated to submit requested information to the FMS within two working days from the moment of receiving the request.
16. If the Brokerage Company reveals any additional information, with respect to the relevant transaction or parties thereof, after the report is sent, it shall forward this information to the Service according to the set procedure and time frame. Also, the additional information shall contain number and submission date of the special reporting form, to which the information should be added.
17. The Brokerage Company is obliged to strictly observe confidentiality of form completion, submission to the FMS and the related information. In case of suspicion regarding the transaction and/or operation or parties thereof, and in the event of completion of the special reporting form and submission to the FMS, the Brokerage Company shall not inform persons involved in the relevant transaction, their representatives and any other persons not having working relationship with facilitating prevention of illicit income legalisation. The employee of the Brokerage Company, who reveals suspicious transaction and/or operation or

completes the special reporting form, shall disclose this information only to those employees that are authorized to keep such information according to the resolution of the Brokerage Company.

#### Article 9. Registration of Brokerage Companies in the Service

1. For the purpose of systemization and analysis of the information received by the FMS on transactions and/or operations subject to monitoring, the Financial Monitoring Service of Georgia shall carry out registration of Brokerage Companies (their branches, representative offices) operating on the territory of Georgia. The Brokerage Company shall submit “form for registration of brokerage companies in the Financial Monitoring Service of Georgia” (Annex N2 of the regulation),. This form shall be completed and certified with signature of the Head of the Brokerage Company.
2. In the event of changes in information (as well as replacement of the employee in charge of monitoring) presented in the form for registration of Brokerage Companies in the FMS, the Brokerage Company shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

#### Article 10. Responsibilities Related to Monitoring

1. Commission shall supervise compliance of the Brokerage Company with norms and requirements of the Law and this Regulation.
2. For violation of norms and requirements of the Law and this Regulation, the sanctions set by the Commission shall be used against the Brokerage Company.

Approved under Decree 101  
of the Head of the Financial  
Monitoring Service of Georgia,  
August 3, 2004

#### REGULATION

On Approving the Regulation on Receiving, Systemizing and Processing the Information by Securities Registrar and Forwarding to the Financial Monitoring Service of Georgia

#### Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” (hereinafter referred to as “the Law”), Law of Georgia “On Securities Markets”, Decree N354 of July 16, 2003 of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” and other relevant normative acts of Georgia.

2. This regulation shall apply to Securities Registrars licensed by the National Commission of Securities of Georgia (hereinafter referred to as “Commission”).
3. This regulation shall regulate general conditions and rules for receiving, systemizing, processing and filing the relevant information by the Securities Registrar and forwarding to the Financial Monitoring Service of Georgia (hereinafter referred to as “the Service”).

## Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings defined under the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and legislation on securities:

- i. Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- ii. Legalisation of illicit income –legalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;
- iii. Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia, based on the information from the competent international organizations.
- iv. Suspicious transaction – a transaction and/or operation (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained, person involved in transaction and/or operation can not be identified etc.), or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the person taking part in the transaction is located in the non-cooperative area; or amount is transferred to or from the non-cooperative area;
- v. Off-shore area – a country or a part of the territory thereof where preferential taxation regime exists or/and where requirements for identification of parties to the transaction do not comply with international standards, which are recognized as such by the International Organizations.
- vi. Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity and its representational authority by means of the registration- and establishment-confirming documents.



- vii. Monitoring – identification of persons involved in transactions subject to monitoring by the Securities Registrar; recording, systemizing and processing the information on transactions subject to monitoring and forwarding to the Financial Monitoring Service of Georgia in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation and procedure prescribed by the other normative acts adopted on their basis;

### Article 3. Transactions Subject to Monitoring

1. For purposes of this Regulation, transaction subject to monitoring, shall be an implemented or concluded transaction by the person or the series of transactions aimed at partition of the transaction, if one or both of the following provisions exist:
  - a) The amount of the transaction exceeds GEL 30,000, or its equivalent in other currency (in case of cash as well as non-cash settlements);
  - b) Transaction and/or operation is suspicious according to Subsection “d”, Article 2 of this regulation;
2. Any transaction other than transactions listed in Section 1 of this Article shall be subject to monitoring, if there is a supposition that any party of the transaction is related to the terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be sent to the Securities Registrar or published in the newspaper - “Sakartvelos Sakanonmdablo Macne” by the FMS.
3. Pursuant to definition of terms set under the Law, for purposes of this Regulation, grounds for regarding the transaction as suspicious by Securities Registrar may be the following:
  - a) Securities are given as a gift to a person not representing the kindred of the first degree (kindred of the first degree are: spouse, children, grandchildren, parents, grandmother, grandfather, sister, brother);
  - b) Person participating in the transaction is prohibited by the charter to carry out transactions with securities.
  - c) n Buying broker can not ascertain origin of the money:
4. Subject to monitoring also shall be attempt to conclude or implement transaction and any other fact (circumstance), which, according to the written instructions of the FMS, may be related to legalisation of illicit income or financing terrorism.

### Article 4. Obligations of Securities Registrars with Respect to Implementation of Internal Control

Terms and procedures of control over fulfillment of requirements of this Law and normative acts (including the present regulation) adopted on its basis shall be defined under Article 8 of the Law.



Article 5. Obligations of Securities Registrars with respect to Identification and Registration of Information (Documents) on Transactions Subject to Monitoring

1. Pursuant to the Article 6 of the Law, the Securities Registrar shall be obligated to identify all persons having the business relationship with (their representatives, agents, as well as the third person in whose favor is concluded).
2. Identification process shall be conducted in compliance with the Law, this regulation and guidelines and recommendations of the Service.
3. Securities Registrar shall not be authorized to provide the client with services or establish business relationship with him/her without preliminary identification of such person.
4. In spite of supposition on equivocacy and amount of the transaction, the Securities Registrar shall not suspend implementation of the transaction (providing services to the person (client) having the business relationship with the company), except for the following cases:
  - a) If the person willing to establish business relationship with the Securities Registrar can not be identified, the Registrar shall refuse to serve the client;
  - b) If any party of the transaction is on the list of terrorists or persons supporting terrorism, the Registrar shall be obligated not to serve the client and immediately submit the special reporting form and/or the relevant information to the FMS.
5. Registrar shall be obligated to request submission of identification documents defined under the Law on Securities, as well as Regulation “On Receiving, Systemizing and Processing the Information by Brokerage Companies and Forwarding to the Financial Monitoring Service of Georgia” approved by the FMS. Acquaintance with these documents by the Securities Registrar shall be confirmed in writing and with signatures of the Registrar and authorized persons representing brokerage company, with indication of the respective date.
6. In case of non-stock exchange transaction (when the broker does not participate in a transaction related to securities) the Registrar shall be obligated to identify persons having business relationship with him/her in conformance with the law and Regulation “On Receiving, Systemizing and Processing the Information by Brokerage Companies and Forwarding to the Financial Monitoring Service of Georgia” approved by the FMS.
7. If identification documents (information) stored in or presented to the Securities Registrar allow, in addition to the information indicated in Section 5 of this Article, the following details shall be documented:
  - a) In case of physical person:
    - a.a) Patronymic;

- a.b) Place of birth,
- a.c) ID issuing authority and date of issuance;
- a.d) Temporary (real) place of residence (in Georgia as well as abroad), if different from registered place of residence;
- a.e) Main business activity and position held;
- a.f) Bank account (accounts) details;
- a.g) Tel/fax, e-mail.
- a.h) If the physical person is registered as individual entrepreneur – identification number of a tax-payer.
  - b) In case of legal entity:
    - b.a) Date of appointing persons authorized for management and representation;
    - b.b) Tel/fax, e-mail;
    - b.c) Bank account (accounts) details;
    - b.d) Identification details of physical persons and legal entities owning 20% and more of stock, share etc. of founder and/or partner of the legal entity involved in a transaction subject to monitoring;
- 8. Requirement for recording information shall apply to transactions implemented on the basis of the client's order;
- 9. Registrar shall be obligated to record the following information (documents) on transactions subject to monitoring in compliance with Article 3:
  - a) Form of transaction;
  - b) Type of transaction (e.g. acquisition, sale, gift and etc) according to the Law on Securities;
  - c) Basis of transaction;
  - d) Subject of transaction with securities (full name of an issuer and legal-organizational form, class of securities, number);
  - e) Purpose of transaction;
  - f) Value and currency of transaction;
  - g) Date and place of reflection in the securities register.
  - h) Information for identification of persons involved in a transaction presented by the Brokerage Company, including information for identifying those persons under whose order transaction is concluded or implemented; Information on the second party of the transaction; Identification details of the person who acts under the order concludes or implements transaction, as well as content of the relevant power of

attorney or procuracy, issuer, issuance date and validity period, person certifying power of attorney or procuracy (e.g. notary), date and place of certification;

- i) If transaction is concluded in favor of the third person – identification details of the relevant person.

10. Securities Registrar shall be obligated to record information indicated in Sections 3 and 4 of this Article related to all those transactions and/or operations, which are subject to monitoring according to Article 5 of the Law and Article 3 of this regulation.

11. For the purpose of documenting, systemizing and filing the information indicated in Sections 3 and 4 of this Article, the Securities Registrar shall develop the relevant system.

#### Article 6. Obligations of Securities Registrars to Keep Information (documents)

1. Securities Registrar shall be obligated to keep information (documents) presented for identification of a person, as well as signed and sealed copy (if charter or by-law of the registrar provides for certification with the seal) of the report submitted to the FMS for the period not less than 5 years from the moment of concluding or implementing transaction unless the Georgian legislation sets a longer term for the retention of such information (documents). In addition, information shall be retained in documentary, as well as electronic form (after establishing electronic data bases within the time frame set under the law).
2. Information (documents) on transaction shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by a notary or by a signature of an employee authorized by the General Director (or Director) of the Securities Registrar shall be maintained. If it is provided for in the charter or the regulation, the reporting form shall be certified with the registrar's seal. The copy shall be certified in a way that it is clear who and when certified the copy (date, month, year).
3. Securities Registrar shall record and systemize information (documents) in a way that it fully reflects the implemented transaction and when needed it can be found and retrieved in a shortest period of time and in criminal cases used as evidence.

#### Article 7 . Obligations of Securities Registrars to Present Reporting Forms on Transactions and/or Operations Subject to Monitoring

1. Pursuant to the Article 9 of the Law, the Securities Registrar shall be obligated to submit written notices (Reporting form N7 on transaction subject to monitoring) to the Financial Monitoring Service of Georgia, related to transactions defined under Article 3 of the Regulation, Article 5 of the Law.
2. Written notices submitted to the Financial Monitoring Service of Georgia shall be compiled in compliance with the special reporting form notices (Reporting form N7 on transaction subject to monitoring) attached to this regulation (Annex N1 of this Regulation).

3. Special reporting forms shall be presented to the FMS in documentary, as well as electronic form.
4. The following time periods shall be set for submission of special reporting forms to the Financial Monitoring Service of Georgia:
  - a) If the amount of transaction or series of transactions exceeds GEL 30,000 or its equivalent in other currency, the report shall be submitted within three working days from the moment of implementing operation or concluding transaction (or from the moment of receiving information on such transaction);
  - b) If the transaction is considered as suspicious, the report shall be submitted within three working days from the moment supposition on suspiciousness arose.
  - c) If the supposition exists that any person involved in a transaction and/or operation is related to terrorists or terrorism-supporting persons, the report shall be submitted on the day the information is received. In addition to the reporting form, all relevant materials and documents available to the Securities Registrar shall be forwarded to the FMS.
5. If due to objective reasons the special reporting form cannot be presented within the set period of time, defined under Section 4 of this Article, information available to the Securities Registrar shall be submitted through existing communication means (telephone, fax and e-mail). However, within three working days from the moment the information is received, the Securities Registrar shall be obligated to submit completed special reporting form indicating communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.
6. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Service in a sealed envelope by the authorized employee of the Securities Registrar, by mail or as registered mail. Name and address of the sender Securities Registrar shall be written on the envelope, as well as the addressee – “Financial Monitoring Service of Georgia”. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
7. Electronic version of the special reporting form, as well as initial information on transactions subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.
8. In cases considered in Section 5 of this Article, information on transactions and/or operations subject to monitoring shall be sent to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.

9. Decision on completion of the special reporting form and submission to the FMS shall be made by the employee of the Securities Registrar, who, according to the resolution of the Company, is in charge of monitoring.
10. Special reporting forms shall be prepared in two copies and each of them certified with the signature of the employee in charge and according to the Registrar's decision with the registrar's seal. One copy of the form shall be presented to the Financial Monitoring Service of Georgia, and the other copy shall be retained in compliance with the rule and time period set by the Article 6 of this Regulation.
11. The Securities Registrar shall maintain register of special reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of special reporting forms shall be consistent during each calendar year and reflected in a special journal, pages of which are numbered. The sender Securities Registrar shall indicate in the respective fields the number of the form as well as the registration code of the Securities Registrar assigned by the FMS.
12. Reporting form shall be filled completely. If Securities Registrar does not have any information required in the form, the following shall be written in: "we do not have information." If due to peculiarities of the specific transaction and/or operation, it is not necessary to fill in any of the boxes, "----" shall be written in.
13. If there is not sufficient space for writing full information available to the Securities Registrar, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which report the information should be attached. Each additional sheet shall be certified with a signature of the employee in charge of monitoring and if the certification with the company seal is needed, the signature should be certified with the seal.
14. If the person in charge of monitoring is absent due to objective reasons (vacation, business trip etc.), his/her duties shall be transferred to the respective employee of the Securities Registrar, which should be depicted in the respectively legalized document and the FMS shall be informed according to the set procedure.
15. In the event of revealing suspicious transaction and/or operation and submitting related special reporting form to the FMS, the Securities Registrar shall be obligated to focus special attention on other transactions implemented by persons involved in this particular transaction.
16. Pursuant to Subsection "a", Section 4, Article 10 of the Law, the Service shall be authorized to request additional information from the Securities Registrar and available documents (including confidential) in relation to any transaction and persons involved therein, including those transactions on which special reporting forms have not been presented to the Service. The Securities Registrar shall be obligated to submit requested information to the FMS within two working days from the moment of receiving the request.
17. If the Securities Registrar reveals any additional information (or additional information becomes available), with respect to the relevant transaction or parties

thereof, after the report is sent, it shall forward this information to the Service according to the set procedure and time frame. Also, the additional information shall contain number and submission date of the special reporting form, to which the information should be added.

18. The Securities Registrar is obliged to strictly observe confidentiality of form completion, submission to the FMS and the related information. In case of suspicion regarding the transaction and/or operation or parties thereof, and in the event of completion of the special reporting form and submission to the FMS, the Securities Registrar shall not inform persons involved in the relevant transaction, their representatives and any other persons not having working relationship with facilitating prevention of illicit income legalisation. The employee of the Securities Registrar, who reveals suspicious transaction and/or operation or completes the special reporting form, shall disclose this information only to those employees that are authorized to keep such information according to the resolution of the Securities Registrar.

#### Article 8. Registration of Securities Registrars in the Service

1. For the purpose of systemization and analysis of the information received by the FMS on transactions subject to monitoring, the Financial Monitoring Service of Georgia shall carry out registration of licensed Securities Registrars (their branches, representative offices). The Securities Registrar shall submit “form for registration of Securities Registrars in the Financial Monitoring Service of Georgia” (Annex N2 of the regulation),. This form shall be completed and certified with signature of the Head of the Securities Registrar.
2. In the event of changes in information presented in the form for registration of Securities Registrars (branch, representative office) in the FMS, the Securities Registrar shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

#### Article 9. Responsibilities Related to Monitoring

1. National Securities Commission of Georgia shall supervise compliance of the Securities Registrar with norms and requirements of the Law and this Regulation.
2. For violation of norms and requirements of the Law and this Regulation, the sanctions set by the Commission shall be used against the Securities Registrar.

## **24. Decree N. 94 Regulation on Approving the Regulation on Rule and Terms of Receiving, Systemizing and Processing the Information by Casinos and Forwarding to the Financial Monitoring Service of Georgia**

### FINANCIAL MONITORING SERVICE OF GEORGIA

Approved under Decree # 94  
of the Head of the Financial  
Monitoring Service of Georgia,  
July 28, 2004

#### Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, Decree # 354 of July 16, 2003 of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” and other relevant normative acts of Georgia.
2. This regulation shall apply to Casinos operating on the territory of Georgia.
3. Requirements of this regulation shall apply to Georgian resident and non-resident entities, their representatives, missions and branches.
4. This regulation shall regulate general principles and rules of financial monitoring conducted for the purpose of preventing illicit income legalisation and terrorism financing by the Casinos, specifically, terms and procedures for identification of the Casinos’ clients and other relevant persons, and rules for receiving, systemizing, processing and filing the relevant information and forwarding to the Financial Monitoring Service of Georgia.

#### Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- b) Property – property as considered under the Civil Code of Georgia;
- c) Legalisation of illicit income –legalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;



- d) Monitoring – identification of clients by the Casinos, recording and systemizing the information on transactions subject to monitoring and forwarding to the Financial Monitoring Service of Georgia in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation and procedure prescribed by the other normative acts adopted on the basis of the Law;
- e) Person – any resident or non-resident physical person;
- f) Identification of a person – determining the identity of an individual by means of identity documents having legal power;
- g) Transaction – expression of unilateral, bilateral or multilateral will aimed at origination, changing or termination of the legal relationship, including extension of winning in monetary or in kind form, issuance of property right as well as receipt of monetary amount by the casino.
- h) Person involved in a transaction – client of Casino, participating in a game or drawing organized by the casino;
- i) Suspicious transaction – a transaction (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income (e.g. person participating in a transaction can not be identified, the origin of transaction amount causes suspicion etc.) or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the person taking part in the transaction is located in the non-cooperative area, or transaction amount is transferred from such area;
- j) Employee in charge of monitoring – employee of the Casino, who on the basis of the Casino’s appropriately legalized decision is charged with the responsibility to ensure conducting monitoring activities and whose duties (under the guidelines developed by Casinos on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this regulation) include the following: decision-making with respect to considering transaction as suspicious, submission of the special reporting forms and other materials to the FMS etc. If the special structural unit is established in the Casino for performing monitoring activities, Supervisor of such unit shall be the employee responsible for conducting monitoring.

### Article 3. Transactions Subject to Monitoring

1. For purposes of this Regulation, transaction subject to monitoring, shall be an implemented or concluded transaction by the person, or the series of transactions aimed at partition of the transaction, if one or both of the following provisions exist:
  - a) Transaction is suspicious (regardless the amount) according to Subsection “i”, Article 2 of this regulation;
  - b) The amount of winning (in monetary as well as in kind form) received by the person exceeds GEL 30,000, or its equivalent in other currency, also if the amount exceeds GEL 30,000 after several winnings in the same casino even if

received after participation in various games or drawings, or the amount paid by the person for participation in a game or drawing in the same casino exceeds GEL 30,000 or its equivalent in other currency;

2. According to Subsection “i”, Article 2 of this Regulation, subject to monitoring also shall be concluded transactions or/and attempt to conclude transaction and other fact (circumstance), which under written guidelines of the FMS may be related to Illicit Income Legalisation or Terrorism Financing. In addition, subject to monitoring shall be transactions in which terrorists or persons supporting terrorism may be involved. The list of terrorists and terrorism-supporting persons shall be sent to Casinos (or shall be published in the newspaper - “Sakartvelos Sakanonmdeblo Macne”) by the FMS.
3. Information on each transaction and persons involved therein shall be analyzed on the basis of details available to Casino.

#### Article 4. Obligations of Casinos with Respect to Implementation of Internal Control

1. For preventing cases of illicit income legalisation, Casinos shall exercise internal control in accordance with the Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”.
2. Implementation of internal control shall include the following:
  - a) Identification of all clients of the Casino;
  - b) Analyzing the information obtained through identification process and revealing transactions subject to monitoring, documenting, systemizing and filing such information;
  - c) Submission of the information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in the special reporting form;
  - d) Implementation of training programs for the employees of the Casino (with respect to avoiding legalisation of illicit income and financing terrorism).
3. To ensure fulfillment of obligations defined under Section 2 of this Article, Casinos operating in Georgia shall develop guidelines (internal control procedures) on the basis of the “Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and approve by the appropriately legalized decision.
4. Regulation of the Casino shall define:
  - a) Terms and procedures for identification of Casino’s clients;
  - b) Functions, authority and responsibility of the employee in charge of monitoring (or special structural unit, if such exists).
  - c) Person who makes decision on considering transaction as suspicious and/or aimed at partition of the transaction and forwarding special reporting form to

the Financial Monitoring Service of Georgia (such person should be a person in charge of monitoring, also according to the regulation of the Casino person taking the final decision may be other administrator of casino).

- d) Procedure for recording, systemizing and filing information related to monitoring process;
  - e) Procedure for submission of special reporting forms and other materials to the FMS (including issues of form completion, and other issues);
  - f) Functions, authority and responsibility related to monitoring process of other employees (structural units) of the Casino, including administrators (as well as procedure for submission of information on transactions subject to monitoring to employee in charge of monitoring).
5. Employee (or special structural unit) in charge of monitoring shall follow the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation, internal regulation of the Casino, FMS guidelines as well as the relevant normative acts issued by the Ministry of Finance of Georgia.
6. Monitoring process shall be conducted in a way that the Casino’s clients, persons involved in transactions and other relevant persons shall not be aware that their activities represent object of monitoring;
7. Casinos shall be obligated to ensure confidentiality of information obtained through monitoring process, as well as of information on completion of special reporting forms related to transactions subject to monitoring and submission to the FMS.

#### Article 5. Obligations of Casinos with respect to Identification, Registration and Filing Identification Details (Documents)

- 1. Casinos shall identify all persons (clients) involved in transactions subject to monitoring. Identification of a person shall be conducted upon entering the Casino.
- 2. Identification process shall be conducted in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation, the relevant normative acts issued by the Ministry of Finance of Georgia, procedures set by the internal regulation of the Casino and guidelines and recommendations of the FMS.
- 3. Casinos shall not be authorized to pay the winnings either in monetary or in kind form, or receive monetary amount without fulfilling identification requirement.
- 4. In spite of supposition on equivocacy and amount of the transaction, the Casino shall not suspend its services (or prevent the person from participating in a game or drawing), except for the following cases:
  - a) Person (client) willing to establish business relationship with the Casino can not be identified;

- b) Any party of the transaction is on the list of terrorists or persons supporting terrorism.
5. The following information, on all physical persons taking part in the transaction, shall be obtained through the identification process:
    - a) First name, last name;
    - b) Citizenship;
    - c) Date of birth;
    - d) Permanent (registered) place of residence;
    - e) Number of ID (Passport) and citizen's personal number by ID (Passport);
  6. Documents necessary for identification of resident person shall be ID or Passport.
  7. Documents necessary for identification of non - resident physical person shall be the Passport issued by the relevant state.
  8. Casinos shall be obligated to record the following information (documents) on transaction subject to monitoring in conformance with the Article 3:
    - a) Type of transaction (e.g. receipt of money, payment of winning, issuance of property right over the item etc.);
    - b) Date of concluding transaction, amount and currency of the winning, amount corresponding to the value of the prize or full description of the prize;
  9. Casinos shall be obligated to keep information (documents) presented for identification of a person for the period of 5 years from the moment of termination of business relationship with such person, while other information (documents) on transaction subject to monitoring - for no less than 5 years from the day transaction has been concluded or implemented, unless the Georgian legislation sets a longer term for the retention of such information (documents).
  10. Information presented for identification of the person, shall be kept in the form of a copy, which should be notarized or certified by the authorized employee of the casino. The Casino shall designate the person (persons) authorized under the relevant internal regulation to certify copies. In addition, information (documents) retained in the Casino shall fully reflect the implemented and/or concluded transaction and persons involved and shall be systemized, recorded and maintained in a way, that when needed to be used as an evidence in criminal proceedings. Specifically, a signed copy of the report forwarded to the FMS shall be kept in the Casino.

#### Article 6. Obligations of Casinos to Present Reporting Forms on Suspicious Transaction

1. If Casinos have the grounded supposition that transaction considered under Article 3 of this Regulation has been concluded, they shall be obligated to submit written and electronic notices to the Financial Monitoring Service of Georgia Pursuant in compliance with the procedure set under the Law of Georgia "On Facilitating the Prevention of Illicit Income Legislation" and this Regulation.

2. The submission of the written notice to the Financial Monitoring Service of Georgia shall imply completing of and forwarding (or submission) by the employee in charge of monitoring a special form of report on suspicious transaction. The special reporting form is defined under the Annex of this Regulation (see Annex 1). The report shall be forwarded no later than within three working days from the moment of conclusion or implementation of the transaction or from the moment the grounded supposition arose. Submission of the notice in electronic form means sending the electronic file of the report to the FMS e-mail or delivery to the Service with the electronic carrier (floppy) within three working days from the moment of conclusion or implementation of the transaction or from the moment the grounded supposition arose. If the person (persons) involved in a transaction are on the list of terrorists or persons supporting terrorism, Casinos shall be obligated to immediately notify the Financial Monitoring Service of Georgia and forward available materials (documents).
3. If due to objective reasons the special reporting form cannot be presented within the set period of time, as an exception, Casinos shall be obligated to report verbally (telephone, fax and e-mail) or through other existing communication means. However, sender and recipient persons shall be indicated in the written notice submitted afterwards. However, no later than within three working days from the moment the information is received, the Casino shall be obligated to submit completed special reporting form indicating communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.
4. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Financial Monitoring Service of Georgia in a sealed envelope by the authorized employee of the Casino or as a registered mail. Name and address of the sender institution shall be written on the envelope, as well as the addressee – Financial Monitoring Service of Georgia. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
5. Electronic version of the special reporting form, as well as information on transactions subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.
6. Information on transactions subject to monitoring shall be submitted to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.
7. Reporting form shall be filled completely. If Casino does not have any information required in the form, the following shall be written in: “we do not have information.” If due to peculiarities of the specific transaction, it is not necessary to fill in any of the boxes, “----“ shall be written in.
8. If there is not sufficient space for writing full information available to the Casino, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which

report the information should be attached. Each additional sheet shall be certified with a signature of the employee (supervisor of the structural unit) in charge of monitoring.

9. Pursuant to Subsection “a”, Section 4, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall be authorized to request additional information from the Casino and available documents (including confidential) in relation to any transaction and persons involved therein, including those transactions on which special reporting forms have not been presented to the Financial Monitoring Service of Georgia. Casinos shall be obligated to submit requested information to the FMS within two working days from the moment of receiving the request.
10. If the Casino reveals any additional information, with respect to the relevant transaction or parties to it, after the report is sent, it shall immediately forward this information to the Financial Monitoring Service. Also, the additional information shall contain number and submission date of the special reporting form, to which the information should be added. The additional information shall be presented in the special reporting form if necessary.
11. If Casino deems transaction as suspicious, reasons for such consideration shall be filled in the form.

#### Article 7. Loading Information on Casinos to the FMS Database

1. According to Subsection “a”, Section 5, Article 10 of the Law of Georgia “On Facilitating Prevention of Illicit Income Legalisation”, for purposes of systemization and analysis of the information received by the FMS on transactions subject to monitoring, the FMS shall establish a database. The Casino shall submit “form for registration of Casinos in the Financial Monitoring Service of Georgia” (Annex N2 of the Regulation), approved along with the present regulation of FMS. This form shall be completed and certified with signatures of the Head of the Casino.
2. In the event of changes in information (as well as replacement of the employee in charge of monitoring) presented in the form for registration of Casinos in the FMS, the Casino shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

#### Article 8. Responsibilities Related to Monitoring

1. Ministry of Finance of Georgia shall supervise compliance of the Casino with norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation.
2. For violation of norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation, the sanctions shall be used against the Casino in compliance with procedure set by the Ministry of Finance of Georgia.

**25. Decree N. 104 on Approving the Regulation on Receiving, Systemizing and Processing the Information by Non-Bank Depository Institutions – Credit Unions and Forwarding to the Financial Monitoring Service of Georgia**

FINANCIAL MONITORING SERVICE OF GEORGIA

Tbilisi, 3 August 2004

Pursuant to the Articles 10, 15 of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” I Decree:

1. Approve the attached Regulation “On Receiving, Systemizing and Processing the Information by Non-Bank Depository Institutions – Credit Unions and Forwarding to the Financial Monitoring Service of Georgia”.
2. Regulation “On Receiving, Systemizing and Processing the Information by Non-Bank Depository Institutions – Credit Unions and Forwarding to the Financial Monitoring Service of Georgia” shall become effective from September 1, 2004.
3. Regulation on Approving the Regulation on Receiving, Recording and Processing the Information by Non-Bank Depository Institutions – Credit Unions and Forwarding to the Financial Monitoring Service of Georgia approved under Decree 27 of December 31, 2003 shall become null and void from the effective date of this regulation.
4. Georgian Non-Bank Depository Institutions – Credit Unions shall :
  - a) Submit “Form on registration of Non-Bank Depository Institutions – Credit Unions in the Financial Monitoring Service of Georgia” to the Financial Monitoring Service of Georgia within 20 days from the effective date of this Decree.
  - b) Ensure putting in action of an electronic data base containing identification details of partners and other relevant persons and information on transactions subject to monitoring; ensure implementation of the relevant software for revealing transactions aimed at partition of transaction within time periods set under the “Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation”.
5. This decree shall become effective upon promulgation.



N. Geguchadze  
Head of the Service  
Approved under Decree #104  
of the Head of the Financial  
Monitoring Service of Georgia,  
August 3, 2004

## REGULATION

On Approving the Regulation on Receiving, Systemizing and Processing the Information by Non-Bank Depository Institutions – Credit Unions and Forwarding to the Financial Monitoring Service of Georgia

### Article 1. General Provisions

1. The present regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, Decree of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” and other relevant normative acts of Georgia.
2. This regulation shall apply to Non-Bank Depository Institutions – Credit Unions of Georgia.
3. This regulation shall regulate rules for receiving, systemizing, processing and filing the relevant information by Non-Bank Depository Institution – Credit Union (hereinafter referred to as “Credit Union”), in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, and forwarding to the Financial Monitoring Service of Georgia.

### Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- b) Property – property as considered under the Civil Code of Georgia: all property (movable as well as immovable) and immaterial property, which can be owned, used and disposed of by physical and legal persons;
- c) Legalisation of illicit income – legalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true

origin, proprietor or owner, or/and property rights or attempt to commit such an action;

- d) Non-Bank Depository Institutions – Credit Union – enterprise registered under organizational-legal form of a cooperative, which accepts deposits from and underwrites loans only to its members, performs other banking activities as prescribed by the Law on “Non-Bank Depository Institutions – Credit Unions” and does not aim at receiving profit.
- e) Partner – member of Non-Bank Depository Institutions – Credit Union, who is charged with duties and responsibilities as defined under the Charter of Credit Union.
- f) Monitoring – identification of partners and their representatives by the Credit Unions; recording, systemizing and processing the information on transactions subject to monitoring and forwarding to the Financial Monitoring Service of Georgia;
- g) Suspicious transaction – a transaction (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained etc.), or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the person taking part in the transaction is located in the non-cooperative area; also a transaction which implies transfer of the amount to or from the non-cooperative area;
- h) Person – any resident or non-resident physical person, legal entity as well as organizational formation considered under legislation, which does not represent a legal entity (non-registered union, partnership, partnership of apartment owners).
- i) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity (organizational formation considered under the legislation, which does not represent a legal entity) and its representational authority by means of the registration- and establishment-confirming documents.
- j) Person involved in a transaction – all persons participating in the transaction, including parties of the transaction, representatives, agents.
- k) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia, based on the information of the competent international organizations.

- l) Off-shore area – a country or a part of the territory thereof, where preferential taxation regime exists or/and where requirements for identification of parties to the transaction do not comply with international standards, which are recognized as such by the International Organizations.
- m) Financial Monitoring Service of Georgia - legal entity of the public law established under the “Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation”, which exercises authorities granted by this Law and other respective normative acts.

### Article 3. Transactions Subject to Monitoring

- 4. For purposes of this Regulation, transaction subject to monitoring, shall be an implemented or concluded transaction, or the series of implemented (concluded) transactions aimed at partition of the transaction, if one or both of the following provisions exist:
  - a) The amount of the transaction or the series of transactions exceeds GEL 30,000, or its equivalent in other currency (in case of cash as well as non-cash settlements).
  - b) Transaction is suspicious (regardless the amount) according to Subsection “g”, Article 2 of this regulation;
- 5. Any transaction, other than transactions listed in Section 1 of this Article, shall be subject to monitoring, if there is a supposition that any party of the transaction is related to the terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be sent to Credit Union (or shall be published in the newspaper - “Sakartvelos Sakanonmdeblo Macne”) by the FMS.
- 6. Subject to monitoring also shall be concluded or attempted transaction and any other fact (circumstance), which, according to the written instructions of the FMS, may be related to legalisation of illicit income or financing terrorism.

### Article 4. Obligations of Credit Union with Respect to Implementation of Control

- 1. Pursuant to Section 7, Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation, and in agreement with the National Bank of Georgia the FMS shall issue the respective normative act for the purpose of defining rules and conditions for exercising control over enforcement of the Law and normative acts (including the present regulation) adopted on its basis.
- 2. Implementation of internal control shall include the following:
  - a) Identification of partners related to the credit union, involved in the transactions subject to monitoring, as well as identification of persons, their representatives and agents willing to establish business relationship with the credit union.

- b) Analyzing the information obtained through identification and revealing transactions subject to monitoring; documenting, systemizing and filing such information;
  - c) Submission of the information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in the special reporting form;
3. Normative act considered under Section 1 of this article, shall define:
- a) Terms and procedures for identification of partners of the credit union and persons willing to establish business relationship (including their representatives and agents) with the credit union.
  - b) Functions, authorities and responsibilities of an employee in charge of monitoring;
  - c) Procedures for recording, systemizing and filing information related to the monitoring.
  - d) Rule for submission of special reporting forms (including completion of special reporting forms) and other materials to the Financial Monitoring Service of Georgia;
  - e) Functions, authority and responsibility of the Credit Union's other employees and administrators with respect to monitoring (including rules for submitting information to the employee in charge of monitoring and revealing transaction subject to monitoring).
4. Employee (or special structural unit) in charge of monitoring shall follow the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation", this regulation, FMS guidelines as well as the relevant normative acts issued by the National Bank of Georgia.
7. Monitoring process shall be conducted in a way that partners of the Credit Union, persons willing to establish business relationship with the Credit Union, as well as their representatives and agents shall not be aware that their activities represent object of monitoring (are considered suspicious);
8. Credit Union shall be obligated to ensure confidentiality of information obtained through monitoring process, as well as of information on completion of special reporting forms related to suspicious transactions and submission to the FMS.

#### Article 5. Obligations of Credit Union with respect to Monitoring

Credit Union shall be obligated to ensure fulfillment of norms set under the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation", this regulation, the respective normative acts of the National Bank of Georgia and guidelines of the Financial Monitoring Service of Georgia and create essential conditions for such fulfillment (including equipping credit union with computers and relevant software, means for safe keeping of information and documents etc.).

## Article 6. Obligations of Credit Union with respect to Identification of Partners

1. Pursuant to the Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” Credit Union shall be obligated to identify all partners and persons willing to establish business relationship with the Credit Union, their representatives and agents.
2. Credit Union shall not be authorized to provide the partner with services or establish business relationship with him without preliminary identification of such person.
3. In spite of supposition on equivocacy and amount of the transaction, the Credit Union shall not suspend implementation of the transaction, except for the following cases:
  - a) Person (client) willing to establish business relationship with the Credit Union can not be identified;
  - b) Any party of the transaction is on the list of terrorists or persons supporting terrorism.
4. In cases indicated in Subsections “a” and “b”, Section 4 of this Article, the Credit Union shall be obligated not to establish business relationship with the person, and in the case considered in Subsection “b”, Section 4 of this Article, immediately submit the special reporting form and/or the relevant information to the FMS.
5. The following information, on all persons taking part in the transaction, shall be obtained through the identification process:
  - a) in case of physical person:
    - a.a) First name, last name;
    - a.b) Citizenship;
    - a.c) Date of birth;
    - a.d) Place of residence;
    - a.e) Number of ID and citizen’s personal number by ID (Passport);
    - a.f) If the physical person is registered as an individual entrepreneur – the relevant registration date, number, registering authority, identification code of tax payer;
  - b) In case of legal person:
    - b.a) Full name;
    - b.b) Business activity;

- b.c) Legal address (in case of the branch or representation the legal address of the head office also);
  - b.d) Registering authority, Date and number of registration;
  - b.e) Identification code of tax payer;
  - b.f) Identification details of persons authorized for management and representation (in conformance with Subsection “a” of this Section);
    - c) In case of organizational formation considered under the legislation, which does not represent legal entity:
      - c.a) Full name;
      - c.b) Legal address;
      - c.c) Legal act, based on which this formation has been established (or has been functioning);
      - c.d) Identification details of persons authorized for management and representation.
6. Documents necessary for identification process shall be:
- a) if the physical person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; if the physical person is registered as an individual entrepreneur – document confirming registration;
  - b) if the physical person is a foreign citizen – passport issued by the corresponding authority of the relevant State.
  - c) in case of resident legal entity (or organizational formation which does not represent a legal entity) – a court resolution (or resolution of any other organ as determined by the Georgian legislation, or other relevant legal act) on registration of a legal entity, or/and a record from a business register (or other relevant register).
  - d) Documents issued by the relevant authorities of foreign countries, presented by non-resident legal person for identification, shall be legalized in compliance with the procedure set under the Georgian legislation.
7. Identification documents other than Citizen Identity Card and Passport shall be used only in cases when the physical person can not have ID or Passport (e.g. if a military person is involved in a transaction, military card can be used for his identification).
8. If documents (information) stored in or presented to the Credit Union allow, in addition to the information listed in Subsections “a”, “b” and “c”, the following details shall be documented:

- a) In case of physical person:
  - a.a) Patronymic;
  - a.b) Place of birth;
  - a.c) ID issuing authority and date of issuance;
  - a.d) Temporary (real) place of residence (in Georgia as well as abroad), if different from registered place of residence;
  - a.e) Occupation, business activity and position held;
  - a.f) Bank account (accounts) details;
  - a.f) Tel/fax, e-mail.
- b) In case of legal entity (as well as organizational formation, which does not represent a legal entity):
  - b.a) Date of appointing persons authorized for management and representation;
  - b.c) Bank account (account) details.

Article 7. Obligations of Credit Union to Record Information (Documents) on Transactions Subject to Monitoring

1. Pursuant to the Section 4, Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Credit Union shall be obligated to record information on transaction subject to monitoring.
2. In the process of recording information on transaction, the Credit Union shall document the following information:
  - a) Type of transaction (e.g. extension of loans, taking deposits, placing investments etc);
  - b) Form of transaction (e.g. written agreement, verbal transaction);
  - c) Purpose of transaction (e.g. debt payment, receiving profit etc.);
  - d) Identification details of persons involved in a transaction;
  - e) Date and place of concluding transaction, date of completion, amount and currency in which transaction has been implemented (shall be implemented);
  - f) If the transaction is subject to registration (certification) – name of the registering authority, registration date, place and number (e.g. in case of notarial certification).



- g) Identification details of a partner, based on whose order the Credit Union implements transaction, including type, number and opening date (closing date if necessary) of the bank account, which is used for implementation of the specific operation;
3. Identification details of the Credit Union's partners (their representatives) and information indicated in Section 2 of this Article shall be recorded in a computer, if the Credit Union does not possess computer, information shall be recorded in a special journal. Rule for documenting and systemizing information on identification details and foreign exchange operations shall be defined under the normative Act of the National Bank of Georgia.

#### Article 8. Obligations of Credit Unions to Keep Information (Documents) Related to the Monitoring Process

1. Credit Union shall be obligated to keep information (documents) presented for identification of a person for the period of not less than 5 years from the moment the transaction has been implemented, unless the Georgian legislation sets a longer term for the retention of such information (documents). In addition, information shall be retained in documentary (their copies), as well as electronic form (data bases etc.).
2. Information (documents) on transaction, including those presented for the identification of a person shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by a notary or an authorized employee of the Credit Union shall be maintained. For the purpose of complying with this requirement, the Credit Union shall designate the person (persons) authorized under the relevant legal act to certify copies. The copy shall be certified in a way that it is clear who and when certified the copy.
3. In addition to the information indicated in Section 1 of this Article, subject to retention for the period of five years shall be special reporting forms (hard copies as well as electronic) submitted to the Financial Monitoring Service of Georgia pursuant to Article 9 of this regulation and Article 9 of the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation". Also, hard copies of reports retained in the Credit Union shall be certified with the signature of an employee in charge of monitoring, and if it is provided by the internal regulation of the Credit Union, with the Credit Union's seal.
4. The information (documents) retained in the Credit Union shall fully reflect details of transactions subject to monitoring and the respective partners (their representatives). In addition, information shall be systemized and maintained in a way, that when needed (to be used as an evidence in criminal proceedings) it can be found and retrieved in a shortest period of time.

#### Article 9. Obligations of Credit Union to Present Reporting Forms on Transactions Subject to Monitoring

1. Pursuant to the Article 9 of the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation", the Credit Union shall be obligated to submit written notices to the Financial Monitoring Service of Georgia, related to transactions subject to monitoring (Article 3 of the Regulation, Article 5 of the Law).

2. Written notices submitted to the Financial Monitoring Service of Georgia shall be compiled in compliance with the special reporting form approved with this regulation (Annex N1 of this Regulation). Detailed instructions for completing the special reporting forms shall be developed by the Financial Monitoring Service.
3. Special reporting forms shall be presented to the FMS in documentary, as well as electronic form.
4. The following time periods shall be set for submission of special reporting forms to the Financial Monitoring Service of Georgia:
  - a) If the amount of transaction exceeds GEL 30,000 or its equivalent in other currency, the report shall be submitted within three working days from the moment of implementing or concluding transaction (or from the moment of receiving information on such transaction);
  - b) If the transaction is considered as suspicious, the report shall be submitted within three working days from the moment supposition on suspiciousness arose.
  - c) If the supposition exists that any person involved in a transaction is related to terrorists or terrorism-supporting persons, the report shall be submitted on the day the information is received. In addition, all relevant materials and documents available to the Credit Union shall be forwarded to the FMS.
5. If due to objective reasons the special reporting form cannot be presented within the set period of time, as defined under Section 4 of this Article, information available to the Credit Union shall be submitted through existing communication means (telephone, fax and e-mail). However, no later than the next working day from the moment the information is received, the Credit Union shall be obligated to submit completed special reporting form indicating communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.
6. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Financial Monitoring Service of Georgia in a sealed envelope by the authorized employee of the Credit Union, through the Post or as registered mail. Name and address of the sender Credit Union shall be written on the envelope, as well as the addressee – Financial Monitoring Service of Georgia. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
7. Electronic version of the special reporting form, as well as initial information on transactions subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.

8. In cases defined under Section 5 of this Article, information on transactions subject to monitoring shall be sent to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.
9. Decision on completion of the special reporting form and submission to the FMS shall be made by the employee of the Credit Union who, according to the regulation approved by the National Bank of Georgia, is in charge of monitoring.
10. Special reporting forms shall be completed only by that employee of the Credit Union who is authorized under the relevant resolution of the Credit Union.
11. Special reporting forms shall be prepared in two copies and each of them certified with the signature of the employee in charge of monitoring, and if provided by the charter– with a seal of the Credit Union. One copy of the form shall be presented to the Financial Monitoring Service of Georgia, and the other copy shall be retained in compliance with the rule and time period set by the Article 8 of this Regulation.
12. Credit Union shall maintain register of special reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of special reporting forms shall be consistent during each year and reflected in a special journal, pages of which are numbered.
13. Reporting form shall be filled completely. If Credit Union does not have any information required in the form, the following shall be written in: “we do not have information.” If due to peculiarities of the specific transaction, it is not necessary to fill in any of the boxes, “----“ shall be written in.
14. If there is not sufficient space for writing full information available to the Credit Union, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which report the information should be attached. Each additional sheet shall be certified with a signature of the employee in charge of monitoring.
15. For organizational formations considered under legislation, which do not represent legal entities, boxes allocated for legal entities shall be filled in.
16. In the event of revealing suspicious transaction and submitting related special reporting form to the FMS, the Credit Union shall be obligated to focus special attention on other transactions, implemented by persons involved in this particular transaction.
17. Pursuant to Subsection “a”, Section 4, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall be authorized to request additional information from the Credit Union and available documents (including confidential) in relation to any transaction and persons involved therein, including those transactions on which special reporting forms have not been presented to the Financial Monitoring Service of Georgia. The Credit Union shall be obligated to submit requested information to the FMS within two working days from the moment of receiving the request.

18. If the Credit Union reveals any additional information, with respect to the relevant transaction or parties thereof, after the report is sent, it shall immediately forward this information to the Financial Monitoring Service. Also, the additional information shall contain number and submission date of the special reporting form, to which the information should be added. The additional information shall be presented as the special reporting form if necessary.
19. Credit Union is obliged to strictly observe confidentiality of form completion, submission to the FMS and the related information. In case of suspicion regarding transaction or parties thereof, and in the event of completion of the special reporting form and submission to the FMS, persons involved in the relevant transaction, their representatives and any other persons shall not be informed. The employee of the Credit Union, who reveals suspicious transaction or completes the special reporting form, shall disclose this information only to those employees of the Credit Union that are authorized to keep such information.

#### Article 10. Loading Information on Credit Unions (their Branches) in the FMS Data Base

1. For the purpose of systemization and analysis of the information received by the FMS on transactions subject to monitoring, the Financial Monitoring Service of Georgia shall establish electronic data base in compliance with Subsection “a”, Section 5, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation. In order to input information on Credit Union (its branch), the Credit Union (its branch) shall submit “form for registration of Credit Unions in the Financial Monitoring Service of Georgia” (Annex N2). This form shall be fully completed and certified with signatures of the Head of the Credit Union.
2. In the event of changes in information (as well as replacement of the employee in charge of monitoring) presented in the form for registration of Non-Bank Depository Institutions - Credit Unions (their branches) in the FMS, the Credit Union shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

#### Article 11. Responsibilities Related to Monitoring

1. National Bank of Georgia shall supervise compliance of the Credit Union with norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation.
2. For violation of norms and requirements set under the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this Regulation and the respective normative act of the National Bank of Georgia, the sanctions shall be imposed against the Credit Union at the amount and procedure set by the National Bank of Georgia.

**26. Decree N. 102 on Approving the Regulation on Receiving, Systemizing and Processing the Information by the Postal Organizations and Forwarding to the Financial Monitoring Service of Georgia**

FINANCIAL MONITORING SERVICE OF GEORGIA

Tbilisi, 3 August 2004

Pursuant to the Section 4, Articles 10 and Section 4, Article 5 of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” I Decree:

1. Approve the attached Regulation “On Receiving, Systemizing and Processing the Information by the Georgian Postal Organizations and Forwarding to the Financial Monitoring Service of Georgia”.
2. Regulation “On Receiving, Systemizing and Processing the Information by Postal Organizations and Forwarding to the Financial Monitoring Service of Georgia” shall become effective from September 1, 2004.
3. Postal Organizations shall be obligated to submit “the Form of Registration of Postal Organizations in the Financial Monitoring Service of Georgia” (Annex 2 of the Regulation) considered under Regulation “On Receiving, Systemizing and Processing the Information by Postal Organizations and Forwarding to the Financial Monitoring Service of Georgia” to the FMS within 30 days from the effective date of this Decree.
4. Postal Organizations, which commence their operation after the effective date of this Decree, shall take into consideration requirements of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” and the Regulation “On Receiving, Systemizing and Processing the Information by Postal Organizations and Forwarding to the Financial Monitoring Service of Georgia” and submit “Form of registration of Postal Organizations in the Financial Monitoring Service of Georgia” to the FMS within one month period from the receipt of the License.
5. This decree shall become effective upon promulgation.

N. Geguchadze

Approved under Decree # 102  
of the Head of the Financial  
Monitoring Service of Georgia,  
August 3, 2004

## REGULATION

On Approving the Regulation on Receiving, Systemizing and Processing the Information by the Postal Organizations and Forwarding to the Financial Monitoring Service of Georgia

### Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, Decree of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” and other relevant normative acts of Georgia.
2. This regulation shall apply to the Postal Organizations of Georgia and departments thereof, as well as branches of foreign Postal Organizations (representations) located in Georgia.
3. Requirements of this regulation shall apply to Georgian resident and non-resident entities, their representatives, missions and branches, as well as to departments, institutions and organizations.
4. This regulation shall regulate general principles and rules of financial monitoring conducted for the purpose of preventing illicit income legalisation and terrorism financing by the Postal Organizations, specifically, terms and procedures for identification of clients of the Postal Organizations and other relevant persons, and rules for receiving, systemizing, processing and filing the relevant information and forwarding to the Financial Monitoring Service of Georgia.

### Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- b) Property – property as considered under the Civil Code of Georgia: all property (movable as well as immovable) and immaterial property, which can be owned, used and disposed of by physical and legal persons;
- c) Legalisation of illicit income –legalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true

origin, proprietor or owner, or/and property rights or attempt to commit such an action;

- d) Monitoring – identification of clients by the Postal Organizations, as well as identification of transactions subject to monitoring, conducted by persons through the Postal Organization, and persons participating in other transactions; recording, systemizing and processing the information on transactions subject to monitoring and forwarding to the Financial Monitoring Service of Georgia in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation and procedure prescribed by the other normative acts adopted on the basis of the Law;
- e) Transaction - to send/receive a Postal money order;
- f) Suspicious transaction – sending/receipt of a Postal money order (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained etc.), or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the person taking part in the transaction is located in the non-cooperative area; also a Postal money order is sent to or from the non-cooperative area;
- g) Person – any resident or non-resident physical person, legal entity as well as organizational formation considered under legislation, which does not represent a legal entity (non-registered union, partnership, union of apartment owners);
- h) Postal Organization – national operator of postal network, which on the basis of the license issued by the regulating authority renders universal postal services on the country’s territory;
- i) Clients of the Postal Organization – physical persons and legal entities (as well as organizational formations considered under the legislation, which do not represent legal entities) that apply to the Postal Office for the purpose of sending or receiving Postal money order;
- j) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity (organizational formation considered under the legislation, which does not represent legal entity) and its representational authority by means of the registration- and establishment-confirming documents.
- k) Person involved in a transaction – all persons participating in the transaction (sender/recipient of the money order).



- l) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia, based on the information from the competent international organizations.
- m) Off-shore area – a country or a part of the territory thereof, where preferential taxation regime exists or/and where requirements for identification of parties to the transaction do not comply with international standards, which are recognized as such by the International Organizations.
- n) Employee in charge of monitoring – employee of the Postal Organization, who on the basis of the written document of the Postal Organization is charged with the responsibility to ensure conducting monitoring activities and whose duties include the following: receiving information from other structural units of the Postal Organization, decision-making with respect to considering operation (transaction) as suspicious, submission of the special reporting forms and other materials to the FMS etc. If the special structural unit is established in the Postal Organization for performing monitoring activities, Supervisor of such unit shall be the employee responsible for conducting monitoring. Duties and responsibilities of the employee in charge of monitoring shall be defined under the internal regulation developed and approved on the basis of the Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”.

### Article 3. Transactions Subject to Monitoring

1. For purposes of this Regulation, transaction subject to monitoring, shall be an implemented or concluded transaction, or the series of transactions aimed at partition of the transaction, if one or both of the following provisions exist:
  - a) Transaction is suspicious (regardless the amount) according to Subsection “f”, Article 2 of this regulation;
  - b) The amount of the transaction implemented by the person or the series of transactions aimed at partition of the transaction exceeds GEL 30,000, or its equivalent in other currency.
2. In addition to transactions listed in Section 1 of this Article subject to monitoring shall be any transaction, if there is a supposition that any party of the transaction is or may be related to the terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be sent to Postal Organizations (or shall be published in the newspaper - “Sakartvelos Sakanonmdeblo Macne”) by the FMS.
3. Subject to monitoring also shall be concluded or attempted transaction and other facts (circumstances), which, according to the written instructions of the FMS, may be related to legalisation of illicit income or financing terrorism.

### Article 4. Obligations of Postal Organizations with Respect to Control over Implementation of Normative Acts in the Field of Prevention of Illicit Income Legalisation

For preventing cases of illicit income legalisation, in accordance with the Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” Postal Organization shall exercise control over compliance with requirements of normative acts in the field of facilitating prevention of illicit income legalisation.

Article 5. Obligations of Postal Organization with respect to Identification and Registration of Identification Details (Documents)

1. Pursuant to the Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” Postal Organization shall be obligated to identify all clients and persons willing to establish business relationship with the Postal Organization, as well as their representatives and agents.
2. Identification process shall be conducted in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation, the relevant normative acts and guidelines and recommendations of the FMS.
3. Postal Organization shall not be authorized to conclude transaction with a person without his preliminary identification.
4. In spite of supposition on equivocacy and amount of the transaction, the Postal Organization shall not suspend implementation of the transaction (providing services to the person (client)), except for the following cases:
  - a) Client can not be identified;
  - b) Any party of the transaction is on the list of terrorists or persons supporting terrorism.
5. In cases indicated in Subsections “a” and “b”, Section 4 of this Article, the Postal Organization shall be obligated not to serve the client (establish business relationship with the person), and in the case considered in Subsection “b”, Section 4 of this Article, immediately submit the special reporting form and/or the relevant information to the FMS.
6. The following information, on all persons taking part in the transaction, shall be obtained through the identification process:
  - a) in case of physical person:
    - a.a) First name, last name;
    - a.b) Citizenship;
    - a.c) Date of birth;
    - a.d) Place of residence;
    - a.e) Number of ID (Passport) and citizen’s personal number by ID (Passport);

a.f) If the physical person is registered as an individual entrepreneur – the relevant registration date, number, registering authority, identification code of tax payer;

b) In case of legal person:

b.a) Full name;

b.b) Business activity;

b.c) Legal address (in case of the branch or representation the legal address of the head office also);

b.d) Registering authority, Date and number of registration;

b.e) Identification number of tax payer;

b.f) Identification details of persons authorized for management and representation (in conformance with Subsection “a” of this Section);

c) In case of organizational formation considered under the legislation, which does not represent legal entity:

c.a) Full name;

c.b) Legal address;

c.c) Legal act, based on which this formation has been established (or has been functioning);

c.d) Identification details of persons authorized for management and representation (according to Subsection “a” of this Section);

c.e) Identification number of tax payer.

7. Documents necessary for identification process shall be:

a) if the physical person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; if the physical person is registered as an individual entrepreneur – document confirming registration;

b) if the physical person is a foreign citizen – passport issued by the corresponding authority of the relevant State.

c) in case of resident legal entity (or organizational formation which does not represent a legal entity) – a court resolution (or resolution of any other organ as determined by the Georgian legislation, or other relevant legal act) on

registration of a legal entity, or/and a record from a business register (or other relevant register).

d) Documents issued by the relevant authorities of foreign countries, presented by non-resident legal person for identification, shall be legalized in compliance with the procedure set under the Georgian legislation.

8. Identification documents other than Citizen Identity Card and Passport shall be used only in cases when the physical person can not have ID or Passport (in case of concluding transaction with Postal Organization by the military person etc.).

9. If documents (information) stored in or presented to the Postal Organization allow, in addition to the information listed in Subsections “a”, “b” and “c”, the following details shall be documented:

a) In case of physical person:

a.a) Patronymic;

a.b) Place of birth;

a.c) ID (Passport) issuing authority;

a.d) Date of birth;

a.e) Temporary (real) place of residence (in Georgia as well as abroad), if different from registered place of residence;

a.f) Main business activity and position held;

a.g) Bank account (accounts) details;

a.i) Tel/fax, e-mail.

b) In case of legal entity (as well as organizational formation, which does not represent a legal entity):

b.a) Identification details of physical persons and legal entities owning 20% and more of the stock, share and etc.

b.b) Date of appointing persons authorized for management and representation;

b.c) Bank account (account) details.

Article 6. Obligations of Postal Organization to Record Information (Documents) on Transactions Subject to Monitoring

1. Pursuant to the Section 4, Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Postal Organization shall be obligated to record information on transaction subject to monitoring.

2. In the process of recording information on transaction, the Postal Organization shall document the following information: content of transaction (receipt or sending money order); date and place of transaction implementation as well as transaction amount and currency; identification details of all persons involved in a transaction (as well as their representatives and agents) according to the Article 5 of this regulation.
3. For the purpose of documenting, systemizing and filing the information indicated in Sections 2 of this Article, the Postal Organization shall develop the relevant system.

#### Article 7. Obligations of Postal Organization to Keep Information (Documents) on Transaction

1. Postal Organizations shall be obligated to keep information (documents) presented for identification of a person for the period not less than 5 years from the moment of implementing transaction, while other information (documents) about transaction subject to monitoring - for 5 years from the day of implementing transaction, unless the Georgian legislation sets a longer term for the retention of such information (documents). In addition, information shall be retained in documentary, as well as electronic form (respective databases etc.).
2. Information (documents) on transaction, including those presented for the identification of an entity shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by a notary or an authorized employee of the Postal Organization shall be maintained. For the purpose of complying with this requirement the Postal Organization shall designate the employee (employees) authorized under the relevant legal act to certify copies. The copy shall be certified in a way that it is clear who and when certified the copy.
3. In addition to the information indicated in Section 1 of this Article, subject to retention for the period of five years shall be special reporting forms (hard copies as well as electronic) submitted to the Financial Monitoring Service of Georgia pursuant to Article 8 of this regulation and Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”. Also, hard copies of reports retained in the Postal Organization shall be certified with the signature of an employee in charge of monitoring, and if it is provided by the internal regulation, with the seal of Postal Organization.
4. The information (documents) retained in the Postal Organization shall fully reflect the implemented transaction and persons involved. In addition, information (document) shall be systemized, recorded and maintained in a way, that when needed it can be found and retrieved in a shortest period of time.

#### Article 8. Obligations of Postal Organizations to Present Reporting Forms on Transactions Subject to Monitoring

1. Pursuant to the Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Postal Organization shall be obligated to submit written notices to the Financial Monitoring Service of Georgia, related to transactions subject to monitoring (Article 3 of the Regulation, Article 5 of the Law).

2. Written notices submitted to the Financial Monitoring Service of Georgia shall be compiled in compliance with the special reporting form approved with this regulation (Annex N1 of this Regulation).
3. Special reporting forms shall be presented to the FMS in documentary, as well as electronic form.
4. The following time periods shall be set for submission of special reporting forms to the Financial Monitoring Service of Georgia:
  - a) If the amount of transaction exceeds GEL 30,000 or its equivalent in other currency, the report shall be submitted within three working days from the moment of implementing transaction (or from the moment of receiving information on such transaction);
  - b) If the transaction is considered as suspicious, the report shall be submitted within three working days from the moment supposition on suspiciousness arose.
  - c) If the supposition exists that any person involved in a transaction is related to terrorists or terrorism-supporting persons, the report shall be submitted on the day the information is received. In addition, all relevant materials and documents available to the Postal Organization shall be forwarded to the FMS.
5. If due to objective reasons the special reporting form cannot be presented within the set period of time, defined under Section 4 of this Article, information available to the Postal Organization shall be submitted through existing communication means (telephone, fax and e-mail). However, no later than the next working day from the moment the information is received, the Postal Organization shall be obligated to submit completed special reporting form indicating communication means for submission of the report, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.
6. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Financial Monitoring Service of Georgia in a sealed envelope by the authorized employee of the Postal Organization. If it is impracticable, documents shall be sent as registered mail. Name and address of the sender Postal Organization shall be written on the envelope, as well as the addressee – Financial Monitoring Service of Georgia. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.
7. Electronic version of the special reporting form, as well as initial information on transactions subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.

8. Information on transactions subject to monitoring shall be sent to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.
9. Decision on completion of the special reporting form and submission to the FMS shall be made by the employee of the Postal Organization who, according to the internal regulation, is in charge of monitoring.
10. Special reporting forms shall be completed only by those employees of the Postal Organization, who are authorized under the respectively legalized document of the Postal Organization.
11. Special reporting forms shall be prepared in two copies and each of them certified with the signature of the employee and if provided by the internal regulation of the Postal Organization– with a seal. One copy of the form shall be presented to the Financial Monitoring Service of Georgia, and the other copy shall be retained in compliance with the rule and time period set by the Section 3, Article 7 of this Regulation.
12. The Postal Organization shall maintain register of special reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of special reporting forms shall be consistent during each year and reflected in a special journal, pages of which are numbered.
13. Reporting form shall be filled completely. If Postal Organization does not have any information required in the form, the following shall be written in: “we do not have information.” If due to peculiarities of the transaction, it is not necessary to fill in any of the boxes, “----“ shall be written in.
14. If there is not sufficient space for writing full information available to the Postal Organization, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which report the information should be attached. Each additional sheet shall be certified with a signature of the employee in charge of monitoring.
15. For organizational formations considered under legislation, which do not represent legal entities, boxes allocated for legal entities shall be filled in.
16. In the event of revealing suspicious transaction and submitting related special reporting form to the FMS, the Postal Organization shall be obligated to focus special attention on other transactions, implemented by persons involved in this particular transaction.
17. Pursuant to Subsection “a”, Section 4, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall be authorized to request additional information from the Postal Organization and available documents (including confidential) in relation to any transaction and persons involved therein, including those transactions, on which special reporting forms have not been presented to the Financial Monitoring Service of Georgia. The Postal Organization shall be obligated to submit requested



information to the FMS within two working days from the moment of receiving the request.

18. If the Postal Organization reveals any additional information, with respect to the relevant transaction or parties to it, after the report is sent, it shall immediately forward this information to the Financial Monitoring Service. Also, the additional information shall contain number and submission date of the special reporting form, to which the information should be added. The additional information shall be presented in the special reporting form if necessary.
19. The Postal Organization is obliged to strictly observe confidentiality of form completion, submission to the FMS and the related information. In case of suspicion regarding the transaction or parties thereof, and in the event of completion of the special reporting form and submission to the FMS, the Postal Organization shall not inform persons involved in the respective transaction, their representatives and any other persons. The employee of the Postal Organization, who reveals suspicious transaction or completes the special reporting form, shall disclose this information only to those employees that are authorized to keep such information according to the internal regulation of the Postal Organization.

#### Article 9. Registration of Postal Organizations (their Branches, Representative Offices) in the Financial Monitoring Service of Georgia

1. For the purpose of systemization and analysis of the information received by the FMS on transactions subject to monitoring, the Financial Monitoring Service of Georgia shall carry out registration of Postal Organizations (their branches, representative offices) operating on the territory of Georgia. The Postal Organizations shall submit “form for registration of Postal Organizations in the Financial Monitoring Service of Georgia” (Annex N2 of the regulation), approved along with the present regulation of FMS. This form shall be completed and certified with signature of the Head of Postal Organization.
2. In the event of changes in information (as well as replacement of the employee in charge of monitoring) presented in the form for registration of Postal Organizations (their branches, representative offices) in the FMS, the Postal Organization shall be obligated to present completed form to the FMS containing renewed information within three working days from the moment these changes have taken place.

#### Article 10. Responsibilities Related to Monitoring

For violation of norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation, the sanctions shall be used against the Postal Organization in compliance with the current legislation.

## 27. Regulation on Licensing and Supervising of the Activities of Currency Exchange Bureaus

On the Approval of the Regulation for Licensing and Supervising the Activities of Currency Exchange Bureaus

In accordance with articles 59 and 73 of the “Organic Law of Georgia on the National Bank of Georgia” as well as article 11 of the Law of Georgia on “Facilitating the Prevention of Illicit Income Legalisation,” with the purpose of licensing and supervising the activities of exchange bureaus I decree:

1. The attached “Regulation on Licensing and Supervising the Activities of Exchange Bureaus” shall be approved.
2. All currency exchange bureaus licensed by the National Bank of Georgia shall carry out their activities pursuant to this Regulation.
3. The Supervision Department of the National Bank of Georgia as well as the branches of the National Bank of Georgia shall ensure the control over the compliance with the requirements of this Regulation by the currency exchange bureaus in the course of their licensing and supervising.
4. Decree No. 269 of October 18, 2002 of the President of the National Bank of Georgia shall be considered null and void.
5. This Decree shall enter into force upon its publication.

R. Gotsiridze

Approved under Decree No. 9 of January 11, 2006  
of the President of the National Bank of Georgia

Regulation on Licensing and Supervising of the Activities of Currency Exchange Bureaus

Article 1. General Provisions

1. This Regulation has been developed in accordance with the “Organic Law of Georgia on the National Bank of Georgia”, as well as the “Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation, as well as in compliance with the “Regulation on Receipt of Information by the Currency Exchange Bureaus, Registration, Processing and Referring to the Financial Monitoring Service”, approved under Decree No.96 July 30, 2004 of the Financial Monitoring Service of Georgia. It defines the licensing and supervision procedures by the National Bank of Georgia. It defines the licensing and supervision procedures by the National Bank of Georgia of the currency exchange bureaus (hereinafter ‘bureaus’) established by the individuals and non-banking legal entities.

2. Entities who meet the requirements of this Regulation, shall have the right to open the Bureau.
3. When appealing the National Bank Administrative-Legal Act on granting, rejecting and revoking the license of the Bureaus, the act shall remain valid until the final decision on the matter is made, unless otherwise decided by the National Bank.
4. The space for the currency exchange bureau shall be isolated. It is prohibited to carry out other kinds of activities, except currency trading operations, at the currency exchange cash office.

## Article 2. Definitions of Notions and Terms Used in the Regulation

The terms used in this Regulation shall have the following meaning:

- a) License – the right granted by the National Bank for an indefinite term, by which a person may undertake the national and foreign currency trading operations, with observance of certain conditions;
- b) License certificate – a document certifying the ownership of license;
- c) License register – (state and institutional) – a document of strict registration featuring the data on issuance, suspension, renewal, introducing changes and revocation of license;
- d) License seeker – a person wishing to obtain a license for trading national and foreign currencies;
- e) Person – individual and non-banking legal entity;
- f) License revocation – Announcing by the National Bank the license revoked, which deprives the person of the right to undertake the trading operations with national and foreign currencies;
- g) Responsible person – person directly involved in currency exchange and is responsible under a relevant decree (agreement) for identifying a suspicious deal, systemizing the information completely and compiling the quality reporting, as well as for submitting this reporting to the Financial Monitoring Service of Georgia with the observance of the set procedure.

## Article 3. License Application

1. In order to obtain a license for the Bureau, license applicants shall submit the application to the National Bank of Georgia. The application shall include:
  - a) Name and address of the applicant;
  - b) Request for receiving the license for the activities of the currency exchange bureau;

- c) Date of submission of the application and the signature of the authorized entity;
- d) List of documents attached to the application;
- e) Data of registration with the Business Register;
- f) Technical conditions necessary for readiness of the Bureau to start operation: space of set size, bullet-proof glass window, an iron door and alarm button for the protection of the Bureau, as well as information on providing it with magnifying glass, information stand, UV-detector, safe and computer with special software);
- g) The amount of circulating capital in cash by currencies.

2. The application shall be attached by:

- a) the copies of the individual identity documents stated by the law contact telephones (home and the Bureau);
- b) an extract for the individual entrepreneur from the public register and for the legal entity, seeker of the license, the copies of his/her founding documents, an extract from the public register, decision of the authorized entity to open the Bureau, contact numbers;
- c) a copy of the certificate issued by the National Bank, regarding the level of proficiency of the Bureau staff member in handling cash;
- d) a notice certifying the ownership of the space occupied or a notarized agreement on using the space (usufruct, right to build, lease, renting etc.);
- e) a notice certifying the payment of the license fee;
- f) a notice about granting the management (representation) right;

3. If the license seeker is rejected a license, it shall not be refunded the paid license fee.

Article 4. Requirements For Setting up and Equipping the Accommodation of the Bureau

To obtain a license the license seeker shall have:

- a. Accommodation with the space of no less than 10 m<sup>2</sup>; It shall be isolated from other units and shall have no less than 3<sup>rd</sup> class\_solidity self-closing separate entrance door with double locks; the working place of the person engaged in the trade of currency shall be separated from the clients by the bullet-proof window with a tray. Alarm signal button (pedal) with a local mechanism of acoustic alarm;

- b. Technical facilities necessary for conducting and accounting currency trading operations (computer with special software, safe, detector, magnifying glass);
- c. This Regulation as well as the regulations prepared by the National Bank of Georgia on determining the fitness of banknotes and coins;
- d. Duly designed illustrative stand - electronic or simple - to necessarily display exchange rates, by currencies, which, as a rule, shall necessarily contain information on the currencies traded, by currencies, for each business day, on the right from the comma, with the accuracy of ten thousands;
- e. A cabinet or shelves in accordance with this regulation as well as a cabinet and shelves for placing the documents which are subject to keeping over a period of years in compliance with the requirements set forth in the Regulation on Receipt of Information by the Currency Exchange Bureaus, Systemizing, Processing and Referring to the Financial Monitoring Service of Georgia.

#### Article 5. Decision on Licensing

- 1. The National Bank of Georgia, within twenty days after the receipt of the license application, taking into consideration conducting of proper study, shall make a reasoned decision on which it shall notify the applicant in writing.
- 2. The National Bank of Georgia shall issue the license in the form of license certificate only to the person registered in the set procedure, whose documentation meets the requirements set out in articles 3 and 4.
- 3. The license shall be issued for an indefinite period of time. It shall not be transferred to the third party.
- 4. The license shall not be issued if the documentation submitted by the license seeker does not meet the requirements of this Regulation or in the case when the license of that person was revoked pursuant to sub-items “c” and “e” of article 6 and one year has not passed since such revocation. The National Bank of Georgia shall notify the applying bank thereon in writing within 10 days after making a documented decision.
- 5. The decision of the National Bank on the rejection of the license, may be appealed at the court, within one month after such decision is made.

#### Article 6. Revocation of License

- 1. The license shall be revoked only by the National Bank, if:
  - a) the owner of the License has filed a written notice to the National Bank on revocation of its license;
  - b) it is identified that the license has been issued on the bases of false data or documents containing inaccurate information;
  - c) the requirements of the National Bank normative acts are constantly violated;
  - d) the owner of the License fails to submit to the National Bank, within the timeframe considered under this Regulation, the monthly reporting or information on changes implemented;

- e) e ) the owner of the license deceases, or is announced deceased, missing, or unable to work; or the owner of the License, a legal entity, was liquidated.

#### Article 7. Publication of Decision on License Issuance and Revocation

1. The decision on the issuance and revocation of the license on the activities of the Bureau, shall be published in the “ Sakartvelos Sakanonmdeblo Macne” (“the Legislative Bulletin of Georgia.”) within 10 days after the decision is made. It shall be simultaneously forwarded to the owner of the Bureau, which is obligated to fulfill the requirements under the decision.
2. From the day the license is revoked, the Bureau shall be prohibited to carry out the activities allowed under the license. it is obligated to return the license certificate to the National Bank within 3 days after the receipt of the decision.

#### Article 8. Loss or Damage of License Certificate

1. In case the license certificate is lost or damaged, the owner of Bureau shall file a written notice to the National Bank, with the request to issue a copy.
2. Within 2 days after the receipt of the notice, the National Bank shall issue a copy of the license certificate, input the relevant information into the institutional license register, and notify the body maintaining the state license register on the relevant notes to be made therein;
3. The copy of the license certificate shall have the same legal power as the original;

#### Article 9. Introducing Changes into the License and License Certificate

1. In the event of merging of the legal entity, the owner of the license on the activities of the Bureau, with another legal entity, a legal successor, having desire to continue the activities of the Bureau assigned to him, is authorized to raise the issue on introducing the relevant changes into the license on the activities of the Bureau and the license certificate before the National Bank of Georgia under the relevant regulation on merging.
2. The National Bank of Georgia issues a decision on introducing relevant changes into the license and license certificate within five days upon the receipt of the application submitted pursuant to item 1 of this article.

#### Article 10. License Register

1. The Supervision Department of the National Bank of Georgia shall maintain the institutional license register for Bureaus, and is obligated to input the data on issuance, revocation, introducing changes into it, as well as issuance of the copy of the license, within 2 days after such decision is made.
2. The data shall be input into the license register within 2 days after the decision is made.

3. The following shall also be input into the license register:
  - a) the Business Register data on the owner of the Bureau;
  - b) the data on reorganization or liquidation of the license bearer, or the changes in the Business Register;
  - c) number and date of issuance of the license certificate;
4. The National Bank of Georgia is obligated to communicate the data on the license input in the license register to the body maintaining the state license register within 5 days after such input;

Article 11. Powers of the Owner of the license on the Activities of the Bureau

1. The Bureaus shall be allowed to carry out the trade of currency in cash only;
2. The rate of exchange of a particular currency shall be fixed by the Bureau in consideration of demand and supply, and the rate fixed at the country's foreign exchange market.
3. The amounts received, and issued, as a result of the trade, shall be accounted immediately after the completion of the transaction, in accord with the set form (Annex 1), one copy of which shall be given to the seller/buyer, and the other copy shall be stored with the Bureau for six years.
4. The owner (authorized entity) of the Bureau is obligated to:
  - a) observe the requirements of this Regulation;
  - b) no later than one month after obtaining the license ensure the software accounting of currency purchase and sale operations, which should necessarily include the indicators set in the Annex 3;
  - c) within 5 days immediately after receiving the information about non-functioning of the exchange bureau, or making such a decision, notify the relevant service of the National Bank of Georgia by any possible means of communication (telephone, fax, E-mail and etc);
  - d) within 7 days after the end of the reporting month, the Bureaus located in Tbilisi, as well as in Mtskheta-Tianeti and Kvemo Kartli regions shall submit their monthly reports (annex 4) both in hard and soft versions, to the Supervision Department of the National Bank of Georgia. The Bureaus located in other regions, shall submit their reports to those regional bureaus of the National Bank, from which they have obtained their license certificates;
  - e) perform payment only in cash;
  - f) on the spot well visible to clients, place a copy of the license certificate issued by the National Bank, as well as the information on (annex 5) the rights and duties of the Bureau and the client;
  - g) notify the National Bank in writing on any change in the Business Register, with the submission of relevant documents, within 7 days after such change;
  - h) within 10 days after obtaining the license certificate, the owner of the Bureau is obligated to submit to the National Bank the agreement made with the cash bureau. In case the authority is delegated, the owner of the Bureau is obligated to submit to the National Bank the notarized document on the person empowered to represent him/her.



- i) within 3 days after the decision about the closure of the Bureau enters into force, surrender the license certificate to the National Bank of Georgia;

Within business hours, the license, the originals of the qualification certificates issued by the National Bank to the Bureau employee/employees, and their identity documents shall be kept with the Bureau employee.

#### Article 12. Prohibitions and Accountability

1. The Bureau shall be prohibited to:
  - a) engage in currency selling only, or buying only;
  - b) receive money from the client in advance, without simultaneously performing the operation;
  - c) impose restrictions on banknotes and coins arbitrarily, including by denominations, if these meet the fitness criteria;
  - d) render services to the client if the latter does not produce an identity document if the sum is above the limit set by the “Law of Georgia on Facilitating Prevention of Illicit Income of Legalisation“;
2. Negligence of the prohibitions envisaged by this article shall hold the owner of the license accountable.
3. The Bureau employees are obligated to strictly observe the requirements of this Regulation, and shall be fully accountable for observing them. The unawareness of the said Regulation shall not exempt them from the accountability.

#### Article 13. Supervision over Bureau Activities and Sanctions

1. The Bureau activities shall be supervised by the Supervision Department of the National Bank of Georgia. The Bureaus licensed by the regional bureaus of the National Bank, shall be supervised by the relevant regional licensing bureau. At the same time, according to the decision of the Administration of the National Bank of Georgia the Supervision Department is authorized to examine the licensed bureau located in any region. Supervision shall encompass:
  - a) issues related to the issuance of license;
  - b) periodical examination of Bureaus licensed by the National Bank, for the purposes of ensuring the conformity of their activities with these regulations and other normative acts of the National Bank of Georgia and Financial Monitoring Service of Georgia by means of on-site inspections.
2. During the on-site inspection of a bureau, conditions of the security of reporting and accounting as well as licensing should be examined. Besides above-mentioned, the supervisor should pay a special attention to the following issues: does the bureau perform the identification and accounting of the deals subject to monitoring (if such is detected), storage of the information (documents) related to the process of monitoring and their submission to the Financial Monitoring Service; are the deals subject to the monitoring conducted in the bureau and has the owner of the bureau (or the person empowered to represent him/her) developed the internal control system and procedures preventing illicit incomes.

3. Deficiencies and violations detected as a result of implementing the supervisory function should be reflected in the inspection document, the copy of which will be handed to the owner of the bureau, or to the person authorized for the activities in the bureau, after it is duly signed. Within one business day following to the inspection, the other copy of the document shall be presented to the curator of the Non-banking Supervision Division for consideration alongside with the suggestions of supervising measures to be taken towards the bureau.
4. In order to correct the deficiencies and violations detected as a result of implementing the supervisory function, the National Bank shall take corrective measures, including license revocation;
5. In case of the failure to observe this Regulation and the written instructions of the National Bank, the National Bank shall have the right to exercise one of the following sanctions, in consideration of the seriousness of the violation:
  - a) send a written warning that the Bureau should take measures to correct the deficiencies in the definite period of time;
  - b) impose the penalty;
  - c) revoke the license.
6. The currency exchange bureau shall be fined:
  - a) with GEL 1000 for the violation of licensing regulations;
  - b) with GEL 500 for the failure of accounting and reporting and non-performing cash operations.
  - c) with GEL 500 for failure to meet the requirements of the normative documents on controlling the prevention of legalisation of illicit income;
7. The responsible person of the currency exchange bureau: who fails to duly meet the requirements related to the receipt of information on the suspicious deal, recording, processing and keeping such information, and submission of reporting in a due date to the due entity shall be imposed the penalty in the amount of GEL 500;
8. In the decision about fining the terms and conditions of elimination of the reasons of fining should be defined. Non-elimination of the reasons of fining will result in the three-fold increase of penalty. If the owner of the bureau doesn't take measures to eliminate the reasons of fining and doesn't pay the imposed penalty, the National Bank of Georgia shall revoke its license.

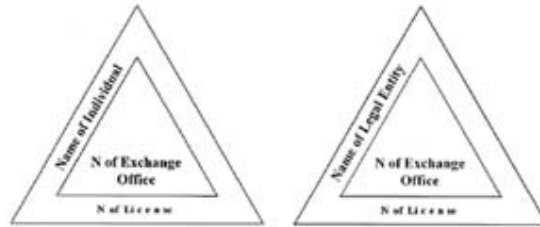
**Annex N 1**  
 To the Regulation  
 On Licensing and Supervising the Activities of Exchange Bureaus

**Currency Purchase and Sale Receipt**

_____ (Exchange bureau name and address)				
<b>Currency Purchase and Sale Receipt N</b>				
Name, last name and the address of the person				
Identity Document No:				
Personal ID No:				
ID issuing agency and the date of issuance			N:	
Exchangeable currency type	currency code		Amount	
Exchange Rate				
Exchanged currency type	currency code		Amount	
Date of the operation				
Signature of the responsible person for cash operation				

Annex N 2  
 To the Regulation  
 On Licensing and Supervising the Activities of Exchange Bureaus

Typical Form of the stamp of the Exchange Bureau



Annex N 3  
 To the Regulation  
 on Licensing and Supervising the Activities of Exchange Bureaus

The Ledger of Currency Purchase and Sale

Date	Amount at the beginning of the day by currency types	By currency types daily		Average exchange rate against lari	Expenses	Balance at the end of the day
		inflow	outflow			
1	2	3	4	5	6	7

Note: the figures of columns 3 and 4 must correspond to the sum of the figures of the exchange checks written out during the day

Annex N 5  
To the Regulation  
On Licensing and Supervising the Activities of Exchange Bureaus

Rights and Obligations of the Bureau and the Client

1. The Bureau shall have no right to perform one-sided operations (only purchase or only sale).
2. The Bureau shall have no right to arbitrarily set any restrictions on banknotes or coins (i.e. according to denomination) if they meet the established standards for fitness, thereof.
3. The bureau shall have no right to render services to the client if the latter does not present the identification document, if the sum exceeds one, defined by the “Law of Georgia on Facilitating the Prevention of the Illicit Income Legalisation”.
4. The client shall have the right to request, and the Bureau shall present to the client the Regulation on Licensing and Supervising the Activities of Exchange Bureaus, and the Regulations for determining the fitness of banknotes and coins and for the tracing of counterfeiting.
5. The Client may count the received money on-site; otherwise, no claims for being shortchanged or given counterfeit notes shall be accepted by the Bureau.
6. In case the claims brought against the Bureau are not satisfied, the Client may contact the relevant service of the National Bank of Georgia

## 28. Law of Georgia on Insurance

(Published in the Herald of the Parliament, #21-22, 1997)

/Latest amendment 29.12.2004, #940/

### Chapter I General Provisions

#### Article 1. Relations governed by the Law

1. This Law governs insurance relations between insurance companies and natural and juridical persons, as well as properly among insurance companies and establishes basic principles of State regulation of insurance activities.
2. Insurance relations are regulated by the Constitution of Georgia, Civil Code, this Law and other laws and bylaws of Georgia.
3. Where an international treaty or agreement to which Georgia is a party defines otherwise than specified in this Law, the former shall apply.
4. This Law does not cover State social insurance and State compulsory medical insurance.

#### Article 2. Essential Concepts Referred to in the Law

Concepts referenced in this Law shall have the following meaning:

- a) Insurance – relations established for the protection of personal and property interests of natural and juridical persons by means of cash funds formed through insurance contributions (insurance premiums) and other legitimate sources upon the occurrence of certain circumstances (insurance incidents).
- b) Insurance activities – activities related to the conclusion and enforcement of insurance and reinsurance contracts.
- c) Insurer –
- d) c.a. a juridical person formed as a limited liability or a joint stock company that is established for the purpose of carrying out insurance activities and holding a licence to undertake a relevant type of insurance;
- e) c.b. a subsidiary (representation) registered on the basis of rules for registration of a subsidiary (representation) prescribed by the legislation of Georgia and founded in Georgia by insurance and reinsurance organizations, which are properly licensed and registered in the OECD (Organization for Economic Co-operation and Development) countries.
- f) Policyholder – a natural or juridical person who has concluded an insurance contract with an insurer;
- g) Insurant – a natural or juridical person who is to be insured. The insurant may concurrently be the policyholder unless otherwise provided by the insurance contract.
- h) Beneficiary – a natural or juridical person entitled to receive insurance indemnity pursuant to an insurance contract or the legislation on compulsory insurance.
- i) Insurance agent – a natural or juridical person acting at the assignment and on behalf of an insurer within the powers conferred to him by the insurer.

- j) Insurance broker - a natural or juridical person who, in accordance with the licence, acts as an intermediary in the field of insurance as part of his entrepreneurial activities.
- k) Insurance risk – an event that comprises possibility and fortuity of its occurrence and against which the insurance is carried out.
- l) Insurance incident – an event upon occurrence of which an insurance contract provides for payment of an insurance indemnity.
- m) Insurance policy – an insurance or reinsurance contract issued by the insurer that constitutes a document verifying the undertaking of insurance and entitles the policyholder to claim insurance indemnity or the sum insured in case of occurrence of an insurance incident.
- n) Reinsurance – an operation between two insurance companies during which one of the parties, on the basis of an insurance (reinsurance) contract, undertakes to bear a certain part of risk in exchange for payment of the insurance premium.
- o) Founder of a non-state pension scheme – a juridical person defined in the Law of Georgia on Non-State Pension Insurance and Security”. (20.06.2001, #961)
- p) Optional reinsurance – for the purposes of this Law, a form of reinsurance when, at the request of the Insurant or his foreign partner, 100% of the risk is, as a single time action, reinsured by a foreign partner that has a rating established by international standards and that is chosen by the foreign partner. (20.06.2001, #961)

#### Article 3. Concept of Insurance

1. Insurance is relations for the purpose of the protection of personal or property interests of natural and juridical persons upon the occurrence of a certain circumstance (insurance incident) by means of cash funds formed through insurance contributions (insurance premiums) and other legitimate sources.
2. Insurance activity is the insurer’s activity connected with conclusion and enforcement of insurance and reinsurance contracts.

#### Article 4. Object of Insurance

1. Any property or personal non-property interest that is not inconsistent with the Georgian legislation, may serve as an object of insurance, including:
  - a) Insurance related to life, health, ability to work, pension security or other personal interests of the insurant (personal insurance);
  - b) Insurance related to ownership of, disposition with and usage of property (property insurance);
  - c) Insurance related to the damage inflicted by an insurant to a third party (natural or juridical person) or his property (liability insurance).

#### Article 5. Forms of Insurance

1. Insurance may be undertaken in a voluntary or a compulsory form.
2. Voluntary insurance is carried out on the basis of a contract concluded between an insurer and a policyholder. Types, conditions and rules of carrying out a voluntary insurance shall be defined by a contract between an insurer and a policyholder.
3. Voluntary insurance may be carried out by any Georgian insurance company holding a licence thereto.



4. Compulsory insurance is a form of insurance pursuant to which the object, types and rules of carrying out the insurance are defined by the respective law on compulsory insurance. (30.10.98)
5. In compulsory insurance, an insurer is under the obligation to conclude a contract with a policyholder in accordance with conditions specified by law. The insurer is entitled to offer to the policyholder more favourable conditions than those prescribed by law.
6. Compulsory insurance may be carried out by any Georgian insurance company holding a licence thereto.

#### Article 6. Consequences of Violation of Compulsory Insurance Rules

1. If a person, who must be insured in terms of compulsory insurance by virtue of law, is not insured, he has the right to claim, through court, from the policyholder that has the obligation to insure him that he be insured.
2. If a policyholder fails to conclude an insurance contract or concludes it under a condition aggravating the insured's position as compared with the conditions prescribed by legislation, the policyholder is obliged, upon occurrence of an insurance incident, to compensate damages to the insured in the amount the insured would receive if the aforesaid insurance existed.
3. A policyholder is entitled to claim from the insurer through court the insurance be undertaken in accordance with Article 5(5) of this Law.

#### Article 7. Activity of foreign natural and juridical persons in the field of insurance on the territory of Georgia

1. A foreign national, a stateless person, a juridical person set up through foreign capital on the territory of Georgia, and a subsidiary or a representation of a foreign juridical person, conducting its activities on the territory of Georgia, shall carry out insurance through Georgian insurance companies in accordance with Georgian legislation.
2. On the territory of Georgia, persons referred to in paragraph 1 of this Article shall have the same rights and bear the same obligations in the field of insurance as the natural and juridical persons having Georgian nationality.
3. A foreign natural person, a stateless person or a foreign juridical person (including a foreign insurance and reinsurance company) is entitled to be a founder of a Georgian insurance or reinsurance company. (30.10.98)
4. A foreign insurance company is not authorized to act as a direct insurer on the territory of Georgia except when acting through a subsidiary (representation) referenced in Article 2(c)(b) of this Law. (29.12.2004, #940)
- 4<sup>1</sup>. A subsidiary (representation) referenced in Article 2(c)(b) of this Law shall act on the territory of Georgia in accordance with the Georgian legislation and shall have the right to sue and be sued in the court. (29.12.2004, #940)
5. A Georgian insurance company may independently and directly conclude a reinsurance contract with one or more foreign reinsurers.
6. A foreign juridical person is authorized to act as an insurance broker on the territory of Georgia only for a Georgian insurance company in reinsuring the assumed risk in abroad. On the territory of Georgia, a foreign juridical person conducts the activities of an insurance broker by means of a subsidiary or a representation registered in a due manner, or on the basis of a contract concluded directly with Georgian juridical persons.
7. With regard to reinsurance of its risks in abroad, a Georgian insurance company may directly use the services of a foreign broker company.

## Chapter II Parties of insurance relations

### Article 8. A policyholder

1. A policyholder is a person who has concluded an insurance contract with an insurer.
2. A policyholder may be a natural or a juridical person.
3. Juridical persons registered in Georgia may conclude insurance contracts with respect to activities conducted on the territory of Georgia and property located on the territory of Georgia, with the exception of reinsurance contracts, only with insurance companies licensed by State Insurance Supervisory Service of Georgia. On the territory of Georgia, citizens of Georgia may conclude insurance contracts only with insurance companies licensed by State Insurance Supervisory Service of Georgia. (30.10.98)

### Article 9. Insurer

1. An insurer is a juridical person established for the purpose of carrying out insurance activities, which has obtained, in accordance with this Law, a licence to undertake the respective type of insurance. An insurer shall be registered as a company in accordance with the rules established for registration of juridical persons in Georgia.
2. An insurance company may only be set up as a limited liability company or a joint stock company. A budgetary organization is not authorized to establish an insurance company and to be a founder of an insurance company.
3. A title of a licensed insurance company must contain the word "insurance".
4. Reorganization and liquidation of an insurance company shall be effected in accordance with legislation.
5. Insurance companies enjoy equal rights in carrying out their activities.
6. Monopoly or any other activity aimed at limitation of competition on a certain insurance market, rendering or gaining advantages by an insurer (insurers) to other insurer (insurers) is prohibited.

### Article 10. Insurant

1. Insurant is a person who is to be insured. A policyholder may concurrently be an insurant unless otherwise provided for by an insurance contract.
2. Compulsory insurance legislation may require a policyholder to provide insurance to a third party. In voluntary insurance, a policyholder may indicate a third party as an insurant in the insurance contract; in this case the object of insurance comprises the insurant as a person and his interests (personal insurance) or the insurant's property and his property-related interests (property insurance).
3. In property insurance an insurer who is not a policyholder shall be interested in preserving the property in question.
4. In compulsory insurance no consent of a third party is needed to conclude such a contract in which he is named as an insurant. In voluntary insurance, refusal of the third party to conclude the said contract shall result in the impossibility of its conclusion, modification or termination if such a contract was already concluded.
5. In property insurance a policyholder is under the obligation to notify the third party about his intent of insuring his property or the property-related interests, clearly specifying the objects of insurance.

6. If a policyholder is under the obligation to insure a third party, the latter shall be entitled to require the policyholder to report on fulfilment of the said obligation by him or to present an insurance verification document if law so requires. If the policyholder fails to fulfil or improperly fulfils his obligation to insure a third party, the latter shall be entitled to resort to the rights as provided by paragraphs 1 and 2 of Article 6 of this Law.
7. The rights of an insured juvenile citizen are exercised in accordance with the rules established by legislation.
8. Conclusion of a contract in favour of an insurant shall not release a policyholder from the obligations under the said contract.
9. A third party is insured at the expense of a policyholder. Obligations of an insurant who is not a policyholder and of a policyholder arisen upon occurrence of an insurance incident shall be defined by an insurance contract. A policyholder shall notify the insurant about the obligations provided for by the insurance contract.
10. If an insurant refuses to receive the insurance indemnity that he is entitled to receive under an insurance contract, the right to receive the insurance indemnity shall be transferred to the policyholder.
11. Upon death of an insurant, except when he is a policyholder, an insurance contract shall be terminated unless the legislation or the contract prescribes replacement of the insurant.
12. Where the death of an insurant constitutes an insurance incident provided for by the insurance contract, the contract shall be terminated upon its fulfilment.
13. Upon the death of an insurant, who is not a policyholder and in whose favour a property insurance contract is concluded, the insurant's rights and obligations with respect to the property being the object of the insurance contract, shall be transferred, with the consent of a policyholder, to the insurant's heir unless otherwise provided by law or the contract.
14. If a policyholder does not agree to replacement of the late insurant or if the heirs do not agree to assume the late insurant's rights and obligations, the contract shall be terminated.

#### Article 11. Beneficiary

1. Beneficiary is a natural or juridical person who receives an insurance indemnity in accordance with an insurance contract or insurance legislation.
2. Beneficiary may be determined both in personal and in property insurance.
3. In compulsory insurance a beneficiary shall be determined on the basis of legislation regulating the respective type of insurance, and by a policyholder in the case of voluntary insurance.
4. An insurant is a beneficiary unless otherwise provided by the legislation on compulsory insurance or an insurance contract.
5. Beneficiary shall be the insurant when beneficiary is not determined by the contract.
6. Property insurance contract may be concluded in favour of a beneficiary without indication to the beneficiary's name or title. In concluding such contract, a policyholder is given a bearer's insurance verification document; in this case any person submitting the said document to the policyholder shall be considered as beneficiary.
7. Where a policyholder is not an insurant, upon the death of or waiver of his rights by the insurant, the latter's rights are transferred to a policyholder; this will lead to consequences specified in paragraph 11 of Article 10 of this Law.
8. Conclusion of a contract in favour of a beneficiary shall not release the policyholder from the obligations under the said contract.

## Article 12. Insurance Agent and Insurance Broker

1. Insurer may conduct insurance activities through insurance agents and insurance brokers.
2. Insurance agent is a juridical or natural person acting at the assignment and on behalf of an insurer within the powers conferred to him by the insurer.
3. Insurance broker is a juridical or natural person who, in accordance with the licence, conducts intermediary activities in the field of insurance as part of his entrepreneurial activities.
4. Relations of an insurance broker with an insurer and a policyholder shall be defined in a contract concluded between them.
5. An insurer, an insurance agent or an insurance broker is not authorized to conclude an insurance contract on behalf of a foreign insurance company except a motor-vehicle owner's civil liability insurance contract used outside of Georgia.
6. While concluding an insurance contract, an insurance broker and an insurance agent shall notify the insurer about all such circumstances known to them as might be important for the conditions specified in the insurance contract.

## Chapter III

### Guarantees of the Insurer's Financial Stability

#### Article 13. Basis of the Guarantees of Insurer's Financial Stability

The insurer's financial stability is based upon his charter capital, insurance reserves and his reinsurance system.

#### Article 14. Economic Limits and Standards (29.12.2004, #940)

An insurer and an insurance broker shall observe the following limits established by the Insurance Supervision Service of Georgia:

1. Presence of the minimum amount of replenished charter capital (including cash funds) at any stage of insurance activities;
  - (a) Rules of formation of insurance reserves and funds;
  - (b) Rules of allocation and investment of insurance reserves and funds;
  - (c) Marginal relativity between the assets and assumed insurance liabilities;
  - (d) Marginal relativity between attracted funds and own capital.
2. Paragraph (1)(a) does not apply to the subsidiaries (representations) referenced in Article 2(c)(b) of this Law.

#### Article 15. Insurance Reserves and Funds of the Insurer

1. For the purpose of fulfilment of assumed insurance liabilities, an insurer, by means of insurance contributions, forms the reserves necessary for the expected insurance indemnification. The list and the formation procedure of insurance reserves and funds shall be determined by the State Insurance Supervision Service of Georgia.
2. Insurance reserves formed by an insurer shall not be subject to taxation.
3. Rules of allocation and investment of insurance reserves and funds shall be established by the State Insurance Supervision Service of Georgia.

4. A subsidiary (representation) referenced in Article 2(c)(b) of this Law shall, during entire period of its activity, have deposits in the national or foreign currency in a Georgian commercial bank or loan securities, amount of which shall be according to the minimum charter capital the insurance companies registered in Georgia should have pursuant to the Georgian legislation. (29.12.2004, #940)

#### Article 16. Guarantees of Solvency of the Insurer

1. In order to safeguard own solvency, an insurer shall observe the marginal relativity between the assets and assumed insurance liabilities. Methods of determination as well as the standard amount of this relativity shall be established by the State Insurance Supervision Service of Georgia.
2. In allocating insurance reserves, an insurer shall act on the basis of principles of diversification, returnability, profitability and liquidity. Standard of relativity to observed during allocation of reserves shall be determined by the Insurance Supervision Service of Georgia.

#### Article 17. Accountancy and Financial Reporting by the Insurer

Indicators and forms of insurance operations, rules of financial reporting and terms of submission of reports shall be determined by the State Insurance Supervision Service of Georgia in accordance with legislation.

### Chapter IV

#### State Supervision Over Insurance

#### Article 18. Reinsurance

1. Regardless of conditions of the concluded reinsurance contract, an insurer is responsible before a policyholder to the extent of all obligations under the insurance contract.
2. At the request of Insurance Supervision Service of Georgia, an insurer shall submit to it information on the foreign insurance company, which he has concluded reinsurance contracts with. Information shall contain data on financial situation of the reinsurance company. (30.10.98)

#### Article 19. Body of State Supervision Over Insurance

1. State supervision over insurance is exercised by the State Insurance Supervision Service of Georgia, which is a public law entity, independent in its activity, acting on the basis of the Constitution of Georgia, international treaties and agreements of Georgia, this Law and other normative acts, accountable before the President of Georgia and financed with 1% of insurance contributions (insurance premiums) attracted by insurers and non-state pension scheme founders. This amount shall be paid by 20<sup>th</sup> day following each quarter. In addition, an annual contribution by each insurer and non-state pension scheme founder payable to the State Insurance Supervision Service of Georgia shall not be less than 5,000 Lari and more than 50,000 Lari. This requirement does not apply to contracts concerning global projects accepted in international practice (insurance of aerial transport means, insurance of water transport means, property insurance and voluntary insurance of civil liability), according to which optional reinsurance is necessary.

- (20.06.2001, #961) Purposes of the State Insurance Supervision Service of Georgia are the following: observance of the Georgian legislation on insurance, effective development of insurance services, protection of the interests of insurers, policyholders, other persons, and the State.
2. Head of the State Insurance Supervision Service of Georgia shall be appointed by the President of Georgia.
  3. The President of Georgia may suspend or cancel unlawful decisions of the State Insurance Supervision Service of Georgia. (20.06.2001, #961)
  4. The State Insurance Supervision Service of Georgia shall make decisions on taking loans, acting as guarantor, determining staff post table and salary fund in agreement with the Ministry of Finance of Georgia and decisions on acquiescence, alienation and imposition of real estates – in accordance with the legislation of Georgia. (20.06.2001, #961)
  5. The State Insurance Supervision Service of Georgia must do its financial accounting and produce annual financial reports in accordance with the legislation of Georgia. (20.06.2001, #961)
  6. The annual financial report of the State Insurance Supervision Service of Georgia shall be checked by an independent auditor appointed by the Ministry of Finance of Georgia and shall be approved by the Ministry of Finance of Georgia. (20.06.2001, #961)

#### Article 20. Functions of State Insurance Supervision Service of Georgia

1. Functions of State Insurance Supervision Service of Georgia are as follows: enforcement of state policy in the field of insurance, protection of the customers' rights, ensuring the operational capability of insurance companies. In order to achieve these goals, the Service takes the following measures:

- a. (removed – 28.05.99, #2007)
- b. Maintains a register of insurers, insurance brokers, and non-commercial insurance institutions;
- c. Establishes the rules of formation and allocation of insurance reserves and funds;
- d. Produces normative and methodological documents on such issues of insurance-related activities which, in accordance with this Law, fall within the powers of State Insurance Supervision Service of Georgia; provides explanation of the aforesaid issues to insurers, policyholders and other persons at their request;
- e. Generalizes the practice in the field of insurance, prepares draft laws and other normative acts regulating insurance relations as well as draft amendments and addenda to the existing ones to foster development of insurance activities, facilitates to the development of Georgian market.

#### Article 21. Powers of State Insurance Supervision Service of Georgia

State Insurance Supervision Service of Georgia is empowered to:

1. check the observance of normative and methodological documents by insurers and insurance brokers as well as verity of their financial reports. To this end, the Service is authorized to request and receive reports to exercise control over them;
2. instruct an insurer, in case of violation of insurance legislation by him, on elimination of the violation and, if the insurer fails to act so, to suspend the validity of his licence until the violation is eliminated; to file a lawsuit, in accordance with the Civil Procedure Code



of Georgia, to the respective court requiring cancellation of the licence. (28.05.99, #2007)

#### Article 22. Licensing of Insurance Activities

1. Insurance activities and intermediary activities in the field of insurance may be carried out on the basis of a respective licence.
2. An insurance activity licence shall be issued only to a juridical person aiming at activities that fall within the scope of insurance or at any other activity permitted for insurance companies under law. (28.05.99, #2007)
3. A licence is issued for personal, property and liability insurance in both compulsory and voluntary forms as well as for reinsurance if the reinsurance is the only activity of the insurer. At the same time the licence shall clearly specify a type of insurance carrying out of which the insurer is entitled to.
4. An insurance activity licence shall be issued to a concrete insurer. Transfer of such licence to other juridical person is prohibited.
5. The licence is issued for an indefinite time period and is valid on the entire territory of Georgia.
6. A juridical person is entitled to carry out insurance (reinsurance) activities only after being granted a licence.
7. No licence is needed for the activities of an insurance broker as well as the activities related to assessment of the insurance risk, the extent of damage, and the verity of insurance incident, as well as for consultation and research services in the field of insurance.
8. Except for a subsidiary (representation) referenced in Article 2(c)(b) of this Law, a licence is granted to an insurer on the basis of an application with the following documents attached: (29.12.2004, #940)
  - (a) Copies of constituent documents;
  - (b) Copy of a state registration document certifying that the insurer is a juridical person;
  - (c) Data on the replenished charter capital;
  - (d) Data on company managers;
  - (e) A document certifying the payment of the license fee.
9. The insurer (applicant) is responsible for the correctness of documents submitted by him for being granted a licence.
10. Form of a licence shall be determined by the State Insurance Supervision Service of Georgia.
11. If any changes are made to the document submitted by an insurer (applicant) for licensing, the insurer shall within 7 days notify the State Insurance Supervision Service of Georgia thereon and submit documents evidencing the changes in the aforesaid documents.
12. State Insurance Supervision Service of Georgia shall publish in an official gazette the following data on the insurance company that was granted a licence:
  - (a) Company title and legal address of the insurance company;
  - (b) Legal organizational form of the insurance company;
  - (c) Licence number, date of issue, and type of the licensed insurance. (26.08.2003, #3062)
13. A subsidiary (representation) referenced in Article 2(c)(b) of this Law will be granted a respective licence by the State Insurance Supervision Service of Georgia on the basis of



an application submitted by the founding insurance or reinsurance company. Such application shall include:

- (a) Title of the founding insurance or reinsurance company and its country of location;
  - (b) location (legal address) of the subsidiary (representation) and information on the extents of its activity;
  - (c) information on the persons having representation powers. (29.12.2004, #940)
14. The following shall be attached to the application referred to in paragraph 13 of this Article:
- (a) Copy of the charter of the founding insurance or reinsurance company and statute of the subsidiary (representation);
  - (b) Copy of an insurance activity license issued by the appropriate authorities of the country of location of the founding insurance or reinsurance company;
  - (c) Report on the activity of the founding insurance or reinsurance company on the territory of its country of location during the last 3 years;
  - (d) A document certifying deposit of money or loan securities;
  - (e) A document certifying the payment of the license fee. (29.12.2004, #940)

#### Article 23. Time limit for consideration of an application for a licence

An application for a licence shall be considered by State Insurance Supervision Service of Georgia within the period of one month; however, if more period is necessary to determine circumstances essential to the case, it may render a motivated decision on prolongation of the term but for no more than 3 months. (26.08.2003, # 3062)

#### Article 24. Licence Fee

Rules of payment and amount of the licence fee shall be determined by the legislation of Georgia.

#### Article 25. Refusal to Grant a Licence

1. A licence will not be issued if:
  - (a) Documents submitted for granting a licence do not meet the requirements of Article 22(8) of this Law; (26.08.2003, # 3062)
  - (b) A licence is requested by a juridical person, which, pursuant to this Law, is not entitled to carry out insurance activity on the territory of Georgia;
  - (c) There is a court decision against an insurance company manager prohibiting his insurance activity;
  - (d) The applicant has another license in another field, which is suspended and the grounds for the suspension of that license have not been eliminated yet. (26.08.2003, # 3062)
2. If the applicant is refused to be granted a licence, he shall receive a motivated reply indicating the reasons of refusal.
3. In case of refusal to be granted a licence, an applicant shall have the right to challenge the decision on refusal.

#### Article 26. Suspension of a Licence

1. A licence may be suspended by the State Insurance Supervision Service of Georgia.

2. State Insurance Supervision Service of Georgia is empowered to take a decision on suspension of a licence of one or all types. Suspension of the licence leads to prohibition of conclusion of insurance contracts in the field of respective insurance by an insurer. (30.10.98)
3. A licence may be suspended for the period of up to three months (28.05.99) in the following cases:
  - (a) Failure to comply with the instructions on elimination of violation of legislation;
  - (b) Failure by an insurer to comply with the solvency guarantees established by law;
  - (c) If an insurer concludes a compulsory insurance contract under such conditions that aggravate the position of a policyholder, an insured or a beneficiary as compared with those guaranteed by legislation on compulsory insurance;
  - (d) Conclusion of an unlawful contract;
  - (e) Systematic violation of or failure to fulfil obligations under insurance contract by an insurer;
  - (f) Refusal by an insurer to submit to State Insurance Supervision Service of Georgia the documents that the Service is entitled to request;
  - (g) Intentional submission by an insurer of wrong information to State Insurance Supervision Service of Georgia;
  - (h) Causing of a circumstance constituting, according to Article 24, a basis for refusal to issue a licence.
4. An insurer may challenge before the court a decision of State Insurance Supervision Service of Georgia on the suspension of a licence.
5. After elimination of the circumstances constituting a basis for the suspension of validity of licence, an insurer may request the State Insurance Supervision Service of Georgia to restore the validity of licence before due.
6. State Insurance Supervision Service of Georgia shall consider such request within one month after its submission; a decision on restoration of the licence validity before due shall be forwarded to the insurer in written form.
7. A decision of State Insurance Supervision Service of Georgia on the suspension of a licence as well as on restoration of the licence before due shall be published in an official gazette. (26.08.2003, #3062)

#### Article 27. Cancellation of Licences

1. The State Insurance Supervision Service of Georgia is entitled to cancel a licence for the respective type/s of insurance on the following grounds:
  - (a) Written request of the licence bearer;
  - (b) Liquidation of the insurance company;
  - (c) Expiration of the term of suspension of the licence if within this term the grounds for suspension have not been eliminated.
- 1<sup>1</sup>. A subsidiary (representation) referenced in Article 2(c)(b) of this Law shall terminate its insurance activity in Georgia if: (29.12.2004, #940)
  - (a) its founder insurance or reinsurance company made such decision;
  - (b) its founder insurance or reinsurance company was deprived of the insurance licence in its country of registration;
  - (c) bankruptcy proceedings have started against its founder insurance or reinsurance company or the founder insurance or reinsurance company is undergoing liquidation on other grounds;
  - (d) the conditions prescribed by the licence are being breached.

2. Having received a decision on cancellation of the licence, an insurer has no right to carry out the prohibited type of insurance activity, except fulfilment of obligations already undertaken under insurance contracts throughout the period of their validity.
3. Within 3 days following the receipt of a decision on cancellation of the licence the insurer shall surrender the licence to the State Insurance Supervision Service of Georgia. (26.08.2003, #3062)

Article 28. Consequences of reorganization of an insurance company and making amendments to its charter

1. In case of reorganization of a juridical person holding an insurance activity licence, the right to licence is transferred to its successor. However, a new licence instead of the old one of the same type shall be issued to the successor.
2. An application for replacement of the licence shall be attached with:
  - (a) a decision on reorganization of the juridical person;
  - (b) a copy of a state registration document of the insurer–successor.
2. If amendments are made to a constituent document of a juridical person, which do not require re-registration of this juridical person, copies of the aforesaid documents shall be forwarded to the State Insurance Supervision Service of Georgia.
3. If amendments are made to the company title, legal organization form, location or constituent documents of an insurer or in case of reorganization of an insurer, the insurer shall, within 7 working days after the amendments are effected, inform the State Insurance Supervision Service of Georgia thereon in written and submit to it the relevant documents. (26.08.2003, #3062)

Article 29. Preservation of insurer’s commercial and insurance secrecies by officials of State Insurance Supervision Service of Georgia

1. An official of State Insurance Supervision Service of Georgia is not entitled to disclose in any form the data constituting an insurer’s commercial secrecy, as well as the data on policyholders, insurants or beneficiaries constituting an insurance secrecy, which became known to him in the course of his official activities. At the same time, it does not matter whether the official does or does not currently occupy the said position.
2. In case of disclosure of the above-mentioned secrecies, officials of State Insurance Supervision Service of Georgia shall be responsible under law.

Article 30 Challenging the decisions of State Insurance Supervision Service of Georgia

Decisions of State Insurance Supervision Service of Georgia may be challenged before the courts.

Article 31. Advisory Council at State Insurance Supervision Service of Georgia

The Advisory Council based on voluntary basis shall be created at the State Insurance Supervision Service of Georgia. Composition of the Advisory Council shall include representatives of insurers, representatives of policyholders from different sectors of economy, economists involved in insurance activities. In taking important decisions State Insurance Service of Georgia shall bear in mind the recommendations of Advisory Council.

Chapter V  
Responsibility for Violation of Insurance Legislation

Article 32. Responsibility for violation of insurance legislation

Responsibility for violation of insurance legislation shall be borne in accordance with the legislation of Georgia.

Chapter VI (cancelled – by the Civil Code)  
Transitional Provisions

Article 33. Term of validity of Articles 32-54

Validity of Articles 32-54 shall be ceased upon the entry into force of the new Civil Code.

Chapter VII  
Concluding Provisions

Article 57. List of invalidated acts

1. Validity of the following acts shall be ceased upon entry into force of this Law:  
[...]
2. All normative acts or any parts thereof that contradict this Law shall become invalid upon the entry into force of this Law.

Article 58. Entry into Force of the Law

This Law shall enter into force upon its publication.

President of Georgia

Eduard Shevardnadze

Tbilisi  
2 May 1997  
#690 - IIS

## **29. Decree N. 57 - Regulation on Application of Sanctions against Non-Bank Depository Institutions – Credit Unions**

Approved under Decree No. 257  
October 8, 2002  
of the President of National Bank of Georgia

Amended under Decree No. 122 of June 15, 2004  
of the President of the National Bank of Georgia

Article 6. Imposition of Sanctions against Non-bank Depository Institutions – Credit Unions and Relevant Responsible Persons for Violating Requirements Set for Prevention of Illicit Income Legalisation

1. A penalty shall be imposed against a non-bank depository institution in the following instances:
  - a. failure to meet the requirements of the Instruction on Implementing Internal Control to Avoid Legalisation of Illicit Income – 1000 lari;
  - b. failure to submit to the Financial Monitoring Service in due date the reporting on a suspicious deal – 500 lari.
  
2. Non-bank depository institution's:
  - a. responsible person, who does not duly meet the requirements related to the receipt, registration, processing, and keeping of the information on a suspicious deal, and to the relevant submission of the reporting in due date, shall be subject to penalty in the amount of 500 lari;
  - b. executive director, who does not duly meet the requirements of the Instruction on Implementing Internal Control to Avoid Legalisation of Illicit Income, shall be subject to penalty in the amount of 500 lari.

### **30. Decree N. 87 on Changes to the “Regulation on Defining and Imposing Fines over Commercial Banks”**

PRESIDENT OF THE NATIONAL BANK OF GEORGIA

Tbilisi, 28 March 2006

Approved under Decree No 304 of December 26, 2003 of the President of National Bank of Georgia

Article 1. The following changes shall be introduced to the Regulation on Defining and Imposing Fines over Commercial Banks” Approved under Decree No 304 of December 26, 2003 of the President of National Bank of Georgia (SSM III, N150, 12.29.03. Article 1239):

1. Paragraphs 3 and 4 of Article 1 shall be formulated as follows:

“3. For the purpose of imposing fine over banks, the NBG shall issue individual administrative-legal act. Such act shall be prepared in the form of President’s or Vice President’s Order, where the procedure of its enforcement shall be indicated.

4. The individual administrative-legal act on imposing fines over the commercial banks issued by the NBG shall become effective at the moment when the bank becomes aware of it.”

2. Paragraphs “a”, “b”, “e”, and “f” of paragraph 8<sup>1</sup> shall have the following wording:

a) “a) As of the inspection date, defined under the NBG order, in case of revealing failure to submit the information according to the set procedure or/and belated submission (without observance of the set deadline) of information on transaction subject to monitoring to the Financial Monitoring Service of Georgia the amount of fine for each case of violation shall be :

- GEL 100 for belated submission up to 30 days;
- GEL 300 for belated submission for more than 30 days;

b) “b) As of the inspection date, defined under the NBG order, in case of revealing non-submission of information, on transaction subject to monitoring, to the Financial Monitoring Service of Georgia the amount of fine shall be GEL 5,000 (five thousand) for each fact of violation;”

c) “e) As of the inspection date, defined under the NBG order, in case of revealing failure to submit to the FMS the requested additional information and documents according to the set procedure or/and belated submission (without observance of the set deadline) of such information and documents, the amount of fine for each case of violation shall be :

- GEL 100 for belated submission up to 30 days;
- GEL 300 for belated submission for more than 30 days;”

d) f) As of the inspection date, defined under the NBG order, in case of revealing non-submission of additionally requested information and documents to the Financial

Monitoring Service of Georgia the amount of fine shall be GEL 5,000 (five thousand) for each fact of violation;”

3. Article 3(3) shall be formulated as follows:

“3. The National Bank shall issue individual administrative-legal act on exempting bank from payment of imposed fine. Individual administrative-legal act shall be issued as the Order of the President or Vice President of the NBG.”

Article 2. This decree shall become effective upon promulgation.

R. Gotsiridze



### **31. Resolution N. 38 on Approval of Regulation on Application of Sanctions for Violation of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation**

Registered in the Ministry  
of Justice of Georgia  
Registration Number  
010.220.020.17.014.006.340

National Securities Commission of Georgia

Tbilisi, 10 February 2004

Pursuant to Article 15(5) of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation, for the purpose of defining and applying sanctions against broker companies and securities registrars for violation of the law requirements, the National Securities Commission of Georgia shall resolve:

1. Approve the attached regulation on Defining Sanctions for violation of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation;
2. The Regulation approved under the present Resolution, shall become effective upon promulgation.

Mikheil Jibuti

Regulation on Application of Sanctions for Violation of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation

#### Article 1. General Provisions

1. The present Regulation has been designed to meet requirements of Article 15 (5) of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation (hereinafter referred to as “Law”) on the basis of this Law, Law of Georgia on Securities Market as well as other normative acts.
2. The present Regulation shall apply to broker companies and securities registrars (Registrar) licensed by the National Securities Commission of Georgia (Commission).
3. The present Regulation shall regulate procedure for defining and applying sanctions against broker companies and registrars for violation of the Law.

#### Article 2. Definitions of Terms

For purposes of the present Regulation, the terms used herein shall have the meanings defined under the Law and Securities legislation.

### Article 3. Sanctions Envisaged in Case of Violations of the Law by the Broker Company

1. In the event of violation of the Law requirements by the broker company, the Commission shall be authorized to:
  - a) Write notification and set timeframe for the management body of the broker company, to eliminate identified violation;
  - b) Suspend license of the broker company and warn to eliminate the violation within the same time period, otherwise the license shall be continued to be suspended according to the procedure defined under the Securities Legislation;
  - c) Request from the broker company to dismiss persons authorized for management or representation permanently or temporarily.

### Article 4. Sanctions Envisaged in Case of Violations of the Law by the Registrar

1. In the event of violation of the Law requirements by the broker company, the Commission shall be authorized to:
  - a) Write notification and set timeframe for the management body of the registrar, to eliminate identified violation;
  - b) Request from the registrar to dismiss persons authorized for management or representation permanently or temporarily.

### Article 5. Identification of Violation and Application of Sanctions

1. The commission shall regularly examine compliance of broker company or/and registrar with the Law requirements (with respect to transactions, including: systemization of submitted information for identification of transaction participants, internal control etc.) in accordance with Inspection Procedure approved under resolution 31 of February 5, 2003.
2. Application of sanction in cases identified through the inspection process shall be considered by the commission according to the procedure defined under the present Regulation and securities legislation.

**32. Decree N. 53 on Approval of Regulation on Definition and Application of Sanctions (Including Financial Sanctions) for Violation of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation, Normative Acts adopted on its basis and FMS Guidelines by Insurance Companies and Founders of Non-State Pension Scheme**

Registered in the Ministry  
of Justice of Georgia  
Registration Number  
290.160.000.24.016.006.872

Insurance State Supervision Service of Georgia

Tbilisi, 18 November 2004

Pursuant to Article 15(5) of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation I decree:

3. Approve the attached regulation on Defining Sanctions (including financial sanctions) for violation of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation Normative Acts adopted on its basis and FMS Guidelines by Insurance Companies and Founders of Non-State Pension Scheme;
4. This Decree shall become effective upon promulgation.

A. Tsertsvadze

Regulation on Definition and Application of Sanctions (Including Financial Sanctions) for Violation of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation, Normative Acts adopted on its basis and FMS Guidelines by Insurance Companies and Founders of Non-State Pension Scheme

Article 1

Regulation for definition and application of sanctions (including financial sanctions) against broker companies and founders of non-state pension scheme has been designed in accordance with Article 11(3) and Article 15 (5) of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation and determine procedure for application of sanctions against insurance companies and founders of non-state pension scheme for violation of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation and normative acts adopted on its basis.

Article 2

1. Insurance State Supervision Service of Georgia on the basis of examination results concerning compliance of insurance companies and founders of non-state pension scheme with insurance legislation or in the event of violation of the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation, normative acts adopted on its basis and FMS guidelines shall impose respective sanctions on the infringer.
2. Types of sanctions provided for in the Article 2(1) shall be:
  - a) Warning;
  - b) Financial sanction;
  - c) Suspension of the license;
  - d) Revocation of the license.
3. Insurance State Supervision Service of Georgia shall apply sanctions defined in Article 2(2) against insurance companies and founders of non-state pension scheme for the failure to meet obligations prescribed under the Law of Georgia on Facilitating Prevention of Illicit Income Legalisation, normative acts adopted on its basis and FMS guidelines in the following cases:
  - a) For failure to meet requirements concerning designation of employee or structural unit in charge of information systemization and control;
  - b) For failure to fulfill obligations related to identification and recording information (documents) on transactions subject to monitoring;
  - c) For failure to fulfill obligations related to retention of information(documents) related to monitoring;
  - d) For non-submission of reports on transactions subject to monitoring as well as for failure to observe obligations related to submission;
  - e) Violation of requirements for submission of additional information.
  - f) Violation of confidentiality of information;
  - g) Failure to observe FMS guidelines.

#### Article 4

1. Application of sanctions for violations defined in the Article 3, shall be carried out in sequence presented in the Article 2(2).
2. In the event of violation of one or several requirements defined under Article 3 of this Regulation, Insurance State Supervision Service of Georgia shall give warning to insurance company or founder of non-state pension scheme to eliminate the violation and for failure to follow the warning within the set deadline (not exceeding two weeks) or in case of repeated violation shall impose financial sanction.
3. In case of failure to pay financial liability within two weeks defined according to Article 3(a) for violation committed by the insurance company or founder of non-state pension scheme, the Insurance State Supervision Service shall suspend license of insurance company for all types of insurance, as well as license of founder of non-state pension scheme for pension insurance for the period of three months. In the event of non-payment of financial sanctions imposed for violation of requirements defined under Article 3 (b, c, d, e, f and g) within two weeks, the Insurance State Supervision Service shall suspend license of the insurance company until payment of the financial sanction or for three months in that field of insurance where financial sanctions were applied because of revealed violations.
4. In the event of repeated non-fulfillment of obligations provided in Article 3 by insurance company and founder of non-state pension scheme and in case of repeated use of sanctions (no less than three times) indicated in Article 4(2,3) as well as in

case of non-fulfillment of obligations considered under Article 4(3) within three months, Insurance State Supervision Service shall withdraw license of insurance company or founder of non-state pension scheme.

#### Article 5

1. In case of non-fulfillment of obligations defined under Article 3 (a, b, c, e, f, g), the amount of financial sanction applied to the insurance company and founder of non-state pension scheme shall be GEL 300.
2. In case of non-fulfillment of obligations defined under Article 3 (d) the amount of financial sanction imposed on the insurance company and founder of non-state pension scheme shall be 1% of the transaction amount, but not less than GEL 300.

#### Article 6

Payment of financial sanctions imposed by Insurance State Supervision Service according to Article 5 of this Regulation, shall be made by the insurance company and founder of non-state pension scheme to the state budget.

### **33. Decree N. 304 - Regulation on Determining and Imposing Pecuniary Penalties on Commercial banks**

Approved under Decree #304  
Dated December 26, 2003 of  
President of NBG

Changes Introduced under Decree #267  
Dated December 2, 2004 of  
President of NBG

Changes Introduced under Decree #87  
Dated March 28, 2006 of  
President of NBG

#### Article 1. General Provisions

1. The purpose of this regulation shall be the issues with regard to determining and imposing pecuniary sanctions by the National Bank of Georgia (hereafter referred to as NBG) on commercial banks (hereafter the banks).
2. NBG shall be authorized to use the pecuniary penalties set under this Regulation against commercial banks provided that a bank or any administrator or controlling person of the bank:
  - a) violates the standard, instruction, regulation, procedure, rules, regulations, requirements and written instructions of NBG as considered under Article 2 of this Regulation;
  - b) violates any condition or restriction, which are attached to a banking license or the respective regulation of NBG;
  - c) violates time limits set for presenting financial statements, or presents incorrect statements (reports) and other inaccurate information thereof;
  - d) violates the requirements set by the FMS in accordance with the Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation”;
3. NBG shall issue an individual administrative-legal act on imposition of pecuniary penalties on the banks. The administrative act shall be issued in the form of a decree of President or Vice President of NBG, which shall define the procedure of its implementation.
4. The individual administrative-legal act issued by NBG on imposition of pecuniary penalties on the banks shall become effective from the moment the banks become familiar with it.

5. Pecuniary penalties paid by a bank shall be transferred to the NBG income.

#### Article 2. Amount of the Pecuniary Penalty

1. When carrying out activities other than permitted under the applicable legislation by a bank the bank shall be penalized at 0.1% of the regulatory capital existed as of the latest statement at the moment of revealing the violation.
2. When carrying out banking operations by a bank (the bank's branch or other structural unit) without the NBG permission the bank shall be penalized at 0.1% of the regulatory capital existed as of the latest statement at the moment of revealing the violation.
3. When carrying out banking operations by a bank (the bank's branch or other structural unit) without the NBG permission issued by NBG on the Passport on "Cash in Offices (Cash in Outside Offices)" and the Passport on "Carrying out Cash Transactions through ATM", the bank shall be penalized at 0.1% of the regulatory capital existed as of the latest statement at the moment of revealing the violation.
4. When carrying out by a bank operations prohibited under directives, regulations, rules, procedures, resolutions, requirements and written instructions of NBG the bank shall be penalized at 0.1% of the regulatory capital existed as of the moment of revealing the carrying out of such operation.
5. In the case of non-performing annual independent audit according to the rule set by NBG and/or non-submitting the audit report thereof to NBG within the set time-limits, the bank shall be penalized in the amount of GEL 10,000 (ten thousand).
6. For incompliance with the following requirements set under the directives, regulations, rules, resolutions, requirements and written instructions of NBG the bank shall be penalized at the following amount:
  - a) in the case of non-submitting financial statements and other financial information to NBG in the set form and within the set time-limits, in the amount of GEL 1,000 (one thousand) on each fact of violation;
  - b) in the case of submitting incorrect information to NBG, in the amount of GEL 1,000 (one thousand) on each fact of violation;
  - c) in the case of violating reporting and accounting rules, in the amount of GEL 1,000 (one thousand) on each fact of violation;
  - c<sup>1</sup>) in the case of non-recording the bank's liabilities (the balance sheet and off-balance sheet), in the amount of GEL 5,000 (five thousand) on each fact of violation;
  - d) in the case of incorrect calculation of set prudential standards and limits presented to NBG, in the amount of GEL 1,000 (one thousand) on each fact of violation;



- e) in the case of violating the bank's general open currency position, - 0.1% of the amount in excess of the set limit of the currency position on each day of violation;
  - f) in the case of non-compliance with the minimum reserve requirements according to the set rule, according to the procedure and amount defined by the NBG Council;
  - g) in the case of violating the rule of carrying out transactions in connection with cash transactions, shipment and collection of cash and other valuables, maintenance of cash and other valuables, revision of the valuables and other precious metals, in the amount of GEL 1,000 (one thousand) on each fact of violation;
7. A bank shall be penalized for non-submission of the following documentation required under NBG directives, regulations, rules, procedures, resolutions and written instructions in the following amount:
- a) in each case of non-submitting within the time limits set under the minutes of the General meeting of Shareholders, meetings of the Supervisory Council and Audit Committee of a bank, in the amount of GEL 1,000 (one thousand);
  - b) in the case of non-submitting the bank's register, charter, registration documents of the bank's branches and changes thereof within the set period of time, in the amount of GEL 1,000 (one thousand);
  - c) in the case of non-submitting financial and legal documents of the bank's shareholders within the set period of time, in the amount of GEL 1,000 (one thousand);
  - d) in the case of non-submitting the documents of the bank's administrators within the set period of time, in the amount of GEL 1,000 (one thousand);
  - e) in the case of non-submitting any other types of documents and information about the bank and banking activities within the set period of time, in the amount of GEL 1,000 (one thousand);
8. When carrying out by NBG various types of credit and depositary activities with a bank, as well as when rendering other types of services, the issues of imposing pecuniary penalties on the bank and the amount thereof shall be defined on the basis of a relevant normative act of NBG and/or in accordance with the agreement concluded between them on specific transactions and services
- 8.<sup>1</sup> A bank shall be penalized at the following amount for non-compliance with the following requirements set under the Law of Georgia on "Facilitating the Prevention of Illicit Income Legalisation" and the normative act and written instructions issued by FMS of Georgia pursuant to the above-noted law:
-

- a) in the case of revealing non-submission of information to FMS of Georgia on transactions subject to monitoring according to the set rule or/and within the set period of time, by the date of starting a bank's inspection set under the NBG order, for each fact of the violation:
  - up to 30 days delay – GEL 100 (one hundred);
  - 30 days and more delay – GEL 300 (three hundred).”
- b) in the case of revealing non-submission of the information on transactions subject to monitoring to FMS of Georgia, by the date of starting a bank's inspection set under the NBG order, in the amount of GEL 5,000 (five thousand) for each fact of the violation;
- c) in the case of revealing rendering of any banking services to any person without identification, in the amount of GEL 1,000 (one thousand) for each fact of the violation;
- d) in the case of revealing violation of the requirements set for registering (recording) and maintaining the information (documentation) about the monitoring process, in the amount of GEL 1,000 (one thousand) for each fact of the violation;
- e) in the case of revealing non-submission of additional information and document required by FMS of Georgia on transactions subject to monitoring according to the set rule or/and within the set period of time, by the date of starting a bank's inspection set under the NBG order, for each fact of the violation:
  - up to 30 days delay – GEL 100 (one hundred);
  - 30 days and more delay – GEL 300 (three hundred).
- f) in the case of revealing non-submission of the additional information and documents required by FMS on transactions subject to monitoring, by the date of starting a bank's inspection set under the NBG order, in the amount of GEL 5,000 (five thousand) for each fact of the violation.
  - i. After imposing a pecuniary penalty on a bank for incompliance with the set requirements, in the case of incompliance with the same requirements, NBG shall be authorized to use other sanctions set under Article 30 of the Law of Georgia on Activities of Commercial Bank against the bank.
  - ii. In the case of revealing the violations set under this Article, and due to seriousness of the violation and existed or potential risks of assets, NBG shall be authorized to use other sanctions set under Article 30 of the Law of Georgia on Activities of Commercial Bank against the bank instead of imposing a pecuniary penalty.

### Article 3. Exemption from a Pecuniary Penalty

1. NBG shall exempt from already imposed an unpaid pecuniary penalty, as well as imposition and payment of a new pecuniary penalty, provided that:
  - a) there has been a temporary administration operating in the bank;
  - b) a banking license has been revoked from the bank;
2. In exclusive cases, NBG may exempt a bank from imposition and payment of a pecuniary penalty if payment of the penalty may result in the following:
  - a) the bank's financial condition may become so much deteriorated that jeopardize its future functioning and solvency;
  - b) the bank may become illiquid and fail to service its clients' deposits, which may result in hampering settlements in the banking system;
3. NBG shall issue an individual administrative-legal act on exempting a bank from imposition and payment of a pecuniary penalty. The individual administrative-legal act shall be issued in the form of a decree of President or Vice President of NBG.

## **34. Law of Georgia on Organizing Lotteries, Gambling and Other Prizewinning Games**

As Amended May 25, 2006

### Chapter I General Provisions

#### Article 1

This Law lays down the legal principles for organizing and holding lotteries, gambling and other prizewinning games in Georgia.

#### Article 2

This Law is aimed at providing the state regulation of the sphere of lotteries, casinos, gambling and other prizewinning games in Georgia and insuring the legal interests of citizens and rights of customers in accordance with the Law of Georgia on the Principles for Granting Entrepreneurship Licenses and Permits. (09.12.2005, No 2237)

#### Article 3

The terms used in this law shall have the following meanings:

- a) Gambling games – games the result of which depends in whole or in part on chance, held by means of a deck of cards, dice, roulette wheel or gambling machine and taking part in it gives the opportunity to win prize money;
- b) Gambler – a person who takes part in a game to win a prize;
- c) Casino – a special gambling institution where prize money is raffled for by means of a roulette wheel, cards, gambling tables, dice, gambling machines and other devices;
- d) Casino table – a specially equipped table in a casino on which the casino representative and the gambler(s) or the gamblers take part in one specific game to win money prize by means of a roulette wheel, cards, dice and other devices;
- e) Gambling hall – a special place in a casino to hold games in which the safety of gamblers is guaranteed and public order is protected and which meets sanitary, hygienic and fire safety standards and which is equipped with a special cash office;
- f) Gambling machine – mechanical or electronic mechanisms activated by coins, tokens or other means and the prize is determined by a full or partial coincidence or matching of figures or symbols or their combinations;
- g) Saloon of gambling machines – a special gambling place accommodating gambling machines;
- h) Lottery – a voluntary group of mass game in which the lottery organizer draws a prizes fund in compliance with publicly announced and established terms and conditions. Coincidence of a prize with any of the lottery tickets does not depend on the wish or action of the lottery organizer or any other person. Rather, it is determined by chance and cannot be specially arranged.
- i) There are the following types of lottery:
  - i.a) Numbered lottery – lottery the process of which is divided into numbers – separate full cycles from the production and sale of tickets to the holding of the draw.

The holder of a lottery ticket shall establish the prize won by the ticket only after the lottery drawing has been held.

- i.b) Moment lottery – lottery the result of which is determined right there by examining the ticket or by drawing immediately this ticket;
  - j) Lottery or/and prizewinning game ticket – a card produced for sale or dissemination, a document, an object, a personal identification code (number) or any other bearer of information that evidences participation in the game and complies with law and terms and conditions of a specific lottery or game and if winning a prize, confirms the fact of winning;
  - k) Prize fund – the funds which before entry are recognized as a firm obligation in favor of the third person (holder of a winning ticket) or principal and intended to be transferred to them in the amount of the prize provided under the terms of drawing. Pursuant to the terms of a specific game, the prize may be represented in a pecuniary, material or other form and given to the winning ticket. It shall be prohibited to encumber the prize fund with any obligations other than those entered into with the participants in the drawing. The prize fund shall in no way be used, whether in whole or in part, in a financial, commercial, production or any other turnover;
  - l) Drawing the prize fund – a procedure confirming the fact of coincidence of winning with a lottery or/and prizewinning game ticket;
  - m) Security of the prize fund – a financial (material) instrument by which the interests of the gamblers in a lottery, lotto, bingo, sweepstake and promotional drawing are secured and which is formed with property or other type of security;
  - n) Volume of lottery – the number of tickets intended for a specific drawing times the retail price of the tickets;
  - o) Prizewinning games include:
    - o.a) Lotto – a group game the participant of which selects combinations of figures or symbols and the prize depends on a full or partial coincidence or matching of combinations of figures or symbols and is determined according to the amount of the prize fund. Lotto is held in a specially arranged building and the maximum number of participants in it is determined by the number of gambling seats;
    - o.b) Bingo – a group game in which the prize is registered by figure-bearing cards or electronic board by coincidence or matching of figure combinations appearing on a special device. The prize here is determined according to the prize fund. Bingo is held in a specially arranged building and the maximum number of participants in it is determined by the number of gambling seats;
    - o.c) Sweepstake – a game held by gamblers by making a prediction lying wagers on the progress of a competition or/and results of a particular game, the prize depending on the volume of wager;
    - o.d) Promotional drawing – a game organized with the view to promptly and effectively sell a specific product (service) and promotional drawing tickets are given to customers free of charge. The permit for a promotional drawing is granted to the legal entity (natural person) producing the specific product (service) or his representative. No form of charge whatsoever shall be imposed in any way on participation in a promotional drawing;
  - p) Organizer of gambling and other prizewinning games – the holder of the permit for organizing gambling and other prizewinning games;

- q) Legalization – equipping by the Ministry of Finance of Georgia of lottery tickets and the documents evidencing the right to take part in prizewinning games with special protecting marks;
- r) Expert examination – establishing the identity of lottery or/and prizewinning game tickets with the sample agreed with and legalized by the Ministry of Finance of Georgia;
- s) Utilization – destruction of lottery and prizewinning game tickets in manner provided by order of the Minister of Finance of Georgia.

#### Article 4

Lotteries, gambling and prizewinning games do not include the games which are held by means of machines, apparatuses, equipment and other devices and which involve no element of chance. They are aimed at testing or demonstrating the special knowledge, intellect, dexterity, ingenuity or other special talents of their participants.

#### Article 5

1. All types of gambling and prizewinning games, which are held on the territory of Georgia, require permits subject to the Law of Georgia on the Principles for Granting Entrepreneurship Licenses and Permits. Holding games without a permit or failure to comply with the terms of the permit shall be qualified as violation of law and punishable in manner and to the extent provided by the laws of Georgia. (09.12.2005, No 2237)
2. It is permissible to hold the lotteries, gambling and prizewinning games and sell their tickets in Georgia which are provided by this Law.

#### Article 6

1. Lotteries in Georgia are organized and held by the State of Georgia through a Fund, a legal entity of public law, established in accordance with the Civil Code of Georgia. The Fund shall delegate organization and holding of lotteries to the person winning the tender held for this purpose.
2. The person winning the tender for organizing and holding a lottery directs 7% of the total value of the tickets sold in holding the lottery to the state budget and 20% - to the fund that is used for the accomplishment of the sports and cultural development goals and objectives set out in the charter of the fund. (25.05.2006, N3142)
3. The person winning the tender shall in no way delegate the right to organize and hold a lottery to the third person.

#### Article 7. (09.12.2005, No 2237)

The Ministry of Finance of Georgia shall grant gambling and prizewinning game permits, impose penalties to permit holders violating the permit conditions, revoke, amend such permit and register it in the Departmental Register of Permits in accordance with the Law of Georgia on Licenses and Permits and this Law.

#### Article 8

If a permit-seeker or permit-holder presents a patent or a document certifying the copyright or related rights from "Sakpatenti", Georgian National Center for Intellectual property, to the Ministry of Finance of Georgia, then the permit shall not be granted to any other person intending to organize lotteries or other prizewinning games under similar rules, by similar technical devices, name or ticket design without the consent of the holder of the document evidencing patent or copyright and related rights.

#### Article 9

1. The amount of the prize fund of a moment lottery shall account for at least 45% of the volume of lottery in the given drawing.
2. The amount of the prize fund of a numbered lottery, lotto and bingo shall account for at least 45% of the total value of the tickets sold.
3. The amount of the prize fund of a promotional drawing is not limited. It is determined by the organizer. The amount of the prize fund shall be fixed in the terms and conditions of drawing.
4. Only one ticket may get a material prize as a result of drawing a lottery.
5. The amount of minimum prize a ticket shall not be less than a double cost of the ticket.

#### Article 10. (Deleted) (09.12.2005, No 2237)

#### Article 11

1. The following shall be subject to permitting:
  - a) Promotional drawing;
    - a) Casino;
    - b) Sweepstake;
    - c) Saloon of gambling machines;
    - d) Lotto;
    - e) Bingo.
2. The games set forth in Subparagraphs a) through d) of Paragraph 1 of this article may be held by means of internet, telephone and specially equipped devices in compliance with the requirements set by this Law.

#### Chapter II

#### Terms and Conditions for Organizing and Granting Permits for Prizewinning Games

#### Article 12 (09.12.2005, No 2237)

1. To obtain a permit, the permit-seeker of a prizewinning game (bingo, lotto, sweepstake, promotional drawing) shall submit the following documents to the Ministry of Finance of Georgia, except the documents listed in Article 25 of the Law of Georgia on Licenses and Permits:
  - a) Certificate on Non-Availability of Debt to the Budget from Tax Inspection;
  - b) A contract or agreement concluded between the permit-seeker and the owner of the area where the drawing is to be held. If the area is the property of the permit-seeker, the applicant shall present a document of ownership;
  - c) A contract or agreement concluded between the permit-seeker and the organization where the lottery tickets or any other documents evidencing participation in the drawing are produced, specifying their estimated number and the cost of production;
  - d) Rules (regulations) for drawing prizewinning games; sweepstake, lotto and bingo regulations shall provide for the instrument of guaranteed handover of prizes within the limits of the security of the prize fund;
  - e) Sample lottery ticket in four copies with reference to anti-falsification marks. In case of a legal entity, a sample ticket shall be approved by the director of the legal entity.
2. A ticket of a prizewinning game shall bear the following requisites:
  - a) Name, address and telephone number of the legal (natural) person;



- b) Price of the ticket (except for sweepstakes and promotional drawings);
  - c) Number of the ticket (numbering from 1 sequentially according to volume for printed samples);
  - d) Number of the permit granted;
  - e) Date and place of holding the prizewinning game; the date and address of drawing the prize fund;
  - f) General rule of the play;
  - g) Time-frames and place of receiving the prize.
3. If it is technologically impossible to imprint the above requisites on the tickets of a prizewinning game, then the organizer of such game shall ensure their publicity and provide drawing rules to the consumers and gamblers without interruption.
  4. To obtain a permit, the Ministry of Finance of Georgia shall be furnished, in two copies, with the terms and conditions for holding the prizewinning game indicating the following:
    - a) Date and place of holding the prizewinning game; the date and address of drawing the prize fund;
    - b) number of tickets and numbering of the tickets of the prizewinning game;
    - c) Prize fund;
    - d) List of the prizes as well as their quantity and cost (except for sweepstakes, lotto and bingo);
    - e) Place, date and limited period for distributing pecuniary or other material prizes of the promotional drawing. An official table of the prizes of a promotional drawing shall be published within no later than three calendar days after the drawing is held. The common date for granting a prize of the promotional drawing shall be no later than 30 calendar days after the drawing is held. The prize shall be distributed within no later than 6 days after submitting the prizewinning ticket.
  5. The organizer of sweepstake, lotto, bingo shall submit a document certifying the security of the prize fund for at least GEL 10 000 to the Ministry of Finance of Georgia.
  6. Permits for holding sweepstakes, lotto and bingo shall be granted for each particular object.
- The Ministry of Finance of Georgia may examine the genuineness of the documents submitted to it.

#### Article 13

1. If a change is made in the terms and conditions of gambling and prizewinning games (not resulting in a substantial change in the game), the organizer of gambling and other prizewinning games shall apply in writing, along with the respective documents, to the Ministry of Finance of Georgia two weeks prior to the drawing to obtain agreement. If this term expires, the application shall not be considered. No modification of promotional drawing shall be allowed before completion of one particular cycle (drawing). (09.12.2005, No 2237)
2. The Ministry of Finance of Georgia shall consider the written application on changes (along with the documents enclosed) of the organizer of gambling and other prizewinning games and within one week give the organizer a notice of agreement or substantiated denial.

#### Article 14

The person who has obtained a permit may sell tickets in cash and non-cash settlement and the winner of a material prize may receive the won object or a proportionate amount in cash if so provided by the rules of the game.

#### Article 15

The organizer of gambling and other prizewinning games shall hold a drawing even if the tickets have not been sold out.

#### Article 16

Lotteries and promotional drawings are supervised by the Organizing Commission set up by the organizer and presided over by the representative dispatched from the Minister of Finance of Georgia and when holding lotteries and promotional drawings in the autonomous republics, cities or regions – the representative of the respective ministry in the sphere of finance of the autonomous republics or local financial authority. In case of a moment lottery or promotional drawing, the commission shall examine the quantity of issued, including winning tickets and the accuracy of their placement in the sales mass.

#### Article 17

1. If the tickets have not been sold out before drawing the prize fund of lotteries or promotional drawings, the organizer shall set up a commission to which a representative from the Minister of Finance of Georgia shall be dispatched and when holding lotteries and promotional drawings in the autonomous republics, cities or regions – the representative of the respective ministry in the sphere of finance of the autonomous republics or local financial authority.
2. One day prior to commencement of drawing, the commission shall register and seal the unsold tickets, except for lottery equipped with special technologies.
3. Within no later than 25 days after the end of distribution of prizes, prizewinning tickets shall be submitted to the Ministry of Finance of Georgia for examination and utilization.
4. Unsold and prizewinning tickets shall be examined and utilized by the Ministry of Finance of Georgia.
5. Unsold and prizewinning tickets shall be examined and utilized and the tickets involved in prizewinning games shall be legalized in accordance with the instruction approved by the Ministry of Finance of Georgia (in both mechanic and polygraphic ways).
6. Sweepstake, lotto, bingo and other prizewinning game tickets shall be submitted to the Ministry of Finance of Georgia for examination and utilization within no later than the 25<sup>th</sup> day of the following month.

#### Article 18

The application of a lottery or promotional drawing organizer for dispatching a representative from the Ministry of Finance to the commission referred to in Article 16 and 17 shall be lodged to the Ministry of Finance of Georgia three days ahead of drawing.

### Chapter III

#### Terms and Conditions for Organizing and Granting Permits for Gambling Games

#### Article 19

1. Gambling games may be organized in casinos and gambling machine saloons only.
2. A casino shall install and operate at least 7 gambling tables but one to play on a roulette wheel.
3. The permit for setting up a casino shall be granted at a specific address. if a casino changes its address, it shall be impermissible to use the previous permit by registering such change in the Departmental Permit Register if a different rate of fees if established by the Law of Georgia on Licensing and Permit Fees for the new address. In such case, organization of a casino requires that another permit be granted in compliance with the laws of Georgia.

#### Article 20

1. A casino shall consist of a customer service zone and an official space zone with a separate entrance to each of these zones.
2. The customer service zone accommodates:
  - a) Gambling halls;
  - b) Cash office to make cash payments with customers;
  - c) Spaces allocated for leisure, entertainment of and holding show events for the guests of the casino;
  - d) Cloakroom.
3. The gambling hall is a space set up specifically for holding games which accommodates, in manner provided by the administration, gambling tables for the casino customers and working places for the casino employees. The hall shall not be visible from outside the building.
4. The cash office for making cash payments with customers shall comply with the requirements provided by the laws of Georgia.
5. The leisure spaces intended for the casino customers may operate restaurants and bars and hold show and entertainment events.
6. The official space zone shall include:
  - a) Leisure room (rooms) for croupiers.
  - b) Isolated room for the employees of the security service;
  - c) Safe. (09.12.2005, No 2237)
7. The vault is a specially equipped room to keep the reserve money of the casino in the amount of at least 10000 Lari per gambling table, all the internal documents of the casino, the gambling equipment of the casino not installed in a fixed manner.
  - a) Such equipment includes:
  - b) Balls for roulette;
  - c) Gambling coins;
  - d) Decks of cards;
  - e) Carbines to deal cards;
  - f) Tray to deal cards;
  - g) Dice. (09.12.2005, No 2237)
8. The casino shall have an uninterrupted electricity supply and a video supervision system in the halls, at the cash office and at the entrances. Video-recording shall be made during the entire period of work of the casino in order to make it possible to supervise each particular table. The magnetic tapes along with the respective recordings shall be kept at such place for at least 10 days where they are safely protected and, upon a reasonable request, duly submitted to the authorized bodies for examination.

#### Article 21

1. To obtain a permit for organizing a casino, a legal entity (natural person) shall submit the following documents, except the documents listed in Article 25 of the Law of Georgia on Licenses and Permits:
  - a) Certificate on Non-Availability of Debt to the Budget from Tax Inspection;
  - b) A contract or agreement concluded between the permit-seeker and the owner of the area where the drawing is to be held. If the area is the property of the permit-seeker, the applicant shall present a document of ownership;
  - c) The Casino Statute specifying: the regulations for the work of the casino; the rules of the games in the casino; the amount of minimum and maximum stakes; rules of conduct in the casino;
  - d) List of the equipment and machines in the casino (gambling tables, gambling machines) with reference to their names and modifications;
  - e) Samples of gambling coins;
  - f) Samples of gambling coins. (09.12.2005, No 2237)
2. The Ministry of Finance may examine the authenticity of the presented documents.

#### Article 22

1. According to the amount of prize and charge for taking part in the games, gambling machines drop into A Class and B Class gambling machines.
2. A Class cash gambling machines shall comply with the following requirements:
  - a) Taking part in a game involves the use of coins, tokens and other means;
  - b) The maximum charge for taking part in one game is one Lari;
  - c) The amount of maximum prize shall not exceed fifty times the charge for taking part in one game.
3. B Class cash gambling machines have no limit in terms of amount of prize or charge for taking part in each game.

#### Article 23

A gambling machine shall intend the winning of at least 80% of the wager laid.

#### Article 24

1. To obtain a permit for organizing a saloon of gambling machines, a legal entity (natural person) shall submit the following documents, except the documents listed in Article 25 of the Law of Georgia on Licenses and Permits:
  - a) Certificate on Non-Availability of Debt to the Budget from Tax Inspection;
  - b) A contract or agreement concluded between the permit-seeker and the owner of the area where the drawing is to be held. If the area is the property of the permit-seeker, the applicant shall present a document of ownership;
  - c) List of the gambling machines in the casino with reference to their names, modifications, manufacturer's number and the year of manufacturing;
  - d) Brief description of games of the gambling machines, with reference to the maximum stakes on each machine and maximum amount of profit. (09.12.2005, No 2237)
2. The Ministry of Finance may examine the authenticity of the presented documents.

#### Article 25

A permit for organizing casino and gambling machines shall be granted for the operation of one facility only.

## Chapter IV

### Rights and Obligations of the Organizer of Lotteries, Gambling and Other Prizewinning Games

Article 26 (Deleted) (09.12.2005, No 2237)

#### Article 27

The gambling rules shall be put at the place where the gambling is held and submitted to the gambler upon the first request.

#### Article 28

1. A holder of the respective permit shall have the right to organize gambling and other prizewinning games in accordance with the terms and conditions provided by the laws of Georgia.
2. The permit for organizing casinos, lotteries and other prizewinning games shall be granted for the term of 1 year. The amount of permit fee shall be determined by the Law of Georgia on Licensing and Permit Fees.

#### Article 29

1. The organizer of lotteries, gambling and other prizewinning games shall:
  - a) Ensure the protection of public order and safety, lawful rights and interests of the gamblers and other persons at the place of gambling;
  - b) Register issued prizes and duly submit information to the Ministry of Finance of Georgia;
  - c) Issue prizes according to the gambling rules;
  - d) If requested, give gamblers a written notice of receipt of the prize of a due form;
  - e) Make a decision in connection with the claims of gamblers within the terms provided by the rules of the game;
  - f) Keep confidential the information on the amounts won or lost by gamblers and provide such information only to the extent provided by law;
  - g) Timely pay the fees and taxes provided by law for organizing games;
  - h) Not allow the discussion of any additional term or condition in issuing a prize to the winning gambler except as provided by law;
  - i) Within 2 weeks after terminating/resuming activity, give a written notice to the Ministry of Finance of Georgia on termination/resumption of activity;
  - j) Fulfill the obligations assigned in him by this Law and other normative acts.
2. The organizer of lotteries, gambling and prizewinning games shall be prohibited to sign individual labor contracts with minors by which they are assigned to work at the place where the game is held or exercise control over organization or holding of the game.
3. The organizer of casinos, gambling and prizewinning games shall be prohibited to provide loans to gamblers in order for them to lay wagers.
4. The organizer of casino shall have the right not to fulfill the obligations provided under Item 2 of Article 19 and Article 20, if the casino terminated the activity in compliance with Sub-item "I" of Item 1 of this Article till recommencement of activity. (09.12.2005, No 2237)

#### Article 30

1. The organizer of lotteries, gambling and prizewinning games shall not be obliged to examine the authority of the bearer of a lottery ticket, gambling coin or the documents evidencing the right to take part in another game unless so provided by the rules of the game.
2. If a gambler loses a lottery or prizewinning game ticket or gambling coin evidencing participation in a game and winning a prize, he/she has no right to raise a claim before the organizer of lotteries, gambling and prizewinning games unless otherwise provided by the rules of the game.
3. Claims in connection with the organization of games shall be accepted within the terms provided by the rules of the game.

#### Article 31

It shall be prohibited to hold such games in gambling halls which are not provided for by the regulations of the casino.

#### Article 32

Participation of persons not attaining 18 years in gambling games shall be prohibited.

#### Article 33

1. Gambling tables, gambling machines and other equipment (hereinafter – gambling machine) used for a game as well as in view of the specifics of a particular game – additional items may be owned, used, rented leased or otherwise used by the casino and gambling game organizer.
2. A gambling machine may be used in games only in consideration of existence of distinguishing marks (number mark, manufacturer's number, manufacturing date, country of origin). (09.12.2005, No 2237)

#### Article 34

Taxation and accounting of business of lotteries, gambling and other prizewinning games are carried out in accordance with the laws of Georgia.

#### Article 35

The permit for organizing gambling and prizewinning games shall not be granted if the game (other than promotional drawings) are held in a children, medical or educational institution, place of worship, children sanatorium, library, museum, administrative buildings of federal or local government or at a place prohibited by decision of local self-government authorities.

#### Article 36 (09.12.2005, No 2237)

The Ministry of Finance of Georgia shall exercise control over the fulfillment of the requirements of this Law and all the paragraphs of the rules (regulations) of drawing.

#### Chapter V

Liability for Violation of this Law

#### Article 37

1. Liability for violation of this Law shall be provided by the laws of Georgia.
2. Failure of the organizers of gambling and other prizewinning games to fulfill their obligations under the laws of Georgia is equalized with violation of permit terms and

they shall fulfill the liability provided under Article 34 of the Law of Georgia on Licenses and Permits. (09.12.2005, No 2237)

3. Falsification of lottery tickets or other documents evidencing participation in prizewinning games shall be punishable under the laws of Georgia.

Article 37<sup>1</sup>. (09.12.2005, No 2237)

A penalty shall be imposed in the amount provided under Article 34 of the Law of Georgia on Licenses and Permits in case of non-fulfillment of the obligations hereunder by permit holders:

- a) against permit holders organizing casinos – GEL 7000;
- b) against permit holders organizing sweepstakes – GEL 2000;
- c) against permit holders organizing a saloon of gambling machines – GEL 1000;
- d) against permit holders organizing lotto – GEL 1000;
- e) against permit holders organizing bingo – GEL 1000;
- f) against permit holders organizing promotional drawing – GEL 1000.

## Chapter VI

### Transitional provisions

Article 38

1. The Government of Georgia establish, within six months upon adoption of this Law, the Fund referred to in Article 6 of this Law, in accordance with the Civil Code of Georgia.
2. The licenses granted under law before enactment of this Law (other than to casinos and lotteries) be subject to re-registration into permits within 3 months upon enactment of this Law and the licenses and permits granted for organization of casinos be valid until January 1, 2006. Thereafter, permits for organizing casinos shall be granted in accordance with this Law and Paragraph 10 of Article 7 of the Law of Georgia on Licensing and Permit Fees; The right of the holders of licenses and permits granted for organizing lotteries to organize lottery shall be prolonged till announcing of the winner in the tender organized by National Lottery Fund. (28.12.2005, No2610)
3. Within the terms provided by Paragraph 2 of this article, a licensee (other than casinos and lotteries) shall submit to the Ministry of Finance of Georgia an application for re-registration of a license into a permit, the license as well as the additional documents provided by this Law and the renewed versions of the documents the validity term of which has expired.
4. The Ministry of Finance of Georgia shall consider the documents in connection with the obligation provided by Paragraph 2 of this article and grant a permit in accordance with the requirements of this Law (other than casinos and lotteries). In such case, the licensee shall pay only the difference between the amount of the fee paid for obtaining the license and the amount of the fee prescribed by law for obtaining a permit for this activity.
5. In case of failure to comply with the requirements set by Paragraphs 2, 3 and 4 of this article, the licenses granted prior to the enactment of this Law shall be deemed null and void.
6. The validity term of the permits granted prior to the enactment of this Law (other than casinos and lotteries) shall be 1 year after the date of granting the permit.



## Article 39

Within the scope of its competence the Ministry of Finance of Georgia shall exercise control over the fulfillment of the Georgian legislative norms by the holders of the licenses as well as permits granted prior to enactment of this Law for organizing lotteries, gambling and prizewinning games.

## Chapter VII

### Conclusive Provisions

## Article 40

This Law be enacted upon its promulgation.

President of Georgia

Mikheil Saakashvili

Tbilisi

March 25, 2005

N1180-Is

2. Article 36 shall be supplemented with Paragraph 1<sup>1</sup> of the following substance:

"1<sup>1</sup>. The licenses for organizing gambling and other prizewinning games granted before enactment of this Law shall be subject to re-registration into permits in accordance with the Law of Georgia on Organizing Lotteries, Gambling and Other Prizewinning Games and the licenses granted for organizing lotteries and casinos shall be valid until January 1, 2006."

1. Paragraph 10 of Article 7 shall be reworded as follows:

"10. Permit for Organizing Lotteries, Gambling and Other Prizewinning Games (Casinos)

- a) Organizing promotional drawings, lotto and bingo – 1500 Lari;
- b) Organizing a saloon of gambling machines – 2000 Lari;
- c) Organizing a sweepstake – 3000 Lari;
- d) Organizing a casino:
  - d.a) Across the entire territory of Georgia (other than the territories of Batumi and Tskaltubo) – 5000000 Lari;
  - d.b) On the territory of Batumi – 1000000 Lari."

" 2. Paragraph 10 of Article 7 shall be supplemented with Paragraph 10<sup>1</sup> of the following substance:

"Paragraph 10<sup>1</sup>. Organizing a casino on the territory of Tskaltubo shall be exempt from payment of a permit fee."

### **35. Decree N. 93 on Approving the Regulation on Receiving, Systemizing and Processing the Information by Notaries and Forwarding to the Financial Monitoring Service of Georgia**

FINANCIAL MONITORING SERVICE OF GEORGIA

Tbilisi, 27 July 2004

Pursuant to the Articles 10, 15 of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” I Decree:

1. Approve the attached Regulation “On Receiving, Systemizing and Processing the Information by Notaries and Forwarding to the Financial Monitoring Service of Georgia”.
2. Regulation “On Receiving, Systemizing and Processing the Information by Notaries and Forwarding to the Financial Monitoring Service of Georgia” shall become effective from September 1, 2004.
3. Regulation on Approving the Regulation on Receiving, Recording and Processing the Information by Notaries and Forwarding to the Financial Monitoring Service of Georgia approved under Decree 23 of December 25, 2003 shall become null and void from the effective date of this regulation.
4. All notaries operating in Georgia shall:  
  
Ensure putting in action of an e-mail, electronic data base containing identification details of clients and the relevant persons and information on transactions subject to monitoring as well as implementation of the relevant software for revealing suspicious transactions operations and transactions aimed at partition of transaction within the time period set under the legislation.
5. Notaries appointed after the effective date of this Decree, shall take into consideration requirements of the Law of Georgia “on Facilitating the Prevention of Illicit Income Legalisation” and this regulation.
6. This decree shall become effective upon promulgation.

N. Geguchadze

Approved under Decree # 93  
of the Head of the Financial  
Monitoring Service of Georgia,  
27 July 2004

## REGULATION

On Approving the Regulation on Receiving, Systemizing and Processing the Information by  
Notaries and Forwarding to the Financial Monitoring Service of Georgia

### Article 1. General Provisions

1. This regulation has been developed on the basis of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, Decree of the President of Georgia “on Establishing the Financial Monitoring Service of Georgia, Legal entity of the Public Law, and Approving its Regulation” and other relevant normative acts of Georgia.
2. This regulation shall apply to Notaries operating on the territory of Georgia.
3. Requirements of this regulation shall apply to Georgian resident and non-resident entities, their representatives, missions and branches, as well as to departments, institutions and organizations.
4. This regulation shall regulate general principles and rules of financial monitoring conducted by the Notaries for the purpose of preventing illicit income legalisation and terrorism financing, specifically, terms and procedures for identification of the Notaries’ clients and other relevant persons, and rules for receiving, systemizing, processing and filing the relevant information and forwarding to the Financial Monitoring Service of Georgia.

### Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by a person, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- b) Property – property as considered under the Civil Code of Georgia: all property (movable as well as immovable) and immaterial property, which can be owned, used and disposed of by physical and legal persons;

- c) Legalisation of illicit income –legalisation of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;
- d) Monitoring – identification of clients by the Notary, as well as identification of persons involved in transactions implemented through the Notary and subject to monitoring; recording, systemizing and processing the information on transactions subject to monitoring and forwarding to the Financial Monitoring Service of Georgia in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation and procedure prescribed by the other normative acts adopted on the basis of the Law;
- e) Suspicious transaction – a transaction (regardless the amount), supported with a grounded supposition that it was concluded or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained etc.), or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons, or the legal or actual address or place of residence of the person taking part in the transaction is located in the non-cooperative area; also a transaction, which implies transfer of the amount to or from the non-cooperative area;
- f) Person – any resident or non-resident physical person, legal entity as well as organizational formation considered under legislation, which does not represent a legal entity (partnership of apartment owners, non-registered union and partnership).
- g) Clients of the Notary – physical persons and legal entities (as well as organizational formations considered under the legislation, which do not represent legal persons) that apply to the Notary for conducting notarial activities considered under the Georgian Legislation;
- h) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity (organizational formation considered under the legislation, which does not represent legal entity) and its representational authority by means of the registration- and establishment-confirming documents.
- i) Person involved in a transaction – all persons participating in the transaction, including parties of the transaction, their representatives and agents, as well as third parties in whose favor transaction is concluded.
- j) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia, based on the information from the competent international organizations.
- k) Off-shore area – a country or a part of the territory thereof, where preferential taxation regime exists or/and where requirements for identification of parties to the transaction do not comply with international standards, which are recognized as such by the International Organizations.

### Article 3. Transactions Subject to Monitoring

1. For purposes of this Regulation, transaction subject to monitoring, shall be a concluded (or implemented – if the Notary gets informed about this transaction after it has been implemented) transaction, or the series of transactions aimed at partition of the transaction, if one or both of the following provisions exist:
  - a) Transaction is suspicious (regardless the amount) according to Subsection “e”, Article 2 of this regulation;
  - b) The amount of the transaction implemented or concluded by the person, or the series of transactions aimed at partition of the transaction exceeds GEL 30,000, or its equivalent in other currency (in case of cash as well as non-cash settlements).
2. Any transaction other than transactions listed in Section 1 of this Article shall be subject to monitoring, if there is a supposition that any party of the transaction is related to the terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be sent to the Notary (or shall be published in the newspaper - “Sakartvelos Sakanonmdeblo Macne”) by the FMS.
3. Subject to monitoring also shall be concluded or attempted transaction and other fact (circumstance), which, according to the written instructions of the FMS, may be related to legalisation of illicit income or financing terrorism.
4. Pursuant to Section 5, Article 5 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Financial Monitoring Service of Georgia shall have the authority to define the list of specific transactions (or their characteristics, such as type of the business activities of persons involved in transaction, geographic area of their location (place of registration), subject of transaction and etc.), on which the Financial Monitoring Service of Georgia shall be informed according to the rule for submitting reports set by this regulation.
5. Pursuant to Section 5, Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Notary shall have the right not to submit reporting form to the Service on transactions related to immovable items if the transaction amount exceeds GEL 30,000 and transaction will not result in changing the ownership over the item . This exception shall not apply if any party to the transaction causes suspicion for the purposes of 5 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this regulation.

### Article 4. Obligations of Notaries with Respect to Implementation of Internal Control

Pursuant to the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, for the purpose of preventing illicit income legalisation, the Notary shall exercise internal control in accordance with the normative acts issued by the Ministry of Justice on the basis of the Section 7, Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”.

Article 5. Obligations of Notaries with respect to Identification and Registration of Identification Details (Documents)

1. Pursuant to the Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Notary shall be obligated to identify all clients and persons willing to establish business relationship with him, as well as their representatives, agents and third person, in whose favor transaction is being concluded (has been concluded).
2. Identification process shall be conducted in compliance with the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this regulation, the relevant normative acts issued by the Ministry of Justice of Georgia in compliance Section 7, Article 8 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and recommendations and guidelines of the Financial Monitoring Service of Georgia.
3. Notary shall not be authorized to certify (confirm) transaction (document), carry out any of notarial activities, render services to the client or establish business relationship with him without preliminary identification of this person.
4. In spite of supposition on equivocacy and amount of the transaction, the Notary shall not suspend implementation of the transaction (providing services to the person (client) having the business relationship with the Notary), except for the following cases:
  - a) Person (client) willing to establish business relationship with the Notary can not be identified;
  - b) Any party of the transaction is on the list of terrorists or persons supporting terrorism.
  - c) Other cases provided by the Georgian Legislation.
5. In cases indicated in Subsections “a” and “b”, Section 4 of this Article, the Notary shall be obligated not to conduct notarial activities or serve the client, and in the case considered in Subsection “b”, Section 4 of this Article, immediately submit the special reporting form and/or the relevant information (documents) to the FMS.
6. The following information, on all persons taking part in the transaction, shall be obtained through the identification process:
  - a) in case of physical person:
    - a.a) First name, last name;
    - a.b) Citizenship;
    - a.c) Date of birth;
    - a.d) Permanent (registered) place of residence;

- a.e) Number of ID (Passport) and citizen's personal number by ID (Passport);
- a.f) If the physical person is registered as an individual entrepreneur – the relevant registration date, number, registering authority, identification number of tax payer;
  - b) In case of legal entity:
    - b.a) Full name;
    - b.b) Business activity;
    - b.c) Legal address (in case of the branch or representation the legal address of the head office also);
    - b.d) Registering authority, Date and number of registration;
    - b.e) Identification number of tax payer;
    - b.f) Identification details of persons authorized for management and representation in conformance with this Subsection (separately shall be indicated details of the person, who represents this legal entity in a transaction);
      - c) In case of organizational formation considered under the legislation, which does not represent legal entity:
        - c.a) Full name;
        - c.b) Legal address;
        - c.c) Legal act, based on which this formation has been established (or has been functioning);
        - c.d) Identification number of tax payer;
        - c.e) Identification details of persons authorized for management and representation in conformance with this Subsection (separately shall be indicated details of the person, who represents this legal entity in a transaction);
- 7. Documents necessary for identification process shall be:
  - a) if the physical person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document equalized to them under the Georgian legislation, which contains the relevant information; if the physical person is registered as an individual entrepreneur – document confirming registration;
  - b) if the physical person is a foreign citizen – passport issued by the corresponding authority of the relevant State.



- c) in case of resident legal entity (or organizational formation which does not represent a legal entity) – a court resolution (or resolution of any other organ as determined by the Georgian legislation, or other relevant legal act) on registration of a legal entity, or/and a record from a business register (or other relevant register).
  - d) Documents issued by the relevant authorities of foreign countries, presented by non-resident legal person for identification, shall be legalized in compliance with the procedure set under the Georgian legislation.
8. If documents (information) stored in or presented to the Notary allow, in addition to the information listed in Subsections “a”, “b” and “c”, the following details shall be documented:
- a) In case of a physical person:
    - a.a) Patronymic;
    - a.b) Place of birth;
    - a.c) ID (Passport) issuing authority, date of issuance;
    - a.d) Temporary (real) place of residence (in Georgia as well as abroad), if different from registered place of residence;
    - a.e) Occupation, Main business activity and position held;
    - a.f) Bank account (accounts) details;
    - a.g) Tel/fax, e-mail.
  - b) In case of a legal entity (as well as organizational formation, which does not represent a legal entity):
    - b.a) Identification details on physical persons and legal entities owning 20% and more of the stock, share and etc.
    - b.b) Date of appointing persons authorized for management and representation;
    - b.c) Bank account (account) details.

**Article 6. Obligations of the Notary to Record Information (Documents) on Transactions Subject to Monitoring**

- 1. Pursuant to the Section 4, Article 6 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Notary shall be obligated to record information on transaction subject to monitoring.

2. Notary shall be obligated to record the following information (documents) on transaction subject to monitoring:
  - a) Type, subject, purpose and basis of the transaction (type – e.g. acquisition, exchange etc; subject –e.g. hand over of monetary amount, item etc.; purpose – goal that parties are willing to achieve – receive profit, debt payment, charity etc);
  - b) Date and place of concluding transaction as well as transaction amount and currency in which transaction shall be implemented;
  - c) Content of notarial activities performed by the Notary (confirmation of transaction (agreement, will, procuracy), certification of a signature etc.);
  - d) Information defined under Subsections 6 and 7, Article 5 of this regulation submitted for identification of the person involved in a transaction, including information on the person on whose behalf transaction is concluded or implemented, as well as identification information (documents) about the person who concludes or implements transaction on the basis of an order.
3. Notary shall be obligated to record information in relation to all those transactions that are subject to monitoring according to Article 5 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and Article 3 of this Regulation.
4. For the purpose of documenting, systemizing and filing information referred to in Section 2 of this Article, the Notary shall use norms set under the legislation.

#### Article 7. Obligations of Notaries to Keep Information (documents)

1. Notaries shall be obligated to keep information (documents) presented for identification of a person for the period set under the legislation, yet not less than 5 years from the moment of conducting notarial action; other information (documents) about transaction subject to monitoring shall be retained for the period set under the legislation, however for not less than five years from the day of transaction certification (confirmation).
2. Information (documents) on transaction, including those presented for the identification of a person, shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by the Notary himself.
3. The information (documents) shall be recorded and retained so that fully reflect concluded or implemented transaction, persons involved and in the event of necessity, specifically upon criminal persecutions could be used as evidence. Particularly, signed and sealed copy (hard copy as well as electronic) of the reporting form forwarded to the Financial Monitoring Service of Georgia shall be retained in the Notary’s Office. Attached documents (agreements, registration documents, IDs and etc) shall be kept as originals or certified copies. Document shall explicitly show who and when certified the copy. Only the Notary and other persons considered under the legislation shall have the access to these documents.
4. Information (document) shall be systemized, recorded and maintained in a way, that when needed it can be found and retrieved in a shortest period of time.

## Article 8. Obligations of Notaries to Present Reporting Forms on Transactions Subject to Monitoring

1. Pursuant to the Article 9 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, the Notary shall be obligated to submit written notices to the Financial Monitoring Service of Georgia, related to transactions subject to monitoring (Article 3 of the Regulation, Article 5 of the Law).
2. Written notices submitted to the Financial Monitoring Service of Georgia shall be compiled in compliance with the special reporting (Annex N1).
3. Special reporting forms shall be presented to the FMS in documentary, as well as electronic form.
4. The following time frames shall be set for submission (completion and sending) of special reporting forms to the Financial Monitoring Service of Georgia:
  - a) If the amount of transaction exceeds GEL 30,000 or its equivalent in other currency, the report shall be submitted within three working days from conclusion of such transaction (or from the moment of receiving information on such transaction);
  - b) If the transaction is considered as suspicious, the report shall be submitted within three working days from the moment supposition on suspiciousness arose (i.e. at the moment of certification or confirmation the Notary did not have suspicion, however, such suspicion arose later after analyzing the information or receiving additional information);
  - c) If the supposition exists that any person involved in a transaction is related to terrorists or terrorism-supporting persons, the report shall be submitted on the day the information is received. In addition, all relevant materials and documents available to the Notary shall be forwarded to the FMS.
5. If due to objective reasons the special reporting form cannot be presented within the set period of time, defined under Section 4 of this Article, information available to the Notary shall be submitted to the FMS through existing communication means (telephone, fax and e-mail). However, no later than the next working day from the moment the information is received, the Notary shall be obligated to submit completed special reporting form to the FMS indicating communication means of report submission, precise time, sender and recipient persons, as well as reasons for belated submission of the special reporting form.
6. Hard copy of the special reporting form (and attached materials if necessary) shall be submitted to the Financial Monitoring Service of Georgia in a sealed envelope by the Notary, or authorized employee (who gets the sealed envelope and does not have the right to know the content) or sent as a registered mail. Name and address of the sender Notary shall be written on the envelope, as well as the addressee – Financial Monitoring Service of Georgia. Delivery address: 3/5 Leonidze St., Tbilisi 0105, Georgia. The envelope shall be marked as confidential.

7. Electronic version of the special reporting form, as well as initial information on transactions subject to monitoring, shall be sent as an encoded file by e-mail to the following address: [str@fms.gov.ge](mailto:str@fms.gov.ge); Confidential information, subject to submission to the FMS by e-mail, shall be encoded in compliance with the procedure developed by the Financial Monitoring Service of Georgia.
8. Information on transactions subject to monitoring shall be sent to the FMS through the following telephone and fax numbers: Tel: (+995 32) 442 376; Fax: (+995 32) 93 69 41.
9. Special reporting forms shall be prepared in two copies and each of them certified with the signature and seal of the Notary. One copy of the form shall be presented to the Financial Monitoring Service of Georgia, and the other copy shall be retained in the notary's office for no less than five years.
10. The Notary shall maintain register of special reporting forms submitted to the FMS, which assigns individual number to each reporting form. Numbering of special reporting forms shall be consistent during each year and reflected in a special journal, pages of which are numbered.
11. Reporting form shall be filled completely. If Notary does not have any information required in the form, the following shall be written in: "we do not have information." If due to peculiarities of the transaction, it is not necessary to fill in any of the boxes, "----" shall be written in.
12. If there is not sufficient space for writing full information available to the Notary, additional sheet (sheets) of paper with detailed information shall be attached to the form. On the top of the sheet shall be indicated form and box numbers, to which report the information should be attached. Each additional sheet shall be certified with a signature and seal of the Notary.
13. For organizational formations considered under the legislation, which do not represent legal entities (including state departments), boxes allocated for legal entities shall be filled in.
14. In the event of revealing suspicious transaction and submitting related special reporting form to the FMS, the Notary shall be obligated to focus special attention on other transactions, implemented by persons involved in this particular transaction.
15. Pursuant to Subsection "a", Section 4, Article 10 of the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalisation", the Financial Monitoring Service of Georgia shall be authorized to request additional information from the Notary and available documents (including confidential) in relation to any transaction and persons involved therein, including those transactions on which special reporting forms have not been presented to the Financial Monitoring Service of Georgia. The Notary shall be obligated to submit requested information to the FMS within two working days from the moment of receiving the request.
16. If the Notary reveals any additional information, with respect to the relevant transaction or parties thereof, after the report is sent, he shall immediately forward

this information to the Financial Monitoring Service. Also, the additional information shall include number and submission date of the special reporting form, to which the information should be added. The additional information shall be presented in a special reporting form if necessary.

17. The Notary is obliged to strictly observe confidentiality of form completion, submission to the FMS and the related information. In case of suspicion regarding the transaction or parties thereof, and in the event of completion of the special reporting form and submission to the FMS, the Notary shall not inform persons involved in the relevant transaction, their representatives and any other persons.

#### Article 9. Responsibilities Related to Monitoring

1. The Ministry of Justice of Georgia shall supervise compliance of the Notary with norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation”, this Regulation and Normative Acts issued by the Ministry of Justice of Georgia.
2. For violation of norms and requirements of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalisation” and this Regulation, the sanctions shall be imposed against the Notary in compliance with procedure set by “the Law of Georgia on Notaries” and the Ministry of Justice of Georgia.

## **36. Law of Georgia on Notary Service**

As Amended May 25, 2006

The present law determines structure of Notary service and the legal principles of notary's activities as well as basic requirements to be met by public notaries.

### Chapter I

#### General Provisions

##### Article 1. Notary Service

1. Notary Service is a public legal institution which object is to attest within the limits determined by the state legal relations and acts of law between different persons.
2. The public management of Notary Service on the basis of existing legislation shall be carried out by the Ministry of Justice of Georgia and the ministries of justice of Abkhazia and Adjara Autonomous Republics.

##### Article 2. Legal Basis of Notary Activities

The Constitution of Georgia, constitutions of Abkhazia and Adjara Autonomous Republics, the present law, Georgian legislation, international agreements and acts shall constitute a legal basis for Notary activities.

##### Article 3. Notary

1. A notary is free in his professional activities and through nacts he executes his public powers on the basis of the present law and other legislative acts.
2. While performing his notary duties a notary shall be independent and impartial.
3. Notary acts shall be performed in accordance with and within the limits of law. The notary profession is not an entrepreneurship and shall not be a source of profit.
4. Fees to be paid to a notary for his service belong to him only.
5. In relation to employees of notary bureau a notary is an employer.
6. A notary shall take responsibility for damage caused by him during performing his public duties. The state is not responsible for damage caused by notary's fault.
7. Disciplinary measures against notaries will be determined in special regulations to be established by Minister of Justice in co-ordination with a Chamber of Notaries.
8. A notary shall perform the duties specified by the Law of Georgia "On Prevention of Legalization of Illegal Income" and relevant normative acts. (25.02.2004 N3430)

##### Article 4. Chamber of Notaries and Other Associations of Notaries

1. The Chamber of Notaries is an association of notaries based on a principle of self-government. The membership of the chamber is obligatory one.
2. Notaries may establish and join other voluntary associations as well.
3. The Chamber of Notaries shall represent and protect the interests of notaries, assist them in notary activities, organize the training of candidates to notaries, provide for the professional development of notaries.
4. The Chamber of Notaries shall ensure the notaries' participation in solving problems related to the functioning of Notary Service and providing for the professional interests of notaries.
5. A meeting of the members of Chamber shall be a supreme decision-making and the Board is principal executive and administrative body of the Chamber of Notaries.

6. The Chamber of Notaries is a legal entity.

#### Article 5. Positions and Working Place

1. The determination of notary positions and working place where notary acts are to be taken shall be the responsibility of the Minister of Justice who shall act on the basis of the recommendation of the Chamber of Notaries.
2. The Minister of Justice shall be responsible for the compiling and maintenance of an entire State Register.

#### Article 6. Notary act

1. A notary act shall be taken, in cases determined by law, by a notary in consequence of the motions made by individuals or legal entities and such act will have legal effects. The documents certified notarially shall have the undisputable evidential effect. (30.06.2005 N1829)
2. The procedures of performing notary acts shall be determined in special instructions to be approved by the Minister of Justice according to existing legislation.

#### Article 7. Language of Notary acts

1. Notary acts shall be performed in official language of the state.
2. If any person who is applying for a notary act does not speak the official language, the notary shall perform such an act with the help of interpreter.

#### Article 8. Disputes Occurred During the Performance of Notary acts

Any dispute occurred during the performance of notary act shall referred to court.

#### Article 9. Confidentiality of Notary acts

1. Notaries shall keep in confidence the information gained during their professional activities. This obligation is effective after their retirement as well.
2. Notaries may give information about notary acts only to those individuals or legal entities or representatives thereof by whose application or in relation to whom notary act was performed. In case of the request of investigation, attorneys or courts the notaries shall provide thereto information of criminal and civil cases which are in the process of consideration by investigation bodies or courts. In case of the request of Tax Inspection the notaries shall provide information about the value of property transferred to person in question.
3. Attorneys or the Tax Service are prohibited from the giving such information to third persons, including mass-media or referring to the same in public before the final judgement of court.
4. A notary may announce about the existence of a person's will only after the death of such person.
5. Any person, or his successor or representative for whom a notary act was performed may release, in written, a notary from the obligation of confidentiality. In case of the death of such persons and unavailability of their successors or impossibility to contact those latter, a notary may be released from this obligation by court. The court may release the notary from such obligation for other good reason as well.
6. A notary shall provide information about the notary acts concerning the deals specified by the Law of Georgia "On Prevention of Legalization of Illegal Income" to the Financial Monitoring Service of Georgia under the procedure established by this Law and relevant normative acts. (25.02.2004 N3430)



#### Article 10. The Right of Notaries to Use the State Emblem

1. Each notary is entitled to use a seal with the State emblem. The seal shall contain also the name of notary and the location of his office.
2. Each notary has the right to use letterheads with the State Emblem.

#### Article 11. Supervising Notaries

1. The Minister of Justice shall be responsible for supervising notaries and within the limits of his competence shall:
  - a) take control over the correctness of paying fees for notary acts with assistance of the Chamber of Notaries;
  - b) require from notaries registers, books and other appropriate documents necessary for supervising notaries' activities;
  - c) make amendments to the decisions of the Chamber of Notaries if those latter contravene the existing legislation.
2. The Minister of Justice may delegate his supervising powers with respect to certain issues to the Chamber of Notaries.
3. The notary may appeal to the courts against the decisions taken by the Minister of Justice or the Chamber of Notaries.
4. The Ministry of Justice of Georgia, in compliance with the Law of Georgia "On Prevention of Legalization of Illegal Income" shall supervise over the activity of notaries under the procedure established by this Law and relevant normative acts. (25.02.2004 N 3430)

### Chapter II

#### Notary's Office

#### Article 12. Requirements to Notaries

1. A citizen of Georgia who has a higher education in law, has taken a training course or has at least one-year length of work as a notary, notary's secretary or adviser and has passed the notary qualification exam, may hold a notary's position under the rule established by this Law. (08.09.1999 N2363 Legislative Bulletin N43(50))
2. A qualifying examining committee shall consist, on a parity basis, of the representatives of the Ministry of Justice and the Chamber of Notaries who shall be either scholars or practising notaries.
3. Qualifying examining committees may be established also with the ministers of justice or the chambers of notaries of Abkhazia and Adjara autonomous republics.
4. The representatives of the Ministry of Justice or the Chamber of Notaries of Georgia have right to participate in any qualifying examining committee without voting.
5. Any person having a scientific degree in the fields of civil, international, private or civil procedural law shall be exempted from qualification requirements.
6. The regulation of the examining committee shall be developed by the Chamber of Notaries and approved by the Minister of Justice according to procedures determined by law.

#### Article 13. Competition

Notaries shall be selected on the basis of competition. The terms and conditions of competition shall be developed by the Chamber of Notaries and approved by the Minister of Justice according to procedures determined by law.

#### Article 14. Appointing Notaries

1. The notaries shall be appointed by the Minister of Justice. After being appointed the notaries shall be provided with office ID cards. The notaries shall be designated to definite areas.
2. The upper limit of age for the office of notary shall be equal to that of any public office. The Minister of Justice, on the basis of the request of notary in question and the intercession of the Chamber of Notaries, may extend such a limit for not more than 5 years.

#### Article 15. Entering Office

1. A notary shall enter the office within three months after his appointment.
2. Before entering the office a notary shall submit to the Minister of Justice his seal, facsimile and professional insurance certificate.

#### Article 16. Notary Bureau

1. Each notary shall have his notary bureau which shall be his working place. Each notary shall have his own account with a bank. Each notary has the right to hire or dismiss employees in compliance with labour law and to dispose earnings raised from his professional activities. Each notary has the right to open one or more notary bureau in his designated area and give a notice about this to the Chamber of Notaries.
2. Two or more notaries designated to the same area, with the intercession of the Chamber of Notaries, may establish one associated bureau. The rights and duties of notaries within the associated bureau shall be determined by themselves on a contractual basis. Each notary, member of associated bureau shall act on his own behalf and be personally responsible for his acts.
3. The work space of notary bureau shall be isolated.
4. Notary bureaus shall work for at least 5 hours per day.

#### Article 17. Restrictions of Notary Office

1. A notary while holding his office shall not hold any other public office and perform any other paid job except pedagogic, scientific or artistic activities.
2. Each notary has the right to invest his personal assets.
3. No notary or employee of notary bureau has the right to act as a mediator in any deal between the parties.

#### Article 18. Remuneration. Financial Resources of Notary Bureau

1. Legal and technical services provided by notaries shall be paid up.
2. Notaries shall have clients pay fees for notary acts, making copies and duplicates according to tariffs of customs duties established by law. The received fees shall be left at notary's discretion.
3. The notary's earnings shall consist of the amount remained after the deduction of operation costs of notary's bureau and taxes and duties established by law from the fees received by notary for his services. They may also consist of other financial resources that do not contravene the existing legislation.

#### Article 19. Notary's Responsibility

Each notary shall take responsibility for any damage caused by his negligence or intentional act.

Article 20. Insurance

1. For the purpose of compensating for damages mentioned in article 19 above a notary shall make agreement on guaranteed professional insurance for the whole period of his tenure.
2. The determination of terms of professional insurance and of a minimal insurance limit is the responsibility of the Minister of Justice in co-ordination with the Chamber of Notaries.
3. The Chamber of Notaries may make an additional insurance agreement to compensate for damages mentioned in article 19 above by the members thereof.
4. The requirements of this article shall apply to persons specified in articles 23 and 24 below.

Article 21. Ousting Notary from Office and Suspension of Notary's Powers (18.05.2002 N1453)

1. The notary's powers are terminated in case of his/her ousting from office.
2. A notary will be ousted:
  - a) in case of his/her death;
  - b) if s/he has attained to the pension age established by Article 14 of this Law;
  - c) if s/he has been denaturalized;
  - d) if s/he has left Georgia for abroad for permanent residence;
  - e) if s/he has retired;
  - f) if s/he has committed a crime as confirmed by the effective court judgment;
  - g) if s/he has committed a misdeed as provided by the statute on disciplinary liability of notaries which causes his/her ousting from office;
  - h) if s/he has been appointed in violation of the rules established by the legislation regardless of the limitation of term;
  - i) if the notary's state of health excludes the proper performance of his/her official functions;
  - j) if s/he has violated paragraph 1 or/and 2 of Article 15, paragraph 1 of Article 20 and/or Article 22;
  - k) there have been revealed such facts which make inadmissible the work of the person as a notary, including counterfeiting of documents or notary acts by the notary (regardless of the limitation of term of the counterfeited document or notary act) as confirmed by the effective court judgment.
3. The notary whose power have been terminated shall be excluded from the state register of notaries of Georgia.
4. The notary's power are suspended:
  - a) in case of application of a coercive measure to him/her;
  - b) if s/he has committed a misdeed as provided by the statute on disciplinary liability of notaries which causes suspension of his/her powers.
5. A notary will be prohibited the notary activity from the day of passing the relevant acts mentioned in paragraph 4 of this Article.
6. In the cases specified by paragraph 5 of this Article suspension of powers shall be prolonged until the effective date of the ruling on termination of the criminal case, cancellation of coercive measure, verdict of "guilty" or "not guilty". In case of taking

effect of the verdict “guilty” the suspension of powers will be replaced with ousting of the notary from office.

7. The order on ousting the notary from office or suspension of notary’s powers is issued by the Minister of Justice of Georgia. Before issue of the order the Minister of Justice shall hear the opinion of the notary and the Chamber of Notaries except for the cases provided by subparagraphs “a”, “c-f” of paragraph 2 of this Article. The default of appearance of the notary before the Minister of Justice for a not good reason shall not be the ground for delay to issue the order. The order shall be published in the Legislative Bulletin of Georgia and shall be forwarded to the Chamber of Notaries of Georgia, chambers of notaries of Abkhazia and Ajaria Autonomous Republics.
8. The documentation of that notary whose powers have been terminated or suspended shall be handed over, under the order of the Minister of Justice of Georgia, to the Chamber of Notaries of Georgia, chambers of notaries of Abkhazia and Ajaria Autonomous Republics.
9. The notary whose powers have been terminated or suspended has the right to appeal against the order of the Minister of Justice of Georgia within one month following the serving of the order. The order is deemed as served upon if it is handed over to the notary or sent via registered letter to the place of registration of the notary. The appeal shall not suspend the effect of the order.

#### Article 22. Missing

1. In the event of notary’s missing from office for more than five days he is obliged to notify the Minister of Justice about this. The notary’s missing from office for more than one month, except for the case of illness, shall be authorised by the Minister of Justice.

#### Article 23. Substitution

1. Over the period of notary’s absence the Minister of Justice with the intercession of notary and the consent of the Chamber of Notaries shall appoint a person who will substitute for the absent notary for not more than one year.
2. A notary has no right to perform notary acts during the period when his substitute is in charge.
3. The Minister of Justice has the right to appoint, with the recommendation of the Chamber of Notaries, a substitute for the period of up to one year, if the position of notary is temporarily vacant.

#### Article 24. The Substitute

1. A notary may be substituted for by a retired notary or candidate notary.
2. Each substitute shall comply with the provisions of the present law.
3. The rights and duties of notary shall be conferred on a substitute at the date of his appointment and terminated upon his release.

#### Article 25. Remuneration of Substitute

1. Each substitute appointed to the office in accordance with article 23(1) above shall receive remuneration from the notary whom he is substituting for. The amount of such remuneration shall be determined by the notary in question and the minimum amount - by the Chamber of Notaries.
2. Each substitute appointed in accordance with article 23(3) above shall receive remuneration from the Chamber of Notaries in the amount determined by the latter.

Notary fees in this case shall be paid to the Chamber of Notaries and the latter shall be responsible for the reimbursement of operation costs of notary bureau.

#### Article 26. Responsibility of Substitute

1. A notary shall take responsibility for the damage caused by the negligence of his substitute appointed with his intercession in accordance with article 23(1) above.
2. The Chamber of Notaries shall take responsibility for the damage caused by the negligence of substitute appointed by the chamber's intercession in accordance with article 23(3) above.
3. A notary or the Chamber of Notaries have the right to claim from the substitute reimbursement of amount paid thereby in accordance with paragraphs 1 and 2 above.

#### Article 27. Candidate Notary

1. A citizen of Georgia having higher education in law, against whom there is no evidence showing his ineligibility to hold notary's office may be a candidate notary.
2. Any person who is willing to become a candidate notary by the recommendation of the Chamber of Notaries and assignment of the Minister of Justice shall take a training internship. The Chamber of Notaries shall assign any specific notary to whom a candidate in question shall be associated.

#### Article 28. Training

1. Training means the studying in accordance with a program determined by the Chamber of Notaries and the performance of assignments thereof.
2. The duration of training course shall be one year. The Minister of Justice may change the duration of training course with the recommendation of the Chamber of Notaries.
3. A candidate notary may participate in the performance of notary acts under the guidance of notary. He has no right to perform notary acts on his behalf, unless appointed to the position of substitute.

#### Article 29. Remuneration of Candidate Notary

Over the period of training a candidate notary shall be remunerated by the Chamber of Notaries who shall determine the amount of such a remuneration.

#### Article 30. Examination

1. Each candidate notary having completed a training course shall take a qualification examination.
2. Each candidate notary before taking an examination shall present the Chamber of Notaries a report on the training course.
3. A notary under the guidance of whom a candidate notary was trained shall present the Chamber of Notaries his opinion about the trainee.

#### Article 31. Termination of Training

The Minister of Justice by the recommendation of the Chamber of Ministries may terminate the training in case of:

- a) the candidate notary's appointment to the position of notary;
- b) the candidate notary's own request;
- c) the candidate notary's ineligibility to notary's office;
- d) training may be terminated also if a candidate notary, after taking an examination, does not apply without good reason or the position subject to competition.

Chapter III  
Chamber of Notaries

Article 32. Chamber of Notaries

1. The Chamber of Notaries is a legal person under the public law based on the membership of notaries and it acts on the basis of self-government. (08.09.1999 N2363 The Legislative Bulletin N43 (50))
2. The Statute of the Chamber of Notaries shall be adopted by the Chamber and registered by the Ministry of Justice.

Article 33. Membership of the Chamber of Notaries

1. The Chamber of Notaries consists of any notary appointed to his office.
2. A notary becomes a member of the Chamber of Notaries at the date of his appointment to the office and ceases a membership at the date of his release from office.

Article 34. Chamber of Notaries of Abkhazia and Adjara Autonomous Republics

1. The Chambers of Notaries of Abkhazia and Adjara Autonomous Republics shall be established on the basis of this law. Each of these chambers shall be guided by their statutes which shall be adopted by the chambers themselves. The charters shall be subject to registration with the ministries of justice of these republics in accordance with rules of registration of association, with rules of registration of associations.
2. The chambers of notaries of each republic are legal entities which operate on the basis of self-government.
3. The chairmen of boards of the chambers of notaries of Abkhazia and Adjara shall automatically appointed to the positions of deputy chairman of the Chamber of Notaries of Georgia.
4. The chambers of notaries of Abkhazia and Adjara Autonomous Republics shall participate in supervising notaries and in carrying out control over the notaries' performance of ethical obligations.

Article 35. Powers of the Chamber of Notaries

To accomplish its tasks the Chamber of Notary has the power:

- a) to represent notaries in governmental and non-governmental organizations and structures; to establish and maintain contacts with foreign states and international organizations;
- b) by the consent of the Minister of Justice to make recommendations to legislative bodies in relation to drawing up or amending laws and legislative acts;
- c) to receive from notaries necessary information and hear their explanations;
- d) to determine the amount of fees to be paid by notaries to the Chamber of Notaries for membership;
- e) to establish in the Chamber of Notaries new positions;
- f) to reimburse costs of examination appointed by court to check the notaries' acts;
- g) to generalize notary acts through the unification of notary practice;
- h) to carry out commercial operations in order to accomplish its tasks under the Charter. The property of the Chamber of Notaries shall not be taxed by Corporate Assets Tax;



- i) to take other measures in accordance with law.

Article 36. Meeting of Member of the Chamber of Notaries

1. A Meeting of Members of the Chamber of Notaries shall be held once a year.
2. An extraordinary meeting shall be held at the request of:
  - a) Board of the Chamber of Notaries;
  - b) Minister of Justice;
  - c) One-fifths of total members.
3. The meeting shall be summoned by the management board of the Chamber of Notaries which shall notify the members of Chamber about the date, time, place and agenda of meeting two weeks prior to meeting.
4. The members shall participate in the meeting personally or through their representatives, who shall also be the members of Chamber and be authorised by written consent of those whom they represent.
5. The meeting may do business if more than a half of the total members are present. The decisions shall be passed by majority of votes. (08.09.1999 N2363 The Legislative Bulletin N43(50))

Article 37. Terms of Reference of the Meeting of Chamber

1. The Meeting has the right to include in agenda and solve any issues that are within the terms of reference of the Chamber of Notaries.
2. It is only the Meeting of Chamber which has the power to take decisions on the following issues:
  - a) to adopt and make amendments to the Charter of Chamber;
  - b) to approve annual reports and determine the amount of fees to be paid by the members to the Chamber of Notaries.
3. The Meeting of Chamber has the right to permit the Board of the Chamber, if good reason is available, to make amendments to the Chamber's expenditure which shall be submitted to the next meeting for approval.

Article 38. Composition and Meeting of Board of the Chamber of Notaries (08.09.1999 N2363)

1. The chairperson of the Board of the Chamber of Notaries shall be elected for the term of 3 years under nomination of the Minister of Justice of Georgia by the majority of ballots of the attended members at the general meeting of the members of the Chamber of Notaries.
2. If the general meeting of the members of the Chamber of Notaries does not elect the candidate for the chairperson of the Board of the Chamber of Notaries nominated by the Minister of Justice twice successively, the general meeting of the members of the Chamber of Notaries will elect the chairperson of the Board of the Chamber of Notaries in two weeks.
3. The deputy chairperson of the Board of the Chamber of Notaries and three members of the Board shall be elected for the term of three years by the majority of ballots of the attended members at the general meeting of the members of the Chamber of Notaries.
4. The meeting of the Board of the Chamber of Notaries shall be held as a rule once a month. The meeting shall be called by the chairperson of the Board.



#### Article 39. Terms of Reference of the Board

1. The Board shall ensure the performance of the Charter of the Chamber of Notaries as well as of the decisions of the Meeting of Chamber.
2. The Board shall perform all duties of the Chamber over the period between the Chamber Meetings, except for those specified in article 37(2) above. The Board shall maintain contacts with authorities and non-governmental organizations on behalf of the Chamber of Notaries and make recommendations and conclusions.
3. To accomplish its goals the Board may establish an administrative staff and assign the members of Chamber to perform specific duties.
4. The chairman, the deputy chairman and the members of Board shall have no right to make public information about the notary acts which they have been acquainted with over the process of work for the Board. They may make public such an information only with the permission of the Board. The same rule shall apply even after withdrawal or dismissal of Board members from the Board.

#### Article 40. Ensuring the Operation of the Chamber of Notaries

The Minister of Justice shall be responsible for ensuring the operation of the Chamber of Notaries by supervising the Chamber's compliance with laws, other legal acts and the Charter of the Chamber. Before taking any decision on issues which are in his terms of reference, the minister shall hear the opinion and recommendations of the Chamber.

#### Chapter IV

##### Notary act and Requirements for Its Performance

#### Article 41. Notary act

1. A notary shall perform the following notary acts:
  - a) attest deals (contracts, wills, letters of attorney, etc.);
  - b) issue property rights certificates;
  - c) issue inheritance certificates
  - d) issue property rights certificates on a share of common property of spouses;
  - e) take measures to protect bequeathed property;
  - f) lien drillings in accordance with law;
  - g) attest the correctness of copies and extracts in comparison with original documents;
  - h) attest the validity of signatures;
  - i) attest the accuracy of translations;
  - j) attest the fact of a person's being alive;
  - k) attest the fact of a person's being on a definite location;
  - l) attest the identity of a person in relation to a photograph;
  - m) attest the time of submission of a document;
  - n) transfer statement or reference of one person to another;
  - o) receive money, securities or valuables for deposit;
  - p) issue receiving order; (30.06.2005 N1829)
  - q) enter promissory note protest;
  - r) submit cheques for payment and attest unpaid cheques;
  - s) keep documents;
  - t) attest evidences;
  - u) enter maritime protest.
2. Notary acts specified in subparagraphs "b"- "f" above shall be performed in designated areas.

3. In addition to notary acts specified hereby a notary shall perform other notary acts provided for by the Georgian law.
4. In relation to notary acts a notary shall provide legal services to client and at the request thereof draw up draft documents.
5. A notary issues a receiving order under the demand for realization of the mortgaged property only if the parties have agreed thereof and in the notary act the notary specifies in writing the legal effect of issue of the receiving order.
6. Under the receiving order issued by a notary the enforcement takes place in accordance with the procedure established by the Georgian legislation. At the same time, the appeal against the receiving order shall not suspend the enforcement.
7. In case of loss of the receiving order issued by the notary the copy of the receiving order shall be issued by the notary who has issued the receiving order. (30.06.2005 N1829)

#### Article 42. Notary Acts to be Performed by Local Authorities

In rural areas where no notary's bureaus are available some notary acts shall be performed by local authorities. These acts are as follows:

- a) attesting wills;
- b) taking measures for the protection of bequest;
- c) attesting the accuracy of copies and extracts in comparison with original documents;
- d) transferring statement or reference of one person to another;
- e) attesting a person's being alive;
- f) attesting the fact of residence;
- g) keeping documents;
- h) the Georgian law may authorise local authorities to perform such notary acts which are not provided for articles 41 and 42 above.

#### Article 43. Notary acts to be Performed by Consular Officers

Notary acts, in addition to notaries, may be performed by consular officers of Georgia who shall act under the guidance of legal acts regulating consular activities and the requirements of the present law.

#### Article 44. Attestation of Wills and Trust Documents by Public Officers

Equal to notaryly attested documents shall be considered the following:

- Wills of persons being in hospitals, other health-care establishments, resorts, retirement or invalid houses, certified by chief physicians, their deputies or on-duty doctors of hospitals, other health-care establishments and reports or directors or chief physicians of retirement or invalid houses;
- Wills of passengers of aircrafts or ships navigating by the Georgian flags certified by captains of those ships or aircrafts;
- Wills of the members of prospecting or other expeditions certified by chiefs of expeditions;
- Wills or trust documents of military servicemen of other persons being in military hospitals or other military health-care establishments certified by heads, deputy heads or on-duty doctors of those hospitals or other health-care establishments;
- Wills or trust documents of military servicemen of military units, departments or educational institutions, and if there is no public notary's bureau in the place of deployment of such military units, departments or educational institutions, those of

- civilian workers and their families, certified by commanders of such units, departments or educational institutions;
- Wills and trust documents of persons committed to prisons or other such places certified by the chiefs thereof.

#### Article 45. Place of Performing Notary acts

Notary acts, at the client's request, may be performed by any notary, except for cases when law requires that a specific notary act be performed by the notary serving in a given area.

#### Article 46. Term of Performance

Notary acts shall be performed after the submission of all necessary documents and payment of fees.

#### Article 47. Suspension of Performance

1. The performance of notary act may be suspend:
  - a) if additional information or documents is required;
  - b) in case of examination, before receiving the results of such an examination;
  - c) at the request of a party concerned which is going to appeal against another party with respect to right or fact whose attestation the second party is applying for. In this case a notary may suspend the performance of notary act for not more than ten days. If within this period a notary does not receive any notice from the court about the appeal of the party concerned, he shall perform the notary act.
2. The performance of notary act shall be suspended on the basis of relevant notice given by court to notary before the settlement of dispute.
3. In case of suspension a notary shall not make any attestation, but if required be may indicate in a notary document that the eligibility and capability of the persons in question is certified.

#### Article 48. Restriction of the Right to Performing Notary acts

1. Neither notaries not other persons who perform notary acts in accordance with Articles 42, 43 and 44 have the right to perform notary acts in cases when they themselves or their spouses, parents or parents in law, children, grandparents, brothers or sisters are concerned.
2. A notary shall have no right to attest a deal if a party to this deals a company or commercial association founded on the assets of notary's spouse, parents or children.
3. In cases of ineligibility of notary to perform notary acts, due to conditions specified in paragraphs 1 and 2 of Article 48 above, the Minister of Justice shall assign another notary to perform such acts.
4. Notary acts performed in violation of provisions of Article 48 above shall be null and void.

#### Article 49. Determination of Identity, Eligibility of Capability of Persons. Checking the Powers of Representatives and Claiming on Documents

1. Before performing notary acts the notaries or other offices who have the right to perform notary acts shall determine the identity of persons or their representatives applying for the notary acts by checking their passports or ID cards. If a notary personally knows a client, no ID card is necessary.

2. When deals are to be attested the notaries shall certify the eligibility and the capability of parties.
3. If a deal is to be made by a representative of a party a notary shall certify the powers of such a representative.
4. A notary has the right to claim on the submission of all documents necessary for the performance of notary acts from any company, organization or institution.

#### Article 50. Clarification of Essence and Effects of Notary acts

A notary shall clarify the essence and effects of notary acts to those persons who are requesting the performance of such acts. Besides, the notary shall provide for the interests of those persons who are ignorant of law and need legal assistance.

#### Article 51. Procedures of Signing Notary Acts

1. Deals and other instruments requiring notary attestation shall be signed in the presence of a notary. If the such instruments have been signed in the absence of notary, each party shall certify that the signature belongs to him.
2. If a document to be attested contains the will of a person in question, before its signing a notary shall read the document aloud.
3. If a person party to a notary act is deaf, or dumb or deaf and dumb, a notary shall clarify the essence and effects of notary act to such person with the help of a specialist. The specialist shall certify by his signature that the essence of act was clarified to the person in question with his aid.
4. Instead of a person who cannot sign a document due to illness or physical defect or any other good reason, a representative of such person shall sign the document in the presence of the person in question. In addition, there shall be indicated the reason of the person's incapability of signing documents.
5. If the party to a notary act is illiterate or blind a notary shall read the text of document aloud and indicate this fact therein.

#### Article 52. Registering Notary acts

1. All notary acts performed by either notaries or officers indicated in Articles 42, 43 and 44 above shall be registered with the Notary Register.
2. Each notary act shall be numbered and such numbers should be indicated on every issued document of certificate.
3. A notary shall issue extracts from the Notary Register to those persons (who shall submit for this purpose written applications) at whose request or in respect to whom a notary act was performed.
4. The procedures of performing notary acts shall be determined by the Chamber of Notaries and approved by the Minister of Justice.

#### Article 53. Drawing up Notary Acts

The Chamber of Notaries shall determine the rules of drawing up notary acts and the forms of notary register and certificates. All such rules and forms shall be registered.

#### Article 54. Refusing to Perform Notary act

1. The notaries and officers listed in Articles 42,43 and 44 shall refuse to perform notary acts if:
  - a) they contravene law or other legislative acts;
  - b) submitted documents do not meet existing requirements, or contain offensive information, or contradict universally recognized moral principles;

- c) a party to notary act is ineligible or disable;
  - d) a request to perform notary act is made in a language, unknown to a notary and there is no possibility to use an interpreter.
2. In case of notary's refusal to perform notary acts within three days the notary shall provide the party in question with written justification of such a refusal.
  3. A notary shall inform the party to whom he refuses to perform notary act about his right to appeal against such a refusal.

Article 55. Appealing Against the Notaries

1. Any person concerned with notary act or the person to whom a notary refused to perform such act may appeal against the notary to the court of that district where the notary's office is located.
2. Claims against notaries, which are not subject to Paragraph 1 of this Article shall be considered by the Minister of Justice or by the assignment of the latter by the Chamber of Notaries.

Article 56. Notary acts for Foreign Citizens and Stateless Persons

Any foreign citizen or stateless person may apply personally or through his representative for notary acts according to the same rule as the citizens of Georgia.

Article 57. Accepting Documents Issued in Other Countries

A notary shall accept the documents issued in other countries if they are legalized or certified by Apostille according to procedure determined by law. (25.05.2006, No3137)

Article 58. International Agreements and Covenants

If any of the international agreements or covenants to which Georgia is a party provides procedures of notary acts different from those established in Georgia a notary shall be guided by the international agreements and covenants.

Chapter V

Transitional Provisions (17.07.1998 N1535)

Article 59. Taking Effect by Article 20 of the Law and Qualifying Exam of Notaries

1. Article 20 of this Law shall take effect upon promulgation of the Law of Georgia "On Obligatory Insurance of professional Liability of a Notary".
2. A public notary shall continue work before appointment under the rule provided by the Georgian legislation and till May 1, 1999 s/he shall pass the qualifying exam as provided by this Law.

President of Georgia

Eduard Shevardnadze

Tbilisi  
May 3, 1996  
No. 209-II

Parliament of Georgia

Resolution

“On Notary Service”

Parliament of Georgia resolved:

I. Law of Georgia “On Notary Service” shall be effective as of August 1, 1996.

II. The following acts shall be null and void:

1. Resolution of the Supreme Soviet of Georgian SSR “On Public Notary Law”, dated December 27, 1974 (Bulletin of the Supreme Soviet of Georgia SSR, 1974, No. 12, Article 238).
2. Public Notary Law of Georgia SSR, dated December 27, 1974 (Bulletin of the Supreme Soviet of Georgian SSR, 1974, No. 12, Article 238).
3. Resolution of the Presidium of the Supreme Soviet of Georgian SSR “On the amendment to paragraph 2, article 55 of Public Notary Law of Georgian SSR, dated February 25, 1977 (Bulletin of the Supreme Soviet of Georgia SSR, 1977, No. 2, Article 14).
4. Resolution of the Presidium of the Supreme Soviet of Georgian SSR, dated July 3, 1979 (Bulletin of the Supreme Soviet of Georgian SSR, 1979, No. 7, Article 208).
5. Decree of the Council of Ministers of Georgia SSR “On the Instructions for Public Notary’s Offices of Georgian SSR on Notary procedures, dated June 23, 1977, No. 455.
6. Decree of the council of Ministers of Georgian SSR “On Amendments to the Instructions for Public Notary’s Offices on Notary Procedures, dated September 25, 1988, No. 677.

III. The Ministry of Justice of Georgia shall:

- Prepare instrumental basis for Notary Law’s coming into effect within two months;
- Ensure the reorganization of notary system before January 1, 1997;
- Ensure uninterrupted notary services to people during the process of reorganization.

IV. Those persons continuing the notary activity under permit of the Ministry of Justice may be appointed as notaries according to the established order.

V. Local authorities shall ensure the lease to notary bureaus the spaces occupied by public notary’s offices by the date of this law’s coming into effect.

VII. For the purpose of this law the term “Minister of Justice” means the ministers of justice of Georgia and of Abkhazia and Adjara autonomous republics, unless anything different is specified by law.

VIII. Article 42 of Law of Georgia “On Notary Service” shall come into effect after the adoption of Local Self-Government Law of Georgia.

Deputy Chairman of Parliament  
Tbilisi  
May 3, 1996  
No. 210-IIS

Eduard Surmanidze

### **37. Grounds for considering transaction and persons involved therein as suspicious for Notaries**

Grounds for considering transaction and persons involved therein as suspicious for Notaries

1. The transaction is suspicious because person “A” receives several times short-term loans from different persons:  
In May 13, 2005 receives 2200 USD from Person B;  
In August 8, 2005 receives 6000 USD from Person C;  
Receives 4500 USD from Person E;  
Receives 4000 USD from Person F;  
In December 26, 2005 receives 5000 USD from Person G;  
In January 20, 2006 receives 5000 USD from Person H.
2. The value indicated by participants in the transaction does not comply with market value
3. In real the apartment was sold for 50 000 USD (39 000 USD was shown in the report form).



## **38. Law of Georgia on Advocates (Article 7)**

As Amended November 25, 2005

### Article 7. Professional Secret

An advocate shall:

- a) Protect professional secrets irrespective of the time passed;
- b) Not disclose, without the client's consent, the information received in the process of practicing advocacy;
- c) For violation of his/her duty not to disclose professional secrets, an advocate shall be held liable as provided by this Law and the Code of Professional Ethics of Advocates.

### **39. Law of Georgia On Entrepreneurs (Article 4)**

As Amended June 30, 2005

Article 4. Enterprise Registration (24.06.2005, No. 1781)

4.1. Registration of any enterprise shall be effected by a tax body at the place of location of the enterprise

4.2. Registration of any enterprise shall be effected by entering relevant records in the Entrepreneurial Register.

4.3. The sample Register Card is provided in the Appendix to this Law.

4.4. The data entered in the Entrepreneurial Register shall be public. Any person may have access to and receive extracts from the Entrepreneurial Register.

4.5. A single Entrepreneurial Register shall be maintained by the Tax Department of the Finance Ministry of Georgia..

4.6. The procedure of maintaining the Entrepreneurial Register and the tax bodies authorized to make registration shall be determined by the Georgian government's resolution.

4.7. Data of the Entrepreneurial Register shall be published by a tax body in an official press organ, and a copy of the decision on registration of an enterprise shall be sent to the state departmental institution of the Georgian Ministry of Economic Development - to the Department of Statistics, once a month, not later than the 5th day of the following month. A copy of the decision made in respect of a joint-stock company shall be send by a tax body to the National Commission on Securities of Georgia within the same period.