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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

GEORGIA[1]

PROGRESS REPORT 2008

[1] Adopted by MONEYVAL at its 27th Plenary meeting (Strasbourg, 7-11 July 2008). For further information on the examination and adoption of this report, please refer to the Meeting Report MONEYVAL(2008)26 at www.coe.int/moneyval.

1. *General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field*

Georgia has continued the development and strengthening of its AML/CFT system since the third round evaluation of Georgia by MONEYVAL which took place in April 23 – 29, 2006. The final report was adopted by MONEYVAL at its 22nd plenary meeting in Strasbourg 19-23 February 2007.

Together with the development of AML/CFT law, Georgia has experienced reforms in financial sector. Georgian Authority has taken measures to develop and improve the supervision system on financial sector. For these purposes, Georgian authorities have initiated legal amendments to the Organic Law of Georgia on National Bank and consequently amendments to the Law on Commercial Banks, Securities Law, Law on Insurance, etc.

Supervision of the financial sector was undertaken by three independent supervising authorities, National Bank of Georgia – supervised banking sector including: commercial banks, non-banking depositary institutions, microfinance institutions, and exchange bureaus; Insurance State Supervision Service – supervised insurance sector; Securities Commission – supervised securities market in Georgia.

According to the new amendments on the Organic Law of National Bank of Georgia, for the purpose of the financial sector supervision – Georgian Financial Supervisory Agency (GFSA), legal entity of the public law, was established. Georgian Financial Supervisory Agency is the single body supervising the whole financial sector. Georgian Financial Supervisory Agency supervises: banking sector, entities performing money remittance services, exchange bureaus, insurance sector (comprising of non-life insurance companies, life insurance companies, entities conducting pension schemes), and securities market.

Georgian Financial Supervisory Agency has the same authority and competencies that National Bank of Georgia, Insurance State Supervision Service and Securities Commission wielded in regard to financial sector regulation. GFSA is an independent agency which is established at the National Bank of Georgia. GFSA shall have an independent Supervisory Council comprising of 5 permanent members (Georgian nationals, as well as citizens of various countries who have experience in financial sector and have a good reputation) including the president of National Bank of Georgia as ex officio member. President of the National Bank simultaneously shall not be the Chairman of the Agency Council. The Agency shall be governed by the Head, who is appointed by the President in concert with the Supervisory Council of the GFSA.

Purpose of the reform was to enhance the productivity and effectiveness of the supervision system for the financial sector and improvement and coordination of regulation issues for the whole financial sector.

Accordingly, the new amendments will certainly have effect for the AML/CFT regulations. Namely, the supervision of the financial sector will be unified which will ensure more effective system of the supervision for the purposes of AML/CFT Law. It will also contribute to the development and coordination of the unified system of sanctions for breaching the AML Law.

Major achievements with respect to the development and strengthening of Georgian AML/CFT system are: ratification of the 2000 UN Convention against Transnational Organized Crimes on 7 June 2006; amendments to the Georgian Criminal Code embedding the notion of the undocumented property in the definition of money laundering, covering the preparation of all types of money laundering prescribed by para. 1, 2 and 3 of article 194 of the CCG, removing the 5000 GEL barrier and exemption for crimes committed in the tax and customs sphere in the definition of illicit income, criminalization of the purchase, possession, use or realization of laundered proceeds, fully criminalization of terrorism financing and thus extending the scope of article 194 of the CCG (being of the fully criminalized terrorism financing the predicate offence for money laundering), enhancing the ability of rendering MLA and extradition for terrorism financing and etc.; amendments to the Criminal Procedural and Civil Procedural Codes, in particular widening the range of civil Procedures of confiscation; and amendments to the Law of Georgia on Facilitation of the Prevention of Illicit Income Legalization (adopted on 27th of March, 2007, 4th of July, 2008 and 19th of March, 2008): removing the exemption for crimes committed in the tax and customs sphere in the definition of illicit income, prohibition opening and maintaining anonymous accounts and accounts in fictitious names, introduction of the term „shell bank" into Georgian legislation, prohibition of the opening and keeping accounts with shell banks, defining the meaning of beneficial owner, establishing the obligation of financial institutions to examine the beneficial owners of their clients and transactions, furthering the requirements for maintaining relevant documentation and information by financial institutions and etc. (see the detailed information beneath).

FIU has prepared amendments to the decrees for monitoring entities in compliance with MONEYVAL experts' recommendations and amendments to the AML law. Also, GFSA has prepared draft guidance for commercial banks regarding the AML/CFT requirements. So far, Georgian Authorities have been concentrated on improving regulations on commercial banks as the most developed institutions of the financial sector. The same action will be done in regards to the other financial institutions and DNFBPs.

At present, the short-term goal of Georgian authorities is development of principles of Risk Based approach in the country and their implementation by monitoring entities through the process of identification and assessment of clients and transactions.

Since October 2007 Office of the Prosecutor General of Georgia together with working on the above-mentioned amendments in AML/CFT Law has participated in following trainings and seminars:

October 2 and 3, 2007 - joint workshop of US Embassy in Georgia and Office of the Prosecutor General of Georgia was held in Tbilisi. On the Workshop the representatives of the United States Department of Justice, United States Department of the Treasury,

Prosecutor's Office of Georgia, Ministry of Internal Affairs and FMS of Georgia made presentations and discussed Money Laundering Investigations (both on theoretical and practical levels), international and foreign cooperation, AML Law of Georgia, Reporting Law, Sources of information available to the FMS and how the information is analyzed to determine if a referral should be made and etc.

October 31 and November 1, 2007 - Anti-Money Laundering Seminar held in Tbilisi. Seminar was arranged by the United States Department of Justice. The workshop was attended by all relevant stuff dealing with money laundering cases of the Office of the Prosecutor General, Ministry of Internal Affairs and FMS of Georgia and by respective authorities from Armenia. On the seminar the practitioner prosecutor and investigator from US made presentations on the following issues: key vulnerabilities in the money laundering process, identifying of money laundering mechanisms, intelligence Gathering and exploitation, disrupting illicit money flows, required elements of proof. Seminar consisted of practical exercise and case studies as well.

10-11 March, 2008 – EBRD regional AML training seminar held in Tbilisi. On the seminar AML/CFT experts from TvT Compliance Ltd., Switzerland, International Center for Asset Recovery, Switzerland, FIU of Israel, VTB Bank of Russia, Bank of Georgia and FMS of Georgia made presentations on the following issues: due diligence obligations of financial institutions, organization of compliance officers, combating the financing of terrorism, detecting and reporting of suspicious transactions, financial investigations, AML/CFT system in Georgia. The workshop consisted of practical exercises as well. The attendants of the Seminar were the AML/CFT specialists from Financial Intelligence Units, Low Enforcement Agencies and representatives of private sector from 10 countries.

9 - 16 April, 2008 - seminar concerning the international issues in assets forfeiture held in the US. The seminar was arranged by the US Department of Justice and designed for US and foreign prosecutors involved in international money laundering and forfeiture investigations and prosecutions. The aim of the seminar was to discuss legal obstacles and experiences that arise when crimes are committed in one jurisdiction, the illicit funds are laundered in other countries, efforts that should be undertaken by law enforcement authorities to recover the proceeds of transnational crime. Topics related to international forfeiture cooperation included obtaining evidence and assistance from another country, enforcement of foreign restraining orders and forfeiture judgments, conducting joint international operations, obligations under treaties and multilateral conventions, international asset sharing and etc.

The Head of the Unit for Prosecution of Illicit Income Legalization of the Office of the Prosecutor General of Georgia made the presentation about Georgian confiscation regime on the seminar.

During the all above-mentioned seminars, together with other appropriate issues there have been largely discussed the issues related to money laundering investigation, prosecution, required evidences to prove each type of money laundering, freezing, seizure, confiscation and etc.

In regards to the international cooperation, Georgian FIU has signed Memoranda of Understanding with the similar agencies of eighteen countries (Liechtenstein, Serbia,

Ukraine, Estonia, Czech Republic, Israel, Slovenia, Romania, Thailand, Panama, Belgium, Bulgaria, China, Croatia, Moldova, Lebanon, Armenia, Indonesia) out of which five MOUs were signed after the third round Evaluation in 2006. Negotiations are in process with Poland, Turkey, Sweden, Aruba, Peru and Russian Federation

2. Key recommendations

Please indicate improvements which have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Clarify legislative provisions to ensure that all aspects of the physical and material elements in the Vienna and Palermo Conventions are covered;*
Measures taken to implement the Recommendation of the Report	**According to the Georgian law in force to the date all aspects of the physical and material elements prescribed by Vienna and Palermo Convention are fully covered.** **The law applicable to the cases involving the elements referred to above are as follows:** ***Preparation*** **By the amendments of march 19, 2008 to the Criminal Code of Georgia the preparation of all types of money laundering (para. 1, 2 and 3 of article 194 of the CCG) is fully punishable under the Criminal Code of Georgia;** ***Purchase, Possession, Use and Realization of Laundered Proceeds*** **The amendments made to the Criminal Code of Georgia on 19 March 2008 introduced the new Article 194[1] that thoroughly criminalizes the act of purchase, possession, use or realization of laundered proceeds.** **Transfer/Conversion** **In different two cases, the elements referred to in Article 6, (1), (a), (i) of Palermo Convention and in Article 3, (1), (b), (i) of the Vienna Convention are covered by the provisions of Article 194 of the CCG in conjunction with Article 23 (Complicity in money laundering) and Article 375 (Concealment of crime) together with Article 186 (Knowingly use, purchase, possession and realization of the proceeds of crime) of the CCG.**

	In the first case, Article 194 in conjunction with Article 23 of the CCG is applicable where the person has a knowledge that his act (conversion/transfer of property knowing that property is proceeds for the purpose of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his action) would result in the illicit income legalization, is willing to cause this result or does not have a will but foresees the inevitability of the realization of such consequence (direct intention), or is also not willing but considers the possibility to cause this result (indirect intention); **In other case, if a person converts or transfers the property without the knowledge that such transaction might result in laundering the proceeds but only is aimed to help a person who is involved in the commission of the predicate offence to evade the legal consequences of his action Article 375 (Concealment of crime) and Article 186 (Knowingly use, purchase, possession and realization of the proceeds of crime) of the CCG will be applicable.** **For the purpose of Article 186 of the CCG, *purchase* means any receipt of the proceeds of crime notwithstanding the fact whether it was conveyed in return of some value, or just for undertaking of any action, e.g. conversion/transfer of the property etc.** **For the purposes of Article 186 the term realization covers both conversion of the property in question or transfer of it to the third parties.**
Recommendation of the MONEYVAL Report	*preparation/conspiracy to commit money laundering should be fully covered in Georgian law;*
Measures taken to implement the Recommendation of the Report	**Due to the amendments of March 19, 2008, the preparation of money laundering is fully covered by Georgian Criminal Code.**
Recommendation of the MONEYVAL Report	*Simple possession or use of laundered proceeds should be covered;*
Measures taken to implement the Recommendation of the Report	**To this end, by the amendments of March 19, 2008 new Article 194[1] criminalizing the act of purchase, possession, use or realization of laundered proceeds was introduced to the Criminal Code of Georgia.**
Recommendation of the MONEYVAL Report	*Financing of terrorism should be covered in designated categories of predicate offences, and insider trading should be fully covered;*
Measures taken to implement the Recommendation of the Report	**The terrorism financing as a crime was criminalized on 25 July 2006. Since the amendments of March 19, 2008 to Article 331[1] (Financing of terrorism) of the CCG, when the scope of the article further extended to the individual terrorist as well, the financing of terrorism has been criminalized fully.** **Thus, as financing of terrorism is completely covered by the CCG and Article 194 of the CCG has all crimes approach the financing of terrorism with all its aspects fully represents a predicate offence for Article 194 of the Code.**
Recommendation of the MONEYVAL Report	*The exemption for crimes committed in the tax and Customs sphere in the definition of illicit income in the preventive law should be removed;*

Measures taken to implement the Recommendation of the Report	**By the amendments of 4 of July 2007 the exemption for crimes committed in the tax and customs sphere in the definition of illicit income in the Criminal Code of Georgia and Law of Georgia on Facilitation of the Prevention of Illicit Income Legalization was removed.**
Recommendation of the MONEYVAL Report	*The financial value threshold should be removed;*
Measures taken to implement the Recommendation of the Report	**On the basis of the amendments of 4 July 2007, the 5000 GEL barrier was removed in the note of Article 194 of the CCG**.
Recommendation of the MONEYVAL Report	*Further clarification of the evidence required to establish underlying predicate criminality in autonomous money laundering prosecutions should be considered, and more emphasis placed on autonomous money laundering prosecutions (especially in relation to foreign predicates) for a fully effective criminalisation of money laundering;*
Measures taken to implement the Recommendation of the Report	**See the response on the recommendation 27.**
(Other) changes since the last evaluation	**1. By the amendment of July 4, 2007, replacing the notion of property acquired through the criminal means by the notion of illegal and/or undocumented property in Article 194 of the CCG, the flexibility of application of the above-mentioned article was further increased. Currently, provisions of the amended part of Article 194 of the CCG has the following wording:** **Legalization of illicit income, i.e. giving a legal form to the illegal and/or undocumented property (use, acquisition, possession, conversion, transfer or other action) for the purposes of concealing its illegal origin, as well as concealing or disguising its true nature, originating source, location, allotment, circulation, ownership and/or other related property right,** **Note:** **a. For the purposes of this article, illicit property shall mean a property, also the income derived from that property, stocks (shares) that is gained by offender, his/her family members, close relatives or the persons affiliated to him/her through the infringement of the law requirements.** **b. For the purposes of this article, undocumented property shall mean a property, also the income derived from that property, stocks (shares) if an offender, his/her family members, close relatives or the persons affiliated to him/her are unable to present a document certifying that the property was obtained legally, or the property that was obtained by the monetary funds received from the realization of the illegal property.** ***The Criminal Code of Georgia under the term property understands all the objects and intangible property, also legal documents confirming the title of the property ownership, also any income received from the said proceeds***

	2. According to the amendments of March 19, 2008 to the Criminal Code of Georgia: **Sanctions of Article 194 have been increased, in particular sanctions of paragraph 1 provides for deprivation of liberty from 3 to 6 years, para. 2 – from 6 to 9 years and para. 3 - from 9 to 12 years.** **The new Article 202^1 criminalizing the disclosure by the management and employees of the Financial Monitoring Service of Georgia and Monitoring Entities of the fact that the information about the transaction subject to monitoring was submitted to the competent authorities is introduced into the Criminal Code.** **3. As for the Civil procedures of confiscation:** **Article 37^1 of the CPCG, has been further amended on July 2007. According to the new amendment, the scope of the Article has been expanded and at the meantime it also provides for the confiscation and transfer to the state of the illegal or undocumented property, income, shares received from this property, owned by racketeer, member of the criminal community, human trafficker, person supporting drug dealing and a person convicted for the crime of money laundering that resulted in the receipt of the property over 50 000 GEL (Article 194(3)"g" of the Criminal Code of Georgia).** **In this regard, subsequent amendments were made to the Civil Procedural Code of Georgia on July 2007 and currently it envisages the procedures of confiscation of property owned by racketeer, member of the criminal community, human trafficker, person supporting drug dealing, person convicted for the crime of money laundering that resulted in the receipt of the property over 50 000 GEL (Article 194(3)"g" of the Criminal Code of Georgia) and their family members, close relatives and affiliated persons as well.** 4. **On July 2007, the new Article 622^1 was introduced into the Criminal Procedural Code of Georgia according to which if a Georgian national is convicted abroad for a crime for which Georgian legislation provides for the confiscation of illegal or undocumented property, Prosecutor General is entitled to file a motion to the Supreme Court of Georgia and request the Court to examine whether factual and legal circumstances of the criminal act corresponds to the requirements provided for by the Criminal Code of Georgia.** **In case if the Court establishes conformity of the crime with the requirements of Georgian legislation, the prosecution within 6 months after the decision of the Supreme Court files the motion for the confiscation of illegal and/or undocumented property.** **The abovementioned proceedings shall be conducted pursuant to Georgian Civil Procedural Code.**

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The evaluators advise that obligations in the AML/CFT methodology marked with an asterisk are put into the AML Law.*
Measures taken to implement the Recommendation of the Report	**The amended AML Law covers the obligations marked with an asterisk in the AML/CFT methodology. (please see beneath)**
Recommendation of the MONEYVAL Report	*There should be a specific provision clearly prohibiting the opening of anonymous accounts or accounts in fictitious names in respect of all financial institutions which are able to keep accounts for physical and legal persons.*
Measures taken to implement the Recommendation of the Report	**In order to comply with the requirements of customer due diligence, the new provision (paragraph 7^1) was added to Article 6 of the AML Law which states: "shell be prohibited to open or maintain anonymous accounts or accounts in fictitious names." The provision is of a mandatory character restricting the rights to open and maintain such accounts. The provision stipulates the general prohibition and does not refer to any specific financial institution meaning that it covers and incorporates all financial institutions without any exclusion which are able to keep accounts for physical and legal persons.**
Recommendation of the MONEYVAL Report	*The AML Law should provide full CDD requirements and requirements for on-going due diligence.*
Measures taken to implement the Recommendation of the Report	**According to the AML law (as amended on 27.03.07) identification of the person is defined as "obtaining information on the person, which, when necessary, allows tracing such person and distinguishing from other person". This means that financial institutions have the authority to request any kind of information which will satisfy the test given in the provision. This definition, comparing to the previous one, does not restrict identification process with the limited documents, which on its hand ensures the fulfillment of the full CDD requirements.** **Moreover, paragraph 7 of Article 6 of the AML Law was modified to include full CDD requirements. Namely, paragraph 6 provides that in the course of examining identification data, monitoring entities are obliged to <u>at least</u> request:** **1. In case of natural persons:** **a. ID or Passport or a document having equal legal power under the Georgian legislation** **2. In case of legal persons:** **a. Document issued by the state authority confirming the establishment of a legal entity and authority of its representative.** **Additionally, Paragraph 9 of Article 6 of AML Law stipulates that monitoring entities are entitled to define additional rules and request other additional information (documents) from the business related persons. Therefore, monitoring entities are free to establish their own additional rules for the identification and are not restricted by law.**

	Paragraph 10 of Article 6 of AML Law states that monitoring entities are entitled in the process of identification or verification of the business related persons, to rely on a third person/intermediary, who, according to the international standards is subject to respective supervision and regulation, to prevent legalization of illicit income and financing of terrorism. **Also, monitoring entities under the very provision are obliged to take all necessary measures to allow immediate access to the information (documents or copies) for identification of the entity.** **Paragraph 2 of Article 21[1] of the Law on the Activity of Commercial banks (as amended on 27.03.2007) provides that commercial banks should in the process of verification of their customers/operations during their business relationships know:** **a. Who their customers are;** **b. What is their business activity;** **c. The risk level of the activity undertaken by the customer with respect to the Money Laundering and Terrorist Financing.** **Moreover, paragraph 17[1] of the Law on the Activity of Commercial Banks as amended on 21.03.2008, states that the bank is authorized to request information from the civil registry regarding the personal data of the client in case of the written consent of the client. The provision also contains the obligation of the bank not to disclose the personal data to a third person except cases stated by the law.** **Draft Guidance for the Banks prepared by the GFSA sets out detailed identification and verification processes concerning different types of accounts.**
Recommendation of the MONEYVAL Report	*Explicit legal requirement on the financial institutions to implement CDD measures when:* *- financial institutions carry out (domestic or international) transactions which appear to be linked and are above the threshold of US$/Euro 15,000,* *- carrying out occasional transactions that are wire transfers,* *- there is a suspicion of ML and FT;* *- financial institutions have doubts about the veracity or adequacy of previously obtained customer identification data.*
Measures taken to implement the Recommendation of the Report	**Paragraph 2 of Article 6 of AML Law (as amended on 19.03.2008) sets out requirement for "the monitoring entities" to identify the business-related person (representative and principal, as well as the third person, if the transaction is being concluded in favor of the third person), when** **- the transaction (operation) amount exceeds GEL 3 000 (or its equivalent in other currency), and** **- In case of implementing transaction through Society for Worldwide Interbank Financial Telecommunications (SWIFT) or other similar network (system) exceeds GEL 1 500 (or its equivalent in other currency).** **In addition, FMS decrees together with abovementioned provision, further requires from monitoring entities to carry out identification in additional cases:** **- Suspicious transactions**

	- Doubt arises regarding the veracity or adequacy of previously obtained customer identification data.
Recommendation of the MONEYVAL Report	*Financial institutions should be obliged to identify the beneficial owner as defined in the FATF Recommendations and also to verify the identity of the beneficial owner.*
Measures taken to implement the Recommendation of the Report	**Under the amendments made in 19.03.2008 the definition of the „beneficial owner" was added to the AML law which defines beneficial owner as a natural person (s) who ultimately owns or controls a customer.** **The Organic law on The National Bank of Georgia defines the term „control" as the exercise of a dominating influence, directly or indirectly, alone or in concert with others over the activities or decisions through the use of voting shares or other means.** **Furthermore, paragraph 2 and paragraph 2^3 of Article 6 of AML Law obliges monitoring entities to obtain information/documents necessary for the identification of the person on whose behalf the client is acting.** **"Monitoring entities" are required (Paragraph 8 of Article 6) to identify the beneficial owner of person who has business relation with them.** **Therefore, under the amended AML Law (19.03.2008), "Monitoring entities shall undertake the reasonable measures to identify the beneficial owner of business – related entities and take reasonable actions to verify his/her identity."**
Recommendation of the MONEYVAL Report	*There needs to be an obligation on financial institutions to obtain information on the purpose and nature of the business relationship or to conduct on-going due diligence.*
Measures taken to implement the Recommendation of the Report	**Paragraph 2 of Article 21^1 of the Law on the Activity of Commercial banks provides that commercial banks should in the process of the verification of their customers/operations during their business relationships know who their customers are, what is their business activity and the risk level of the activity undertaken by the customer with respect to the Money Laundering and Terrorist Financing.** **Amended FMS decree for commercial banks sets out requirements for the banks to ascertain what type of relationship the client intends to establish, as well as the purpose thereof prior to the commencement of the business relations with the client and permanently examine relations between clients and the Bank. Moreover, FMS has elaborated the draft project referring to the same obligation for all other financial institutions.** **Paragraph 11 of Article 6 of the AML Law (as amended on 19.03.2008) stipulates that monitoring entities shall regularly update existing identification data and bring those into compliance with the effective legislation.** **Additionally, amended paragraphs 22 and 23 of article 6 of FMS decree for Commercial Banks stipulates that Banks shall periodically (in cases and within timeframe set under the internal instruction) renew and bring identification data into compliance with the effective legislation. Detailed procedures for performance of activities related to renewal**

	of existing identification data shall be defined under the Bank's internal regulation.
Recommendation of the MONEYVAL Report	*The Georgian authorities should consider introducing a "risk based approach", performing enhanced and simplified CDD measures for different categories of customers, business relationships, transactions and products.*
Measures taken to implement the Recommendation of the Report	**As mentioned above, Paragraph 2 of Article 21[1] of the Law on the Activity of Commercial banks requires from banks to know who their customers are, what are their business activity and the risk level of the activity undertaken by the customer with respect to the Money Laundering and Terrorist Financing.** **Moreover, amended FMS decrees for Banks and Insurance Companies require from these institutions to perform a risk-based assessment of persons having business relations with them (their representative and principal, as well as a third person if transaction is being concluded in favor of the third person) and transactions concluded by such persons. Also, the decrees lay down the obligation of commercial banks and insurance companies to create categories of customers and transactions on a risk based approach and apply appropriate (simplified or enhanced) procedures for identification and verification to each category.** **Georgian GFSA prepared draft Guidance for Banks, which provides some principles of risk-based approach. More specifically, the guideline gives certain specification regarding the types of risks with respect to money laundering and terrorist financing. The risk types and explanations given in the guideline effectively contribute to the efficient assessment of clients and transactions by monitoring entities.**
Recommendation of the MONEYVAL Report	*For higher risk customers the monitoring entities should conduct enhanced due diligence and as necessary use reliable independent documents other than those set out in the AML Law.*
Measures taken to implement the Recommendation of the Report	**The provision on application of enhanced due diligence to higher risk customers was mentioned above.** **According to Article 6, Paragraph 5 of the AML Law (as amended on 19.03.2008) monitoring entities are authorized to require other additional information (documents) from business-related persons.** **Furthermore, by Article 6, paragraph 10 of the AML Law (as amended on 19.03.2008) monitoring entities in the course of identification or / and verification of business – related persons may rely on a third person / intermediary, who according to the international standards is subject to the respective supervision and regulation for the purpose of preventing illicit income legalization and terrorism financing. In addition, for ensuring immediate access to information (documents or copies thereof) required for identification of the account holder monitoring entities shall take respective action. In such case the monitoring entities shall bear the responsibility."** **Article 6, paragraph 5 of the AML Law (as amended on 27.03.07) stipulates that monitoring entities should be obliged to identify person involved in transaction (operation) and to verify identity such person through documents of reliable and independent source.**

	Moreover, paragraph 17[1] of the Law on the Activity of Commercial Banks as amended on 21.03.2008, states that the bank is authorized to request information from the civil registry regarding the personal data of the client in case of the written consent of the client.
Recommendation of the MONEYVAL Report	*A clear obligation on the financial institutions to consider making an STR to the FMS in case of failure to satisfactorily complete CDD requirements before account opening or commencing business relations or where the business relationship has commenced and doubts about the veracity or adequacy of previously obtained data arise needs to be provided for.*
Measures taken to implement the Recommendation of the Report	**Amended paragraph 1 of Article 9 of The AML Law obliges monitoring entities to forward STRs to the FMS if suspicion regarding the authenticity of identification data is present.** **The same provision is enshrined in the FMS decree for commercial banks and other financial institutions.** **The FMS Decree for the Banks also stipulates that if Person or client willing to establish business relationship with the Bank can not be identified the Bank shall not serve the client (establish business relationship with the person). In the event of considering above mentioned case as suspicious the Bank shall immediately submit to the FMS the respective reporting form, available materials and any other information on the operation (transaction) and persons involved therein (article 6, paragraphs 12,13)**
Recommendation of the MONEYVAL Report	*An obligation to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times is required.*
Measures taken to implement the Recommendation of the Report	**Paragraph 11 of the Article 6 of the AML Law now stipulates that monitoring entities shall regularly update existing identification data and bring those into compliance with the effective legislation.** **Also, amended FMS decree for banks stipulates, that Banks shall periodically (in cases and within the timeframe set under the internal regulation) renew and bring identification data into compliance with the effective legislation. Detailed procedures for performance of activities related to renewal of existing identification data shall be defined under the Bank's internal regulation.**
(Other) changes since the last evaluation	
Recommendation 5 (Customer due diligence) II. Regarding DNFBP[2]	
Recommendation of the MONEYVAL Report	*The changes recommended for CDD requirements for financial institutions should be applied also to DNFBP.*
Measures taken to implement the Recommendation of the Report	**Above mentioned changes made in AML Law are applied also to DNFBP.**
Recommendation of the MONEYVAL Report	*Customer due diligence requirements set out in Recommendations 5, 6, 8 and 9 should apply to real estate agents, lawyers and accountants in the situations described in Recommendation 12.*

[2] i.e. part of Recommendation 12.

Measures taken to implement the Recommendation of the Report	**According to the Georgian Legislation, real estate companies provide activities which are merely connected to searching and finding the clients. Real Estate companies do not conclude purchase agreements with clients; Purchase Agreement (between the seller and the buyer) is concluded at the notaries or at the National Agency of the Public Registry.** **Therefore, CDD requirements with respect to real estate agents cannot be considered under the Georgian Legislation.** **For this reason, National Agency of the Public Registry which registers all the agreements concluded with respect to the purchase of the real estate was added to the list of monitoring entities under AML Law which will conduct CDD for the real estate operations.**
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*AML Law should require the maintenance of necessary records of all domestic and international transactions and not exclusively those transactions "subject to monitoring".*
Measures taken to implement the Recommendation of the Report	**Under Article 7 of the AML Law (as amended on 19.03.2008) monitoring entities are obliged to retain the information/documents on all transactions for the period of not less than 6 years. The provision was amendment as to include all the type of transactions and not merely the transactions which are "subject to monitoring.**
Recommendation of the MONEYVAL Report	*Financial institutions should be permitted by law or regulation to keep all necessary records on transactions for longer than five years if requested to do so in specific cases by a competent authority upon proper authority.*
Measures taken to implement the Recommendation of the Report	**General provision for the maintenance of records regarding all transactions now obliges monitoring entities in case of the request from the respective supervisory authority to keep transaction relation information/documentation, as well as records for the longer period than 6 years (Article 7, paragraph 3 of AML Law as amended on 19.03.2008).**
Recommendation of the MONEYVAL Report	*Financial institutions should be required to keep identification data for longer than five years where requested by a competent authority in specific cases on proper authority.*
Measures taken to implement the Recommendation of the Report	**Paragraph 1 of Article 7 of AML Law (as amended on 19.03.2008) lays down the obligation for monitoring entities to maintain the identification data for longer than six years if there is a request from the respective supervisory authority.**
(Other) changes since the last evaluation	**Memorandum of understanding between Law enforcement authorities and supervisory authorities is in process of preparation. According to that MoU, Law enforcement Authority will be able to request from monitoring entities by means of Supervisory Authorities to keep identification data and records on transaction for longer than six years in specific cases.**

Recommendation 10 (Record keeping) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	*Record keeping requirements set out in Recommendation 10 should apply to real estate agents, lawyers and accountants in the situations described in Recommendation 12.*
Measures taken to implement the Recommendation of the Report	**As mentioned above (Recommendation 10, para. 1), under the new provision, all monitoring entities are obliged to maintain the information/documents on all transactions, not only exclusively those transactions "subject to monitoring" as it was set out in previous version, for the period of not less than 6 years. Moreover, monitoring entities are now obliged to keep reports for longer than six years based upon the request of appropriate supervising body.** **Based on the amendments of 19.03.2008, the list of monitoring entities (DNFBP's) was expanded and it now covers:** **a. Entities engaged in activities related to precious metals, precious stones and products thereof, as well as antiquities;** **b. Entities organizing lotteries and other commercial games (including casinos);** **c. Notaries;** **d. Entities engaged in extension of grants and charity assistance;** **e. Entities which perform money remittance transactions;** **f. Legal entity of public law – National Agency of the Public Registry;**
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The reporting requirement which should be in law or regulation should clearly cover all predicate offences required under Recommendation 13. The requirement to report suspicious transactions should clearly cover tax matters.*
Measures taken to implement the Recommendation of the Report	**Article 2 Subparagraph (a) of the AML Law was amended in order to clearly cover the tax matters within the suspicious transaction reporting requirement. The old provision stated that illicit income excluded customs and tax crimes. In July 2007, the provision was amended and as a result illicit income definition reads as following: illicit income – illicit or / and unjustified property in ownership or possession of a person.** **Therefore, AML Law with respect to the suspicious transaction reporting now clearly covers all tax and customs issues as far as there is no explicit exclusion of any tax or customs matter from the definition of illicit income or other provision of the AML Law.**
Recommendation of the MONEYVAL Report	*There should be a clear legal requirement to report funds suspected to be linked or related to financing of terrorism as required by criterion 13.2.*
Measures taken to	**Amended definition of the "suspicious transaction" contains provision concerning funds**

[3] i.e. part of Recommendation 12.

implement the Recommendation of the Report	**suspected to be linked to the financing of terrorism. Consequently, obligation to report "suspicious transaction" (article 5, paragraph 1 (b)) now covers also funds suspected to be linked to the financing of terrorism.**
Recommendation of the MONEYVAL Report	*The language of "grounded supposition" should be replaced with "reasonable grounds to suspect".*
Measures taken to implement the Recommendation of the Report	**Under the paragraph (h) of Article 2 of the AML Law (as amended of 19.03.2008) Suspicious transaction is defined:** **"A transaction (regardless of its amount and operation type) supported with a reasonable grounds to suspect that it had been concluded or implemented for the purpose of legalizing illicit income or financing terrorism (person participating in the transaction or the transaction amount causes suspicion, or other reasons exist for considering transaction as suspicious), or any person involved in the transaction is on the list of terrorists or persons supporting terrorism, or/and is likely to be connected with them, or/and funds involved in the transaction may be related with or used for terrorism, terrorist act or by terrorists or persons financing terrorism, or any involved person's legal or real address or place of residence is located in a non-cooperative zone and the transaction amount is transferred to or from such zone."** **The definition was modified to oblige financial institutions to report a suspicious transaction when they have reasonable grounds to suspect and the previous wording of the grounded supposition which requires a higher test for the reporting of such transaction was removed.**
Recommendation of the MONEYVAL Report	*More guidance and outreach required to ensure that all financial institutions are reporting suspicious transactions. Sector specific guidance on suspicious transactions needs to be provided and adequate and appropriate feedback needs to be given to financial institutions required to make suspicious transaction reports in line with the FATF Best Practice Guideline on Providing Feedback to Reporting Financial Institutions and Other Persons.*
Measures taken to implement the Recommendation of the Report	**Draft Guidance for Commercial Banks prepared by the GFSA, contains attachment with the list of examples of suspicious transactions to help banks to identify suspicious transactions.**
(Other) changes since the last evaluation	
Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*More outreach and guidance to those DNFBP with reporting obligations is required to explain the reporting obligation*
Measures taken to implement the Recommendation of the Report	**In this area no changes have been made.**
Recommendation of the MONEYVAL Report	*Requirements under Recommendation 13 should apply to real estate agents, lawyers, accountants and trust and company service providers subject to the qualifications in Recommendation 16.*
Measures taken to implement the	**Due to the fact that National Agency of the Public Registry only recently became the**

[4] i.e. part of Recommendation 16.

Recommendation of the Report	**monitoring entity, new regulations are not yet in force.**
(Other) changes since the last evaluation	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*An autonomous offence of financing of terrorism should be introduced which addresses all aspects of SR.II and its Interpretative Note*
Measures taken to implement the Recommendation of the Report	**Terrorism financing as a crime was criminalized on 25 July 2006. According to the amendments of March 19, 2008 to the Criminal Code of Georgia, Article 331^1 (financing of terrorism) has been updated. In particular the word terrorist was added to the body of the article. Nowadays the Article 331^1 (1) stipulates as follows:** **Financing of Terrorism, i.e. providing or collecting funds or other property, knowingly that it will fully or partially be used or is possibility to be used by the terrorist or terrorist organization and/or for the commission of one of the offences envisaged by Articles 227^1, 227^2, 231^1, 323-330, 330^2 of the given Code, notwithstanding whether the any offence envisaged by those articles are already committed.** **According to Article 331^1 of the CCG the provision or collection of funds for a terrorist organization is punishable notwithstanding whether it is provided for legitimate activities or not.** **Pursuant to the amendments of March 19, 2008 the collection and provision of funds with the unlawful intention that they should be used in full or in part by an individual terrorist for any purpose is punishable.** **As all types of activities which amount to terrorist financing are specifically prescribed by the Criminal Code of Georgia and Article 194 has all crimes approach, therefore, terrorism financing represents a predicate offence for Article 194 of the Code.** **The capability of granting MLA and extraditions for terrorism financing has been enhanced in terms of dual criminality requirement since the introduction of terrorism financing as a separate crime to the CCG and its entire criminalization after the amendments of march 19, 2008.** **As to the responsibility of legal persons, since August 2006, CCG entails provisions on criminal responsibility of legal persons for terrorism financing and other terrorist-related crimes.** **Thus, current criminalization of terrorism financing fully corresponds to all aspects of SR II and its Interpretative Note.**

(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*A clear requirement in law or regulation for financial institutions to report where they suspect or have reasonable grounds to suspect that funds of legal and physical persons (whether licit or illicit) are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism should be provided for.*
Measures taken to implement the Recommendation of the Report	**Suspicious transaction is defined under paragraph (h) of Article 2 of AML Law (as amended on 19.03.2008) Suspicious transaction is defined as:** **"A transaction (regardless its amount and operation type) supported with a reasonable grounds to suspect that it had been concluded or implemented for the purpose of legalizing illicit income or financing terrorism (person participating in the transaction or the transaction amount causes suspicion, or other reasons exist for considering transaction as suspicious), or any person involved in the transaction is on the list of terrorists or persons supporting terrorism, or/and is likely to be connected with them, or/and funds involved in the transaction may be related with or used for terrorism, terrorist act or by terrorists or persons financing terrorism, or any involved person's legal or real address or place of residence is located in a non-cooperative zone and the transaction amount is transferred to or from such zone."** **Amended definition of "suspicious transaction" contains provision concerning funds suspected to be linked to financing of terrorism. Consequently, obligation to report "suspicious transaction" (article 5, paragraph 1 (b)) now covers also funds suspected to be linked to financing of terrorism. Moreover, the Decree for Commercial Banks further specifies that these funds might be either legal or illegal (paragraph 2 of article 3 of the FMS Decree for commercial Banks as amended on June 2008).**
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Changes since the last evaluation	

3. Other Recommendations

In the last report the following FATF recommendations were rated as "partially compliant" (PC) or "non compliant" (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 2 (Criminalisation of Money Laundering)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Georgian authorities should provide for criminal, civil or administrative liability for money laundering in respect of legal entities.*
Measures taken to implement the Recommendation of the Report	**By the amendments of July 25, 2006, the new chapter establishing the criminal liability of legal entities for the commission of the designated categories of crimes, among them money laundering, has been introduced to the CCG.** **To this end, Article 194 of the CCG was further amended on July 25, 2006. According to the above-mentioned amendment the commission of money laundering by a legal person is punishable with liquidation, fine or the deprivation of the right to pursue an occupation.** **Also, according to Article 107^3 and Article 107^7, added to the CCG by the amendments of July 25, 2006, the confiscation of the property shall be used against the legal entity as a sentence and the confiscation procedure should be performed in compliance with the provisions of article 52 (Confiscation of property) of the CCG.** **Since July 2007, the civil procedures of confiscation applicable to natural persons under the Civil Procedural Code of Georgia have been extended to the legal entities as well. (See civil procedures of confiscation on page 10.)**
(Other) changes since the last evaluation	**According to the amendments of March 19, 2008 to the Criminal Code of Georgia the scope of Article 107^2, which determines the list of crimes for which the criminal liability of legal persons is established, was further expanded and currently it envisages the criminal liability of legal persons for the commission of crime provided for by article 194^1 of the CCG (purchase, possession, use or realization of laundered proceeds) as well.**

Recommendation 6 (Politically exposed persons)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The Georgian AML/CFT system should introduce enforceable measures concerning the establishment of business relationships with politically exposed persons (PEPs).*
Measures taken to implement the Recommendation of the Report	**In this area no legislative changes has been made.**
(Other) changes since the last evaluation	

Recommendation 7 (Correspondent banking)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*In relation to cross-border correspondent banking and services, financial institutions should not only conduct CDD as required under Recommendation 5, but also obtain further information on:* - *the reputation of the respondent counterparts from publicly available information;* - *AML/CFT controls, assessing and ascertaining their adequacy;* - *document the respective AML/CFT responsibilities of each institution;* - *obtain guarantees that counterpart organisations apply the normal CDD measures to all customers that have client access to the accounts of the correspondent institutions and that it is able to provide relevant customer*

	identification data on request.
Measures taken to implement the Recommendation of the Report	**Article 6, paragraph 5 of FMS decree for banks (as amended on June 2008) sets out the provision concerning cross-border correspondent banking relationship. This provision stipulates that "In the course of establishing international correspondent relations, Banks shall obtain information from public sources on reputation of the respondent Bank and the degree of the supervision imposed thereon, as well as ascertain whether the Bank represents monitoring entity in the light of fighting money laundering and terrorism financing. Banks shall request from the respondent banks information on exercising internal control by the latter with respect to fighting money laundering and terrorism financing and assess quality of such control."**
(Other) changes since the last evaluation	

Recommendation 8 (New technologies and non face-to-face business)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Enforceable measures need taking to require financial institutions to have in place or take measures to prevent the misuse of technological developments in AML/CFT schemes and to address the specific risks associated with non-face to face business relationships or transactions.*
Measures taken to implement the Recommendation of the Report	**Taking into consideration the fact that in Georgia non-face to face business is yet developing, there is no need for sophisticated rules of non-face to face business relationships. Furthermore, in order to open account in any bank of Georgia, it is necessary to have face to face relationship with bank. This means that for opening a bank account, any legal or natural person should be fully identified and only in this case it will be possible to open an account. On the other hand, in order to deal with risks concerning non-face to face business relationships after opening an account, following provision will be added to FMS Decree for the Banks:** **"Banks should pay emphasized attention to risks potentially inherent in new or developing technologies that do not require a personal contact and take all necessary actions to prevent the use of such techniques in money laundering systems.** **It is important that Banks should have adequate policies and procedures for managing potential specific risks related to business relations and transactions that do not require a personal contact."** **The draft Guidance for the Banks already covers above mentioned provision (article 5).**
(Other) changes since the last evaluation	

Recommendation 11 (Unusual transactions)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Financial institutions should be obliged to pay attention to and to analyse all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.*
Measures taken to implement the Recommendation of the Report	**According to the amendments (as of 19.03.2008) to the AML Law, the definition of "suspicious transaction" was modified and the new term - "Unusual transaction" (Article 2, Subparagraph "h[1]") was introduced under AML Law. According to the definition, unusual transactions are all complex, unusual large transactions, also types of**

	transactions, which do not have apparent or visible economic (commercial) content or lack lawful purpose and are inconsistent with the ordinary business activity of the person involved therein;" **In addition, for the purposes of the AML Law, monitoring entities are obliged to determine for themselves the principles for identifying transactions of persons having business relationship with them as unusual. (Article 5, paragraph 10).** **Amended FMS Decrees contains requirement for monitoring entities to set out the rules for the determination of transactions as unusual transaction in their Internal regulation procedures in line with FMS requirements.**
Recommendation of the MONEYVAL Report	*Financial institutions should proactively analyse all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose beyond those transactions "subject to monitoring" under the AML Law.*
Measures taken to implement the Recommendation of the Report	**Article 5, paragraph 9 of the AML Law (as amended on 19.03.2008) obliges all monitoring entities to pay special attention to unusual transactions which do not have apparent or visible economic (commercial) content or lack lawful purpose, and in addition, to ascertain purpose of the transaction within the scope of their capability.**
Recommendation of the MONEYVAL Report	*There should be a specific requirement in the AML Law or in FMS Decrees, to set forth the findings of financial institutions on complex, large and unusual patterns of transactions, that have no apparent or visible economic or lawful purpose, in writing and to keep these findings available for at least 5 years.*
Measures taken to implement the Recommendation of the Report	**As mentioned above Article 5, paragraph 9 of the AML Law (as amended on 19.03.2008) obliges all monitoring entities to pay special attention to unusual transactions which do not have economic (commercial) content or lack lawful purpose, and in addition, to ascertain purpose of the transaction within the scope of their capability and register obtained results in writing.** **Article 7, paragraph 3 of the AML Law (as amended on 19.03.2008) stipulates that monitoring entities should keep written records with respect to the unusual transactions and transactions which are performed through the high-risk countries or by a person registered and operating in such countries (defined under the Law as Non-cooperative, Watch Zone, suspicious Zone) that have no apparent or visible economic or lawful purpose.** **Monitoring entities are also required to keep those records for at least 6 years from the date of transaction.** **Respective Supervisory Authority is also authorized to require from monitoring entities to retain the information for a longer period than six years.**
(Other) changes since the last evaluation	

Recommendation 14 (Protection and no tipping-off)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Safe harbour provisions should cover temporary as well as permanent staff.*
Measures taken to implement the Recommendation of the Report	**Under the amended AML Law the FMS, supervisory bodies, monitoring entities, their management and employees are not "to be held liable" for failure to observe 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.** **Under paragraph 4 of Article 12, exemption from liability does not refer to any specific exclusion neither with respect to the civil/criminal liability or to the permanent or temporary staff.** **The provision in its pertinent part provides the exclusion of liability in case of a commitment of the crime considered under the Criminal Code of Georgia. Using the general term "is not to be held liable" in the provision, refers to all forms of liability under Georgian legislation meaning that it covers both civil and criminal liability.** **Provision states that the exemption from the liability concerns management and employees. Non- reference whether the staff is permanent or temporarily only broadens the scope of "employees" under the provision which clearly covers any person who is legally employed either at FMS, monitoring entity or in supervisory authority regardless whether it is a temporary or permanent staff.**
Recommendation of the MONEYVAL Report	*The protection in Article 12 (3) AML Law should clearly apply to criminal as well as civil liability.*
Measures taken to implement the Recommendation of the Report	**Amended Article 12 (4) of the AML Law, uses the general term "is not to be held liable", the term refers to all forms of liability under Georgian legislation meaning that it covers both civil and criminal liability.**
Recommendation of the MONEYVAL Report	*A clear provision of general application covering tipping off by employees of financial institutions (as well as the financial institutions themselves) should be provided.*
Measures taken to implement the Recommendation of the Report	**"Tipping off" is prohibited under paragraph 1 of Article 12 of the AML Law (as amended on 19.03.2008) which states that FMS, monitoring entities and supervisory authorities, their management and employees are not authorized to inform parties of the transaction or other persons that the information on transaction has been forwarded to the respective authority in conformance with the obligations defined under the Law.** **The provision was modified and paragraph 2 was added to Article 12 which states that noncompliance with the requirements stated in paragraph 1 of the Article entails responsibility under the Georgian legislation.** **Under the amended Georgian Criminal Code, Article 202^1 was added which provides a new offense and namely violating the secrecy of a transaction subject to monitoring.**

	In its relevant part the provision provides that the spreading of the fact that transaction subject to monitoring was referred to the FMS by management and employees of FMS and monitoring entities is sanctioned by fine or by release from work for up to 3 years. **The same action that entailed a serious harm is sanctioned by imprisonment up to 2 years or release from the work or prohibition of activity for the period not more than 3 years.**
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls, compliance and audit)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*A clear provision should be made for compliance officers to be designated at management level.*
Measures taken to implement the Recommendation of the Report	**The amended FMS decree for Banks and Draft amendments to FMS decree for Insurance Companies set out requirement for respective financial institutions to designate compliance officers at management level.** **Amended Paragraph 1 of Article 5 of the FMS decree for banks is formulated as follows:** **"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. Position of the employee in charge of monitoring (head of structural unit) shall correspond to the senior hierarchy level in the Bank's organizational chart (position of the employee in charge of monitoring may differ among banks based on the bank's size)."**
Recommendation of the MONEYVAL Report	*Financial institutions should be generally required to implement and maintain an adequately resourced and independent audit function.*
Measures taken to implement the Recommendation of the Report	**Under the financial sector changes that took place in year 2007-2008, Georgian Financial Supervisory Agency was created as a supervisory body for the whole financial sector including commercial banks, non-bank depositary institutions - credit unions, microfinance organizations, insurance companies, and securities market.** **The independent audit assessment is only obligatory for commercial banks, microfinance organizations and non-bank depositary institutions - credit unions at this present moment, however, Georgian Financial Supervisory Agency intends to address this matter and ensure that other financial institutions also have the same obligation.**
Recommendation of the MONEYVAL Report	*Ongoing training for employees on current ML/FT techniques, methods and trends is needed*
Measures taken to implement the Recommendation of the Report	**The amended FMS decree for Banks and Draft amendments to the FMS decree for Insurance Companies set out requirement for respective financial institutions to establish ongoing training for employees on current ML/FT techniques, methods and trends.** **The amended Subparagraph (c), Paragraph 4 of Article 5 of FMS decree for Banks is formulated as follows:**

	"c) Provide consultations to other employees of the Bank with respect to issues of preventing illicit income legalization and terrorism financing and organize special training programs. Training process shall be on-going in order to ensure acquaintance of employees with changes introduced in Georgian legislation, normative acts, and Bank's internal instructions as well as with new techniques, methods and trends of money laundering and terrorism financing."
Recommendation of the MONEYVAL Report	*Financial institutions should establish screening procedures to ensure high standards when hiring employees.*
Measures taken to implement the Recommendation of the Report	**The amended Paragraph 6 of Article 4 of FMS decree for Banks is formulated as follows:** **"6. Policy for selection of the Bank's staff (including investigation of the employees' qualifications and reputation), procedures set under the internal instructions and rules shall at maximum extent facilitate prevention of feasible involvement of the Bank's employees in financing illicit income legalization and terrorism financing."**
(Other) changes since the last evaluation	

Recommendation 16 (DNFBP – R.13-15 & 21)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Requirements under Recommendation 13 to 15 and 21 should apply to real estate agents, lawyers, accountants and trust and company service providers subject to the qualifications in Recommendation 16.*
Measures taken to implement the Recommendation of the Report	**Due to the fact that National Agency of the Public Registry only recently became the monitoring entity, new regulations are not yet in force.**
(Other) changes since the last evaluation	

Recommendation 17 (Sanctions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Administrative sanctions system should clearly extend to CFT. A clearly harmonised approach to sanctioning across all supervisory authorities needs to be developed.*
Measures taken to implement the Recommendation of the Report	**Taking into consideration that fact that supervision authority for Financial institutions will now form a one unity, coordination of the sanction scheme will take place. There is also a first draft sanction scheme which is designated for all financial sector representatives. The Draft scheme enumerates which activities shall be subject to sanctions by the supervisory body.**
Recommendation of the MONEYVAL Report	*The sanctions regime should be much more effective, dissuasive and proportionate*
Measures taken to implement the Recommendation of the Report	**Please see above.**
Recommendation of the MONEYVAL Report	*A Decree is required for brokers companies containing sanctionable obligations.*

Measures taken to implement the Recommendation of the Report	**Please see above.**
Recommendation of the MONEYVAL Report	*The Ministry of Economic Development needs legal powers to sanction for AML/CFT*
Measures taken to implement the Recommendation of the Report	**The Ministry of Economic Development is no longer a supervisory body for postal offices.** **AML Law introduces a new term "entity performing money remittance services" – which is defined as an entity (except commercial bank and microfinance organization as far as these entities are independently considered as monitoring entities under AML Law), which performs money remittance services. This definition encompasses postal offices which provide money remittance services.** **For these purposes, Articles 4 and 4^1 of the Law on Activities of Commercial Banks was modified. In accordance with this article, it is the Georgian Financial Supervisory Agency who is authorized to regulate the activities of entities performing money remittance services and exchange bureaus. GFSA is authorized to register and control these entities for the purpose of Money Laundering and Terrorist Financing.**
Recommendation of the MONEYVAL Report	*Sanctions should apply to Directors and Senior management in appropriate cases*
Measures taken to implement the Recommendation of the Report	**As mentioned in paragraph one for the Recommendation 17, the first draft sanction scheme is prepared which will also include sanctions for directors and senior management. The draft defines various activities and cases where directors and senior management activities will entail sanctions.**
Recommendation of the MONEYVAL Report	*Sanctions should apply to dealers in precious metals and dealers in precious stones, and casinos for non-compliance with the AML Law.*
Measures taken to implement the Recommendation of the Report	**No changes have been made.**
(Other) changes since the last evaluation	

Recommendation 18 (Shell banks)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*There should be an explicit provision prohibiting the establishment of shell banks.*
Measures taken to implement the Recommendation of the Report	**AML Law under the 19.03.2008 amendments introduces the new term for Georgian AML system the notion of "shell banks". The definition of the term is given in paragraph "t" of Article 2 of the AML Law.** **The Shell Bank is defined as a bank, which physically is not present in the country where it is registered/licensed and which is not being controlled and supervised;** **Article 11^1 paragraph 1 prohibits establishment of shell banks: "Establishment and existence of the shell bank, as well as establishing business relations with such**

	bank (including correspondent relations) shall be prohibited".
Recommendation of the MONEYVAL Report	*Financial institutions should be prohibited to enter into, or continue, correspondent banking relationship with shell banks.*
Measures taken to implement the Recommendation of the Report	**Article 11[1] of the AML Law prohibits financial institutions to enter into, or continue correspondent banking relationship with shell banks.** **The provision includes the prohibition of establishment and existence of shell banks, as well as establishing business relations with such bank (including correspondent relations).** **With respect to shell banks, financial institutions are obliged to undertake reasonable measures in order to ascertain:** **a. whether the person they have business relationship with (or person with whom they are establishing business relations) belong to the category of the shell bank;** **b. whether the person they have business relationship with (or person with whom they are establishing business relationships) has relationships with the shell bank;**
Recommendation of the MONEYVAL Report	*Financial institutions should satisfy themselves that foreign respondent financial institutions do not permit their accounts to be used by shell banks.*
Measures taken to implement the Recommendation of the Report	**Provision 11[1] of AML Law states that financial institutions are obliged to take reasonable measures to define the origin of the bank with whom they operate and determine whether such banks can be linked to the shell banks.** **Article 11[1] encompasses several prohibitions, first is that establishment and existence of shell bank is prohibited, second that financial institutions are not permitted to have business relations with such banks and third that financial institutions shall undertake reasonable measures with banks they have business relationships to ensure that those banks do not have business relationships with the shell banks. Thus, the provision covers all substantive requirements for the prohibition of existence and having business relationships with shell banks.**
(Other) changes since the last evaluation	

Recommendation 21 (Special attention to higher risk countries)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*There should be a specific requirement on the financial institutions to examine the background and purpose of transactions (with persons from or in countries which do not or insufficiently apply FATF Recommendations) which have no apparent economic or visible lawful purpose, and set out their findings in writing and to make them available to the competent authorities.*
Measures taken to implement the Recommendation of the Report	**AML Law now refers to the Non-cooperative zone, Watch zone and Suspicious zone lists, which include countries that do not conform with or insufficiently apply FATF regulations.** **Lists of Non-cooperative and Watch zones are defined by the Georgian Government on**

	the basis of proposition of the Financial Monitoring Service of Georgia (FMS). The country or territory thereof shall be identified as such on the basis of the information provided by competent international organization, or if the grounded supposition exists that in such zone weak mechanisms for controlling illicit income legalization are effective." **FMS proposed List of Non-cooperative zones on the basis of FATF NCCT list.** **FMS on the year bases updates the list of Watch zones. Watch zones were listed based on the US State department and IMF annual reports (Resolution of The Government of Georgia N 118 June 16, 2007 On Defining the List of Watch Zones for the Purposes of *the Law of Georgia on Facilitating Prevention of Illicit Income Legalization)*..** **List of Suspicious zone is defined under Article 2 of the AML Law (as amended of 27.03.2007) as a country or a part of the territory thereof, identified as having weak mechanisms for controlling illicit income legalization, based on information available *to the monitoring entity.*** **"Suspicious transaction" is defined now as a transaction which also clearly includes transactions where any involved person's legal or real address or place of residence is located in a non-cooperative zone and the transaction amount is transferred to or from such zone.** **Additionally, under article 5 (9) of the AML Law Monitoring entities shall pay special attention to unusual transactions and transactions determined under paragraphs 2 ((c) and (d)), 2^1 (c), 2^2 (d) of Article 5. Namely:** **1. Transfer of funds by the account holder from the bank operating or registered in watch or suspicious zone to the bank account in Georgia or transfer of funds from Georgia to account in the bank operating or registered in such zone;(Paragraph 2 (c) of Article 5 of the Law)** **2. Extension or receipt of loan by the person registered in watch or suspicious zone, or implementation of any other transaction (operation) by such person through banking institution operating in Georgia; (Paragraph 2 (d) of Article 5 of the Law)** **3. Transactions implemented in securities by person residing and registered in watch or suspicious zone or/and through use of bank account operating in such zone (Paragraph 2^1 (c) of Article 5 of the Law).** **4. Insurance transactions implemented by person residing and registered in watch or suspicious zone or/and through use of bank account operating in such zone (Paragraph 2^2 (c) of Article 5 of the Law).** **Article 7, paragraph 3 of the AML Law (as amended on 19.03.2008) specifies that monitoring entities should keep written records related to the unusual transactions and transactions which are performed through the high-risk countries or by a person registered and operating in such countries (defined under the Law as Non-cooperative, Watch Zone, Suspicious Zone) that have no apparent or visible economic or lawful**

	purpose. **Financial Institutions are also required to keep those records for at least 6 years from the date of transaction.** **Respective Supervisory Body is also authorized to require from relevant monitoring entities to retain the information for a longer period than six years.**
Recommendation of the MONEYVAL Report	*A more targeted method for advising financial institutions of countries which insufficiently apply the FATF Recommendations should be considered.*
Measures taken to implement the Recommendation of the Report	**As mentioned above.**
Recommendation of the MONEYVAL Report	*Mechanisms need to be considered for applying counter measures.*
Measures taken to implement the Recommendation of the Report	**Under Article 5 of the AML Law "Subject to monitoring" by Monitoring entities are transactions which are performed through the high-risk countries or by a person registered and operating in such countries (defined under the Law as Watch Zone, Suspicious Zone) if the amount of such transaction or the series of transactions exceeds GEL 30,000 (or its equivalent in other currency) (paragraphs 2 ((c) and (d)), 2^1 (c), 2^2 (d) of Article 5).** **Furthermore, "Suspicious transaction" is also a Subject to monitoring and is defined now as a transaction which also clearly includes transactions where any involved person's legal or real address or place of residence is located in a non-cooperative zone and the transaction amount is transferred to or from such zone.** **The draft Guidance for the banks (Article 5) contains following provision: "Commercial banks shall divide clients by risk groups. High risk group clients shall be subject to enhanced Customer Due Diligence (CDD) measures. Such clients are …….. clients from non–cooperative countries, watch zones and suspicious countries."** **Amendments of March 27, 2007 introduced a new term of suspicious financial institution, defined by the government of Georgia, which does not meet standards for the prevention of illicit income legalization.** **The Government is now authorized to define the list of suspicious financial institutions, therefore, it is also intended to draft rule concerning the special relationship regime with suspicious financial institutions where counter measures will also be included as one of the measures that could be used against financial institutions, that entered into the business relationship with suspicious financial institutions.**
(Other) changes since the last evaluation	

Recommendation 22 (Foreign branches and subsidiaries)

Rating: Non compliant	
Recommendation of the MONEYVAL Report	*A requirement on financial institutions to apply AML/CFT measures to foreign subsidiaries consistent with home country requirements should be introduced for the future.*
Measures taken to implement the Recommendation of the Report	**Under the Decree of March, 20 2008 of the President of the National Bank of Georgia amendments were made to the Decree N240 of September, 5, 2006 on „Approving the Rules of Establishing Branches, Divisions (service centers) and Representatives by the Commercial Banks". According to these changes a commercial bank when establishing a branch (representatives) outside Georgia is obliged to submit a full package of laws and by-laws, on the basis of which fighting against money laundering and terrorism financing is performed in the country where a branch is located. As well as a statement of the Supervisory board of the bank saying that a branch from the moment of initializing its functioning will carry out the policy against money laundering and terrorism financing which means implementing internal control mechanisms, appointing a compliance officer, training of staff and other.** **If existing legislation does not consider the compliance to FATF recommendations by the branch, it is obliged to carry out activities that are set out by the Georgian legislation on money laundering and terrorism financing.** **According to the abovementioned changes the Supervisory Board of the bank is obligated to inform the National Bank if a branch functioning outside Georgia fails to carry out activities against money laundering and terrorism financing by the reason that these activities are prohibited by the legislation of foreign country where a branch is located.**
(Other) changes since the last evaluation	

Recommendation 23 (Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The Ministry of Economic Development should commence its AML/CFT supervisory activities in respect of the Georgian Post and supervision of exchange bureaus needs strengthening.*
Measures taken to implement the Recommendation of the Report	**The Ministry of Economic Development is no longer a supervisory body for postal offices.** **AML Law introduced a new term "entity performing money remittance services" – it is defined as an entity (except commercial bank and microfinance organization), which performs money remittance services. This definition encompasses postal services which provide money remittance.** **For this purposes, Paragraphs 4, 4^1 of Article 2 of the Law on Activities Commercial Banks was modified (as amended on 14.03.2008). In accordance with this article, it is the Georgian Financial Supervisory Agency who is authorized to regulate the activities of entities performing money remittance services. GFSA is authorized to register and control these entities for the purpose of controlling Money Laundering and Terrorist Financing.**

	For the purposes of regulation of exchange bureaus, paragraph 4, 4^1, 4^2, 4^3 were added to the article 2 of the Law on Activities Commercial Banks (the amendments as of 27.03.07). These provisions were modified by the amendments made in 14.03.2008. **The National Bank of Georgia was authorized to regulate the activities of exchange bureaus until establishment of the GFSA. On December 31, 2007 president of National Bank of Georgia issued new decree on "the adoption of rule of registration and regulation of exchange bureaus". National Bank started the inspections from January 2008. National Bank was able to inspect and check 122 exchange bureaus out of 157. 57 exchange bureaus were sanction by National Bank for non compliance with money laundering and terrorist financing and other requirements.**
Recommendation of the MONEYVAL Report	*A programme of inspections needs to be implemented for the postal services.*
Measures taken to implement the Recommendation of the Report	**As a result of the new amendments and changes of the financial sector regulation, money remittance entities will be registered at GFSA and it will be authorized to check and establish rules for the supervision of such entities for the purposes of controlling money laundering and terrorist financing.**
Recommendation of the MONEYVAL Report	*Fit and proper criteria for shareholders, directors and managers of insurance companies and founders of non-State pension schemes need developing and provisions regulating market entry for currency exchange bureaus.*
Measures taken to implement the Recommendation of the Report	**Draft amendments to the Georgian Insurance Law were initiated by the GFSA. The draft is aimed at enhancing the licensing procedure and licensing requirements. Due to the changes to Georgian Licensing Law, Insurance Law is to be amended in accordance with the Georgian Licensing Law which defines that licensing requirements have to be defined solely under law and it should not be determined under by-laws. Therefore, the new draft includes as a licensing condition fit and proper requirement for directors and managers of insurance companies and founders of the pension schemes. It is intended to present the draft amendments on Insurance Law to the parliament in September. Following the amendment to Insurance Law GFSA will create a rule on fit and proper requirements.** **Exchange bureaus under the Law on Activities of Commercial Banks are required to register at the National Bank of Georgia (from the 15th of may of this year at GFSA). NBG was authorized to register and check exchange bureaus. On December 31, 2007 president of National Bank of Georgia was issued new decree on "the adoption of rule of registration and regulation of exchange bureaus".**
Recommendation of the MONEYVAL Report	*A licensing regime should be put in place regulating money remittances.*
Measures taken to implement the Recommendation of the Report	**Under paragraphs 4, 4^1 of Article 2 of the Law on Activities of Commercial Banks entities performing money remittance services shall register at GFSA.** **Entities performing money remittance services now also include the postal offices. Therefore, postal offices performing money remittance services shall register at GFSA.**
Recommendation of the MONEYVAL Report	*A consistent and harmonised approach should be taken in the assessment of the fitness and propriety of persons holding significant interests in financial institutions.*

Measures taken to implement the Recommendation of the Report	**Law on Activities of Commercial Banks as amended on 14.03.2008 set out new requirements of the fitness and propriety of persons holding significant interests in commercial banks. Together with the previous requirements under the provisions, new requirement was added that a person cannot be a holder of a significant interest in commercial bank if he was convicted for money laundering or terrorist financing.** **Moreover, regarding the fit and proper requirements of persons holding significant interests in insurance companies, together with changes to the Law on Insurance regarding licensing requirements, fit and proper requirements for significant holders of shares has been drafted.**
(Other) changes since the last evaluation	

Recommendation 24 (DNFBP – Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Licensing of casinos should include inquiry into the fitness and propriety of holders or beneficial owners of significant or controlling interests in casinos and those holding management functions.*
Measures taken to implement the Recommendation of the Report	**No changes have been made**
Recommendation of the MONEYVAL Report	*An effective inspection programme regarding supervision of casinos should be put in place.*
Measures taken to implement the Recommendation of the Report	**No changes have been made**
(Other) changes since the last evaluation	

Recommendation 25 (Guidelines and feedback)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Sector specific guidance on suspicious transactions needs to be provided and adequate and appropriate feedback needs to be given to financial institutions (and DNFBP) required to make suspicious transaction reports in line with the FATF Best Practice Guideline on Providing Feedback to Reporting Financial Institutions and Other Persons.*
Measures taken to implement the Recommendation of the Report	**Draft Guidance for Banks prepared by GFSA, contains attachment with the list of examples of suspicious transactions to help banks to identify transactions as suspicious.**
(Other) changes since the last evaluation	

Recommendation 27 (Law enforcement authorities)
Rating: Partially compliant

Recommendation of the MONEYVAL Report	*The Georgian authorities should proactively pursue investigations / prosecutions in respect of autonomous money laundering cases (particularly foreign predicates).*
Measures taken to implement the Recommendation of the Report	**Georgia has one of the most impressive records concerning the investigation and prosecution of money laundering offences. There have been five criminal cases in the Unit for Prosecution of Illicit Income Legalization of the Office of the Prosecutor General of Georgia in 2007-2008 where five persons were prosecuted for money laundering with foreign predicates. In those cases the existence of underling predicate offence was proved by the objective facts and circumstances extracted from the criminal case files and materials received through the mutual legal assistance requests from Russian Federation and Spain, which were summed up by the prosecutors in a manner that has been sufficient for making inferences about the illicit origin of the property in question.** **On January 31 and on March 2, 2008 three of those five persons were convicted for money laundering and others remain wanted.**
Recommendation of the MONEYVAL Report	*Power to postpone or waive arrest or seize money in the circumstances specified in Criterion 27.2 needs clarifying*
Measures taken to implement the Recommendation of the Report	**For the purpose of more clarity, the Prosecutor General of Georgia issued the recommendation on 12 October 2007. According to the Recommendation, the law enforcement authorities were empowered to postpone or waive the arrest (of a person) or the seizure of a property for the purpose of identifying the persons involved in illicit income legalization and collect evidences thereto.**
(Other) changes since the last evaluation	

Recommendation 31 (International co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The examiners advise that a coordination of senior officials responsible for AML/CFT in each of the relevant sectors is set up to assess the performance of the system as a whole and make recommendations, as necessary, to government.*
Measures taken to implement the Recommendation of the Report	**Financial Monitoring Service, Prosecutor's Office, and Ministry of Internal Affairs have agreed to conclude Memorandum of Understanding regarding the cooperation and exchange of information for the purposes of controlling money laundering and terrorism financing. Draft memorandum states the minimum requirements for convening meetings among these authorities and the means and procedures for exchange of statistical information. The Draft memorandum is already prepared and is in the process of discussions among the representatives of relevant authorities.**
(Other) changes since the last evaluation	

Recommendation 33 (Legal persons – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*It is recommended that the register should include information on the beneficial ownership and control of legal persons.*
Measures taken to implement the	**With respect to the obligations of the register to include information on the beneficial ownership and control of legal persons, due to the fact that the term "beneficial owner"**

Recommendation of the Report	**was only recently introduced the introduction of this obligation for registers can be considered as a short term future goal.**
(Other) changes since the last evaluation	**Financial Institutions are required to identify the beneficial owner of the transaction/operation or a customer. According to the 19.03.2008 amendments, the definition of „beneficial owner" was added to the AML/CFT law which defines beneficial owner as the natural person (s) who ultimately owns or controls a customer. Also, paragraph (e) of Article 6 obliges monitoring entities to obtain information/documents necessary for the identification of the person by whom the transaction is being concluded or undertaken on the basis of the order of third or other person.** **The Organic law on The National Bank of Georgia defines the term „control" as the exercise of a dominating influence, directly or indirectly, alone or in concert with others over the activities or decisions through the use of voting shares or other means.** **Moreover, article 6 of the AML Law states the obligations of Monitoring Entities to register the information on transactions, paragraph (d) provides the legal obligation on monitoring entities to record the information/documents necessary for the identification of the person at whose order the transaction is concluded or undertaken.** **Also, it is important that according to March amendments to Law on the Activities of Commercial banks, the fit and proper requirements for controlling shareholders became stricter by including requirement that a person should not be convicted for money laundering or terrorism financing offense. Moreover, commercial banks are under an obligation to present information on sale/purchase of significant shares in the bank to the National Bank of Georgia. If commercial bank does not conform to this requirement the sale/purchase agreement will be null and void (paragraph 4 of article 8^2).** **Regardless of the fact that Georgian Law on Insurance does not contain any explicit right of Supervisory Authority to require information regarding the beneficial owners of insurance companies, Insurance Supervisory Department has requested the insurance companies to present information regarding the beneficial owners of the insurance companies. All the requests were fulfilled by insurance companies.**

Recommendation 35 (Conventions) and Special Recommendation I (Ratification and Implementation of UN instruments)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Provide for adequate criminalisation of financing of terrorism and ensure that there is a comprehensive legal structure for the implementation of UN Resolutions. The requirements of the UN Conventions should be reviewed to ensure that Georgia is fully meeting all its obligations under them..*
Measures taken to implement the Recommendation of the Report	**On June 7, 2006 Parliament of Georgia ratified the 2000 UN Convention against Transnational Organized Crime ("Palermo Convention").** **Terrorism financing as a crime was criminalized on 25 July 2006. By the amendments of March 19, 2008 the scope of the Article 331^1 (Financing of terrorism) of the CCG was further extended (see the response to Special Recommendation II on pages 19).**

	After the amendments of July 25, 2006, Article 107[2] of the CCG gives the exhaustive list of crimes for which the criminal liability of legal persons is established. Among these crimes are terrorism financing and other terrorist related crimes. **As for the evaluators recommendation about the implementation of Article 18 (1) (b) of the Terrorist Financing Convention (concerning the requirement with respect to the beneficial owners), the issue has been resolved by the amendments of march 19, 2008 to the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization, introducing the meaning of beneficial owner and appropriate obligations in this regard to the Law. (See the response on Recommendation 5 on page 13).**
(Other) changes since the last evaluation	

Recommendation 38 (MLA on confiscation and freezing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Consideration should be given to an asset forfeiture fund and a system for sharing of confiscated assets with other countries where confiscation is a result of co-ordinated law enforcement action.*
Measures taken to implement the Recommendation of the Report	**In this area no changes have been made.**
(Other) changes since the last evaluation	

Special Recommendation III (Freezing of funds used for terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*A clear legal structure for the conversion of designations into Georgian Law under UNSCR 1267 and 1373 or under procedures initiated by third countries is required;*
Measures taken to implement the Recommendation of the Report	**For the purposes of the implementation of the convention obligations, by the amendments of 25 July 2006, the terrorist financing has been introduced as a separate crime in the Chapter of terrorism related offences in the Criminal Code of Georgia (Article 331[1]). In accordance with the Georgian criminal legislation, not only direct perpetration but the preparation and the different types of complicity in the commission of terrorist financing is considered as the punishable offence, as required under the Security Council Resolutions. By the amendment of March 19, 2008 all aspects of terrorism financing has been fully covered under Criminal Code of Georgia. (see the response to Special Recommendation II on pages 19).** **The law on Combating Terrorism has been adopted by the Parliament of Georgia on 27th of June 2007. The objective of the law is to determine legal basis and the forms of organizing fight against terrorism, as well as regulation of coordination of government organs, grounds participation of civil unions and organizations, civil servants and individuals, their rights, responsibilities and their social protection guarantees. The Ministry of Internal Affairs is the central organ for combating terrorism by preventing and investigating terrorist acts, collecting information and**

	organizing information on the activities of international terrorist organizations, coordinating activities of counterterrorist organs within the country through the Counter Terrorist Center of the MoIA, which, on its part, ensures conduct of counterterrorist activities. **The Counter Terrorist Centre of the Ministry of Internal Affairs concentrates on collection and analysis of information about terrorist threats, persons and organizations involved in terrorist activities or with links to persons and organizations involved in such activities, identification of specific measures for prevention of terrorism and implementation of those within its competence. The CTC of MoIA maintains and regularly updates lists of persons suspected of terrorist activities or being in relation with other persons or organizations involved in or suspected to be involved in terrorist activities. The list is regularly updated based on operative information and are shared with relevant state structures. The list is also regularly checked against the lists maintained under UN Security Council Resolution 1267.** **The consolidated list of the natural and Legal persons, members to the Taliban movement and Al-Qaida Organization and their associates drawn up by the 1267 UN Committee, was incorporated in the main database of the Counter-Terrorist Centre at the Ministry of Internal Affairs of Georgia since February 2006. The List for the border immigration control is regularly transferred to the State Border Department of the Ministry of Internal Affairs, which is stored in their computer database and is transferred to regional divisions of the State Border Department. The List is subject to regular review. In addition, the information about the people from the so-called "visit limited countries" applying for Georgian visa and the inviting persons for inspection is transferred beforehand by the consular department to the Counter-Terrorist Centre at the Ministry of Foreign Affairs. The above procedure is quiet short and it is implemented in the Centre under the 24-hour duty schedule. Similar service is available at the State Border Department of Georgia, and the Centre has direct contacts with it.** ***Amendments in the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization*** **To this regard the suitable amendments were made to the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization on march 27, 2007 and March 19, 2008. Due to those amendments the wording of Article 2 (h) and Article 9 (2) of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization are as follows:** ***Article 2 (h):*** **Suspicious transaction – a transaction (regardless its amount and operation type) supported with a reasonable grounds to suspect that it had been concluded or implemented for the purpose of legalizing illicit income or financing terrorism (person**

	participating in the transaction or the transaction amount causes suspicion, or other reasons exist for considering transaction as suspicious), or any person involved in the transaction is on the list of terrorists or persons supporting terrorism, or/and is likely to be connected with them, or/and funds involved in the transaction may be related with or used for terrorism, terrorist act or by terrorists or persons financing terrorism, or any involved person's legal or real address or place of residence is located in a non-cooperative zone and the transaction amount is transferred to or from such zone;" ***Article 9 (2)*** **If any of the transaction participants is on the list of terrorists or persons supporting terrorism or/ and there is suspicion that such person may be related with terrorists or persons supporting terrorism or/and transaction funds may be related with or used for terrorism, terrorist act or by terrorists or by persons financing 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 all relevant available materials and documents.** **Thus, according to the current edition of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization the notion of the `reasonable grounds to suspect" is introduced to the Law and persons designated by the United Nations Security Council as terrorists are subject to due monitoring, therefore immediate freezing and consequent confiscation of the property. (See the information about the freezing below).**
Recommendation of the MONEYVAL Report	*A designating authority is required for UNSCR 1373;*
Measures taken to implement the Recommendation of the Report	**On the basis of Presidential Decree # 526 of 21 December 2001, the Interagency Coordination Council with the National Security Council for Implementation of UN Security Council Resolution #1373 and Realization of National Action Plan for Joint Fight against International Terrorism has been established. The Interagency Coordination Council consists of high officials of relevant line ministries – Ministry of Internal Affairs, Ministry of Finance, National Bank, Ministry of Justice, Ministry of Defense, Prosecutor General's Office, Ministry of Labor, Health, and social welfare, etc. The Interagency Coordination Council is chaired by the Deputy Secretary of National Security Council. The functions of the Interagency Coordination Council include supervision of Implementation on UN Security Council Resolution # 1373 as well as to coordinate activities of relevant line ministries and agencies in combating terrorism.**
Recommendation of the MONEYVAL Report	*Clarification required that freezing should be without delay and not await the completion of transactions before lists are checked*
Measures taken to implement the Recommendation of the Report	**Since the amendments of February 25, 2004 and June 30, 2006 to the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization, according to the Article 10§4(f) the Financial Monitoring Service is authorized to address the Court with the motion on the authorization of the freezing of property (bank accounts) or to suspend the bargains (transaction) if there is grounded supposition to believe that the property (sum of the bargain) may be used for terrorism financing. In this case files should be sent to the competent bodies of the Office of the Prosecutor General and Ministry of Internal**

	Affairs immediately. (See the response on Special Recommendation III on page 36-37). **Since the amendments of March 19,2008 to the Article 331[1] of the CCG, according to which all types of terrorism financing has been fully covered, prosecutors have enhanced ability to without delay, swiftly and affectively freeze the property (e.g. terrorist assets) through the prescribed by article 190 of the CPCG provisions.** **In case of urgent necessity, if there exists bases for consideration that the property shall be concealed or destroyed, according to article 195 of the CPCG prosecutor has a right to issue the decree on freezing the property, the legality of which is further assessed by a court.** **In both this cases, if the property (e.g. terrorist assets), including bank accounts does not belong to suspect, accused or convicted person, to person materially responsible for their activities and/or to connected person (paragraph 1 of article 190 of the CPCG), will be applied paragraph 2 of article 190 of the CPCG. According to the paragraph 2 of the above-mentioned article property shell be frozen if it could be used for the preparation of any crime prescribed by articles 323-330 (Crimes related to terrorism), article 331[1] (Terrorism financing) or any other especially grave offence envisaged by Georgian Criminal Code, as well as for ensuring their prevention, if there are sufficient data that this property may be used for commission of crime. Paragraph 2 of article 190 of the CPCG is applicable notwithstanding the fact whether the property in question belongs to any person listed in para. 1 of the same article (suspect, accused and etc.).**
Recommendation of the MONEYVAL Report	*Clearer guidance on obligations required*
Measures taken to implement the Recommendation of the Report	**In this area no changes have been made.**
Recommendation of the MONEYVAL Report	*Publicly known procedures for considering de-listing and unfreezing are required, and for persons inadvertently affected*
Measures taken to implement the Recommendation of the Report	**Delisting is possible using several options. Georgian legislation does not exclude, prohibit or in any other way hinder the procedure of delisting persons from consolidated lists through direct petition to the focal point established under the UN Security Council Resolution 1730 (2006). Apart from that, according to administrative legislation of Georgia, any person within the jurisdiction of Georgia is authorized to address any administrative body and request information available in that organ related to him or her (Article 39, General Administrative Code of Georgia). In case the concerned individual discovers inaccurate or incomplete information, the discrepancy could be settled by a relevant administrative body (i.e. FMS, CTC of MoIA, etc.) or by the court. According to the Paragraph d of Article 43 of the General Administrative Code of Georgia administrative body is obliged to remove discrepancy based on the decision of the court or on the written and motivated request from the concerned individual.** **Thus, any person is authorized to address relevant administrative bodies (i.e. FMS, CTC**

	of MoIA, etc.) and request removal from the consolidated lists. Respective bodies, on their part, are authorized to address relevant UN structures via Ministry of Foreign Affairs with their motivated delisting requests. ***According to the Criminal Procedural Code of Georgia unfreezing may be done*:** **According to Article 199 of the CPCG, the property shall be frozen until the execution of judgment or the termination of criminal proceedings. Under the paragraph 4 of the mentioned Article, the measure of freezing shall be repealed whenever the basis for the application of freezing is no more in existence. Besides, according to the same article, the measure may be reversed on the basis of the prosecutor's decree on the termination of criminal proceedings in the criminal case or based on court decision.** ***Article 200*** **Accused or his/her counsel has a right to appeal the first instance court order on freezing to the court of appeals within 72 hours after the issuance or execution of the above order. In case if the court grants a motion, the order of first instance court will be annulled and the property will be unfrozen.** **A person who considers that his/her property was frozen illegally or without proper grounds including a person not being directly linked with the case, whose property was enlisted mistakenly, has the right to request unfreezing pursuant to the provisions of Civil Procedural Code of Georgia, by filing a motion on unfreezing of the property. The motion is heard by the civil court. The judgment of the court is obligatory for prosecutor and investigation, as well as for the court that is hearing a criminal case.** **Since all the above provisions are included in the Georgian General Administrative Code, Criminal Code and Criminal Procedural Code and they are publicly available, all the interested parties have an access to them.**
Recommendation of the MONEYVAL Report	*All supervisors should actively check compliance with SR.III*
Measures taken to implement the Recommendation of the Report	**In this area no changes have been made.**
(Other) changes since the last evaluation	

Special Recommendation V (International co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Enact an autonomous financing of terrorism offence to improve the capacity for rendering MLA.*
Measures taken to implement the Recommendation of the Report	**Since the enactment of a new provision on financing of terrorism in the CCG on 25 July 2006 and its amendments of March 19, 2008 expanding the scope of article 331[1] (Financing of terrorism) the issue of double criminality required by Georgian legislation**

	for rendering MLA with respect to the financing of terrorism has been entirely resolved. (See the response on Special Recommendation II on pages 19).
Recommendation of the MONEYVAL Report	*Enact an autonomous offence of terrorist financing to improve extradition capacity in relation to financing of terrorism offences*
Measures taken to implement the Recommendation of the Report	**Since the enactment of a new provision on financing of terrorism in the CCG on 25 July 2006 and its amendments of March 19, 2008 expanding the scope of article 331[1] (Financing of terrorism) the issue has been entirely resolved. (See the response on Special Recommendation II on pages 19).** **Under Article 254 of the Criminal Procedural Code of Georgia, the crime is subject to extradition if it is punishable with the deprivation of liberty for more than 1 year. The lowest term of punishment for terrorism financing is 10 year deprivation of liberty. Thus, under the current Georgian legislation the terrorist financing falls within the category of offences subject to extradition. The same is true for the purposes of the Council of Europe Convention on Extradition of 1957.**
(Other) changes since the last evaluation	

Special Recommendation VI (Money or value transfer services)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Value transfer business should be licensed/registered.*
Measures taken to implement the Recommendation of the Report	**AML Law introduces a new term "entity performing money remittance services" – defined as an entity (except commercial bank and microfinance organization), which performs money remittance services.** **For this purposes, paragraphs 4 and 4[1] to Article 2 of the Law on Activities of Commercial Banks was modified. In accordance with this article, it is the Georgian Financial Supervisory Agency who is authorized to regulate the activities of entities performing money remittance services. From 15th of may of this year GFSA is authorized to register and control these entities for the purpose of Money Laundering and Terrorist Financing.**
(Other) changes since the last evaluation	

Special Recommendation VII (Wire transfer rules)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*There should be a comprehensive legal framework addressing all the requirements as set out in SR VII in regard of commercial banks and the Georgian Post*
Measures taken to implement the Recommendation of the	**The Law obligates monitoring entities to perform the identification of persons in case of implementing transaction through Society for Worldwide Interbank Financial**

Report	**Telecommunications (SWIFT) or other similar network (system) exceeds GEL 1 500 (or its equivalent in other currency).** **The provision on „Receiving, Systemizing, Processing the Information by the Commercial Banks and forwarding it to the Financial Monitoring Service of Georgia" gives examples what is meant under „other similar network (system)". There is Western Union, Money Gram etc) (article 6 (1))** **According to the changes and amendments made to the abovementioned Regulation in June, 2008, Article 6^1 was added concerning the obligation of a commercial bank of registering the identification data when performing money remittances (transfers). This Article obligates a commercial bank to include identification data in the transfer documents and submit this information to the recipient institutions as set under Special Recommendation VII.** **Paragraphs 2 and 3 of Article 6^1 of the decree stipulates:** **"2. When implementing local and international transfers the following information shall be recorded:** **a) Name;** **b) Account number (if applicable) or person's unique code;** **c) Address (address may be replaced: in case of physical person – with personal number by ID or Passport or Date of Birth and Place, number of tax payer, in case of legal entity – with number of tax payer).** **3. Identification data, stated in Paragraph 2 of Article 6^1, shall be included in the respective electronic document of money remittance, so that after transfer is implemented this information is conveyed to the institution receiving remittance."** **Moreover Paragraphs 5 and 6 of Article 6^1 of the decree sets out:** **"5. Banks, which in the course of transfer perform the role of an intermediary, shall ensure transferring of the person's identification data from the paying Bank to the beneficiary Bank. If due to technical reasons it is not feasible to perform the above – noted process, the intermediary banks shall retain payer's identification data for the period defined under Paragraph 1 of Article 8 of this Regulation.** **6. When implementing local transfers it shall be permitted to record information determined only under Subparagraphs (a) and (b) of Paragraph 2 of this Article. In such event, the paying Bank upon request shall provide the recipient institution with the payer's complete identification details (or in other cases provided for in the legislation) within three banking days."** **As the persons carrying out money remittance services according to the change made to the Law are included in the list of monitoring entities, the requirements of the mentioned Recommendation will be applied to them as well in the nearest future.**
(Other) changes since the last evaluation	

Special Recommendation VIII (Non-profit organisations)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*An overall review of the risks in the NPO sector needs to be undertaken*
Measures taken to implement the Recommendation of the Report	**No changes have been made**
Recommendation of the MONEYVAL Report	*The Ministry of Finance should begin AML/CFT monitoring for entities engaged in extension of grants and charity assistance. Consideration should be given to effective and proportionate oversight of the whole NPO sector*
Measures taken to implement the Recommendation of the Report	**No changes have been made**
Recommendation of the MONEYVAL Report	*Closer liaison between the governmental departments involved is required and greater sharing of information between them and with law enforcement*
Measures taken to implement the Recommendation of the Report	**No changes have been made**
Recommendation of the MONEYVAL Report	*STR guidance should be issued in respect of transactions in this sector below the 30,000 GEL*
Measures taken to implement the Recommendation of the Report	**No changes have been made**
(Other) changes since the last evaluation	

Special Recommendation IX (Cross border declaration and disclosure)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*An effective system of monitoring by Customs of monetary units in excess of 30,000 GEL needs to be put in place*
Measures taken to implement the Recommendation of the Report	**After structural reorganization within the Ministry of Finance, there was created Revenue Service, which among other structural units covers also Customs Administration (April of 2007). The principal legal bases of the Revenue Service are:** **Law of Georgia: On the Revenue Service of the Ministry of Finance** **The Customs Code** **The Tax Code** **March 2, 2008 N170 Order of Minister of Finance** **The reorganization in the regional level of Revenues service has been ended recently. The customs and tax authorities were unified at the regional level. There are created nine regional centers (tax inspection).** **As a rule (defined by decree of Minister of Finance ministry N1232 22.11.2007) if physical person crossing the customs border should to take into consideration that entry**

and exit with any amount of currency in or from Georgia is free of any duties, whereas a moving across the border of GEL 30 000 or its equivalent cash in foreign currency shall be subject to mandatory declaring.
If person chooses the affirmative answer in following box of the declaration of physical person he (she) should fill the special forms, which allow customs and FMS identifying this person.

Extract from declaration of the physical person:
"3. Information about goods.
I have with me or I move with baggage and hand luggage following goods:
3.1. National currency in amount of more than GEL 30 000 or its equivalent foreign currency, currency values
☐ Yes ☐ No "

The coordinating and organizational role for undertaking properly the currency control by customs border authorities falls upon the division for customs control organization. Following the initiative of this division:

a) **There were renewed the internal order which defines the responsible persons for receiving the information about persons moving across the border of GEL 30 000 or its equivalent cash in foreign currency**
b) **There was arisen issue for amendments into the existing regulation. According to the N152 Order (November 16, 2004) of the head of FMS only currency falls under mandatory monitoring and not the other financial instrument (i.e. securities). (the draft amendments to this decree is already prepared.)**
c) **There was established the effective monitoring mechanism through customs system of Georgia**

The following statistics clearly approves the above-mentioned statements.

From March 2007 – to March 2008

Name of Customs border authority	Entrance (number of cases)	Exits (number of cases)	Declaring amount (GEL)
Tbilisi Airport	14	9	50 523 360 (≈21 683 845 EUR)
Gardabani	1	-	44 709 (≈19 188 EUR)
Sadaxlo	5	-	514 023 (≈220 610 EUR)
Tsitely Khidi	1	2	1 834 720 (≈787 433 EUR)
BaTumi Airport	2	15	1 415 370 (≈607 455 EUR)
Sarphi	32	2	4 002 259 (≈ 1 717 707 EUR)

Since October of 2006 customs began sending information to FMS on natural persons, carrying cross-border cash with the total value of GEL 30 000 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 Legalization" and requirements of this

<table>
<tr><td></td><td>Regulation. Number of STRs from customs received in 2007 rises 4 times in comparision with the previous year.</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>FMS needs full information on the levels of cross-border cash movements</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>Full information on the levels of cross-border cash movements (declared and non-declared) that is at customs Authorities disposal is being sent to the FMS.</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>The sanctions regime for breaches of the Customs Code should be reviewed</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>According to the Article 242 of Customs Code Illegal movement of non-declared goods across the customs border of Georgia without a consent of the authorized official of the customs authority or by avoiding the customs control, - shall be subject to fining a liable person 100 percent of the amount of import duties payable for the goods concerned, but not less than 2000 GEL and/or free of charge confiscation of means of transport and goods of customs law violation.

The quantity of infringements (there were confiscated the non-declared amount)
<table>
<tr><th>Name of Customs border authority</th><th>Entrance (number of cases)</th><th>Exits (number of cases)</th><th>Declaring amount (GEL)</th></tr>
<tr><td>Sadaxlo</td><td>1</td><td></td><td>20 000 ($)</td></tr>
<tr><td>Sarphi</td><td>1</td><td>1</td><td>118 928 ($)</td></tr>
</table></td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>A clear and effective system needs to be put in place to stop and restrain currency or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of money laundering or terrorist financing may be found</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>No changes have been made</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>Clearer coordination arrangements with other law enforcement bodies involved in cross-border issues should be put in place;</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>No changes have been made</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>A database including lists of high risk groups needs creating, and Customs need sensitising and training to detect cross-border movements associated with money laundering and financing of terrorism</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>Paragraph 5 is added to Article 5 of Draft amended FMS decree for customs Authorities, which sets out: “5. Special attention shall be focused on persons carrying cash, checks and other securities determined under Paragraph 1 of Article 3 of the Regulation, whose permanent place of residence or / and country where they came from or are traveling to is non-cooperative or watch or suspicious zone.”</td></tr>
<tr><td>(Other) changes since the last evaluation</td><td></td></tr>
</table>

2. Specific Questions

(1) Have there been changes at the FIU regarding competencies, resources, staffing etc.?

FMS Georgia exploits the same rights and competencies as it did in the period of Evaluation in 2006.
According to the changes made to the AML Law, the FMS reports only to the President of Georgia.
The staff of the FMS has been reduced from 40 to 31 as the monitoring entities implemented a new electronic settlement system for supplying the reports to the Data Collecting and Processing Department. There has also been made some minor change in the structure of the Service by merging the Legal and Methodology and International Cooperation Departments.
As for funding – according to the regulations set by the AML Law, current funding of the Service can not be less than the approved financing for the previous year. The reduction of current funding of the Service can be made only by a prior consent of the Head of the Service. If the Council of NBG does not approve the Budget the financing will be carried out by the amount equal to the financing of the previous year.

(2) Have there been changes in the competencies of supervisory authorities?

Supervision of the financial sector was undertaken by three independent supervising authorities, National Bank of Georgia – supervised banking sector including: commercial banks, non-banking depositary institutions, microfinance institutions, and exchange bureaus; Insurance State Supervision Service – supervised insurance sector; Securities Commission – supervised securities market in Georgia.

According to the new amendments on the Organic Law of National Bank of Georgia, for the purpose of the financial sector supervision – Georgian Financial Supervisory Agency (GFSA), legal entity of the public law, was established. Georgian Financial Supervisory Agency is the single body supervising the whole financial sector. Georgian Financial Supervisory Agency supervises: banking sector, entities performing money remittance services, exchange bureaus, insurance sector (comprising of non-life insurance companies, life insurance companies, entities conducting pension schemes), and securities market.

Georgian Financial Supervisory Agency has the same authority and competencies that National Bank of Georgia, Insurance State Supervision Service and Securities Commission wielded in regard to financial sector regulation.

Under the amendments to AML Law as of 19.03.2008 the supervisory authorities for monitoring entities shall be:

a) **Financial Supervisory Agency – for commercial banks, currency exchange bureaus and non-bank depository institutions, microfinance organizations, entities**

performing money remittance transactions, broker companies and securities' registrars, insurance companies and non-state pension scheme founders;

b) 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;

c) The ministry of Justice of Georgia – for notaries and national agency of public registry.

(3) What has been done to improve the situation on statistics?

Georgian FIU now maintains and keeps all the statistical information which can be used for further purposes. Based on the Memorandum between FIU, Prosecutor's Office, and Ministry of Internal Affairs, FIU will receive quarterly information regarding the cases on which FIU has sent information to Prosecutor's Office. This provision will enable Georgian FIU to assess the effectiveness of the AML/CFT system as a whole and fulfillment of its functions under AML Law.

Sine October of 2006 FIU started to conduct statistics on international cooperation to show timeliness of responses.

National Bank, as a result of each inspection of its supervised entities, was sending a copy of the inspection act to FIU.

Since July 2007, the Office of the Prosecutor General of Georgia, is keeping, updating and analyzing on routinely basis all the statistical information on money laundering and terrorist financing investigations, prosecutions, convictions (including information on pending money laundering cases before the courts; indication of the sours from which criminal case has been initiated, information on the underlying predicate offences; information as to whether the money laundering offence was prosecuted autonomously or together with the predicate offence and which cases were self laundering) sentences, property frozen, seized, confiscated and mutual legal assistance.

(4) The last amendments to Art. 194 CC reduced the basic penalty for money laundering to imprisonment to 2 - 4 years (previously 4 – 6 years); the penalty for actions by a group, actions committed repeatedly and those involving generation of income in large quantities was reduced to 4 - 7 years (previously 6 – 9 years) and the actions committed by an organised group, by using one's official position and involving generation of income in extremely large quantities was reduced to 7 - 10 years (previously 9 – 12 years). As a consequence it is now not clear whether conspiracy (which is covered in the Georgian Criminal Code by "preparation" in Art. 18) is still applicable to money laundering in its non aggravated form because Art. 18 CC is only applicable for "grave crimes". Article 12 CCG defines "grave crimes" as "any premeditated crime, which entails the maximum sanction of deprivation of liberty no

more than ten years [...]". Please explain whether conspiracy is applicable for money laundering in all its forms.

According to the amendments of March 19, 2008 to the Criminal Code of Georgia the sanctions of Article 194 have been increased, in particular sanctions of paragraph 1 provides for deprivation of liberty from 3 to 6 years, para. 2 – from 6 to 9 years and para. 3 - from 9 to 12 years.

According to Article 18 (Preparation of Crime) of the CCG the criminal liability shall be imposed for the preparation of grave or especially grave crimes only.

According to the Article 12 (Categories of Crime) of the CCG:

grave crime is any premeditated crime, which entails the maximum sanction of deprivation of liberty in excess of 5 years but no more than ten years.
especially grave crime is any premeditated crime, which entails the maximum sanction of deprivation of liberty in excess of 10 years or life imprisonment.

Thus, as Article 18 of the CCG prescribes the criminal liability for the preparation of the grave and especially grave crimes and according to the article 12 of the CCG para. 1 - 2 of Article 194 of the CCG belongs to the category of grave crimes and para. 3 of the same article belongs to the category of especially grave crimes, conspiracy/preparation of money laundering (Article 194 of the CCG) in all its forms is fully applicable and conformably punishable under the Georgian Criminal Low.

3. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[5]

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	**The Third Directive and the Implementation Directive are not fully implemented in Georgia.**

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[6] (please also provide the legal text with your reply)	**Under the amendments made in 19.03.2008 the definition of „beneficial owner" was added to the AML law which defines beneficial owner as "*a natural person (s) who ultimately owns or controls a customer.*"** **The Organic law on The National Bank of Georgia defines the term „control" as *the exercise of a dominating influence, directly or indirectly, alone or in concert with others over the activities or decisions through the use of voting shares or other means.*** **Furthermore, paragraph 2 and paragraph 2[3] of Article 6 of AML Law obliges monitoring entities to *obtain information/documents necessary for the identification of the person on whose behalf the client is acting.*** **The Law on Activities Commercial Banks defines beneficial owner as "a person who derives monetary or other benefit on the basis of the Law or transaction and is not obliged to transfer such benefit to other person, and if beneficiary owner is an entity established for ideal purposes, or the owner juridical person does not have a owner of significant share, beneficiary owners shall be members of the management body" (article 1, subparagraph (d)).** **"Significant share – 10% or higher share in commercial bank's authorized or paid-in capital, owned by the person through direct or indirect participation in equity capital. (article 1, subparagraph (vii))"**

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of	**No Financial institution is permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.**

[5] For relevant legal texts from the EU standards see Appendix II

[6] Please see Article 3(6) of the 3rd Directive reproduced in Appendix II

their AML/CFT obligations.	

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[7] are provided for in your domestic legislation (please also provide the legal text with your reply).	**There are not any provisions in Georgian legislation concerning PEPs**

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	**"Tipping off" is prohibited under paragraph 1 of Article 12 of the AML Law (as amended on 19.03.2008) which states that FMS, monitoring entities and supervisory authorities, their management and employees are not authorized to inform parties of the transaction or other persons that the information on transaction has been forwarded to the respective authority in conformance with the obligations defined under the Law.** **The provision was modified and paragraph 2 was added to Article 12 which states that noncompliance with the requirements stated in paragraph 1 of the Article entails responsibility under the Georgian legislation.** **Pursuant to the amendments to the Criminal Code of Georgia of March 2008, Article 202[1] has been introduced, in accordance with which disclosure by the management and employees of the Financial Monitoring Service of Georgia and Monitoring Entities of the fact that the information about the transaction subject to monitoring was submitted to the competent authorities, has been criminalized.** **The article covers the above-mentioned act committed by the afore-listed persons, and does not cover the disclosure of information on the ongoing investigations, since, those persons do not have access and information about ongoing investigations.** **In case if the above people will acquire information concerning the investigation, then they will be officially notified that in case of disclosure and reveal of information they will be held responsible pursuant to Article 374 of the Criminal Code of Georgia. In case if the reveal takes place, then they will be held responsible.**
With respect to the prohibition of "tipping off" please indicate	**There are not any circumstances in this area.**

[7] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	**Since the amendments of July 25, 2006 to the Criminal Code of Georgia corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who is responsible for the management, representation, making decisions on behalf of the legal entity and/or is a member of the supervisory, controlling or revision body of the legal entity.** **Article 107^2 of the Criminal Code of Georgia determines the list of crimes for commission of which the criminal liability of legal persons is established, among those crimes are money laundering and terrorist financing as well.** **Thus, according to the Georgian legislation corporate liability is applicable, not only when the crimes listed in article 107^2 are committed for the benefit of that legal person by a person occupying the leading position in the entity but by a representative and the person responsible for making decisions on behalf of the legal entity as well.**
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	**Yes, if the infringement is committed by other responsible person (see above) of the legal entity, for example by the representative, as a result of the lack of supervision or control by persons who occupy a leading position within that legal person.**

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	**Only Entities engaged in activities related to precious metals, precious stones and products thereof, as well as antiquities are obliged to report information on transaction (payment) if the amount (paid in cash) of transaction exceeds GEL 30 000.**

4. Statistics

a) Please complete - to the extent possible - the following tables:

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	16	-	6	17	2	10	1	572 000	-	-	1	572 000
FT												

2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	10	-	4	4	3	5	2	4 548 000			1	3 214 000 (was frozen in year 2004)
FT												

2007												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	9		2	2			2	1 949 000				
FT												

2008 (January-May)												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	3		1	1	3	3	1	1 936 000			1	1 936 000
FT												

b) STR/CTR

Explanatory note:
The statistics under this section should provide an overview of the work of the FIU.
The list of entities under the heading "*monitoring entities*" is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.
The information requested under the heading "*Judicial proceedings*" refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.
"*Cases opened*" refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term "cases open" is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2005															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	**23122**	**483**		28		7	5	6	6[8] + 11[9]			2	3[7] + 7[8]		
insurance companies	**278**	**0**													
Notaries	**2704**	**10**													
Currency exchange	**238**	**0**													
broker companies	**654**	**18**													
securities' registrars	**291**	**47**													
lawyers	-	-													
accountants/auditors	-	-													
company service providers	-	-													
others (please specify and if necessary add further rows)	-	-													

[8] based on 2005 notification by FIU

[9] Based on 2004 notification by FIU

Total	**27287**	**558**													

2006															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	37627	2214	1												
insurance companies	448	0													
Notaries	3996	7													
Currency exchange	159	0													
broker companies	436	31													
securities' registrars	204	29		33	5	9	5	3	1[10] + 2[11]			3	1[9] + 4[10]		
lawyers	-	-													
accountants/auditors	-	-													
company service providers	-	-													
others (Customs)	14	0													
Total	**42884**	**2281**	**1**												

2007															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	48570	4591		57	0	17	0	2	1[12] + 1[13]						
insurance companies	382	0													
Notaries	8574	19													
Currency exchange	990	18													
broker companies	1165	24													

[10] Based on 2005 notification by FIU
[11] Based on 2004 notification by FIU
[12] Based on 2007 notification by FIU
[13] Based on 2006 notification by FIU

securities' registrars	310	16														
lawyers	-	-														
accountants/auditors	-	-														
company service providers	-	-														
others (Customs)	57	0														
Total	**60048**	**4668**														

2008 (January-May)																
Statistical Information on reports received by the FIU								**Judicial proceedings**								
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	
commercial banks	18782	3625	1	39	1	2	1	1	1[13]			3	2[14] + 1[15]			
insurance companies	92	1	-													
Notaries	4341	7	-													
Currency exchange	500	2	-													
broker companies	106	1	-													
securities' registrars	104	7	-													
lawyers	-	-	-													
accountants/auditors	-	-	-													
company service providers	-	-	-													
others (Customs)	56	-	-													
Total	**23981**	**3643**	**1**													

[14] Based on 2005 notification by FIU

[15] Based on 2006 notification by FIU

APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1 and 2)	• Clarify legislative provisions to ensure that all aspects of the physical and material elements in the Vienna and Palermo Conventions are covered; • preparation/conspiracy to commit money laundering should be fully covered in Georgian law; • Simple possession or use of laundered proceeds should be covered; • Financing of terrorism should be covered in designated categories of predicate offences, and insider trading should be fully covered; • The exemption for crimes committed in the tax and Customs sphere in the definition of illicit income in the preventive law should be removed; • The financial value threshold should be removed; • Further clarification of the evidence required to establish underlying predicate criminality in autonomous money laundering prosecutions should be considered, and more emphasis placed on autonomous money laundering prosecutions (especially in relation to foreign predicates) for a fully effective criminalisation of money laundering; • Georgian authorities should provide for criminal, civil or administrative liability for money laundering in respect of legal entities.
Criminalisation of Terrorist Financing (SR.II)	An autonomous offence of financing of terrorism should be introduced which addresses all aspects of SR.II and its Interpretative Note.
Confiscation, freezing and seizing of proceeds of crime (R.3)	• It should clarified that the objects of money laundering and instrumentalities can be subject to mandatory forfeiture in a stand alone money

	laundering case. • New confiscation, freezing and seizing provisions need embedding into the general criminal process.
Freezing of funds used for terrorist financing (SR.III)	• A clear legal structure for the conversion of designations into Georgian Law under UNSCR 1267 and 1373 or under procedures initiated by third countries is required; • A designating authority is required for UNSCR 1373; • Clarification required that freezing should be without delay and not await the completion of transactions before lists are checked; • Clearer guidance on obligations required; • Publicly known procedures for considering de-listing and unfreezing are required, and for persons inadvertently affected; • All supervisors should actively check compliance with SR.III
The Financial Intelligence Unit and its functions (R.26, 30 and 32)	• More public reports with statistics, typologies and trends should be provided.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 and 32)	• The Georgian authorities should proactively pursue investigations / prosecutions in respect of autonomous money laundering cases (particularly foreign predicates). • Power to postpone or waive arrest or seize money in the circumstances specified in Criterion 27.2 needs clarifying.
SR. IX Cross border declaration and disclosure	• An effective system of monitoring by Customs of monetary units in excess of 30,000 GEL needs to be put in place; • FMS needs full information on the levels of cross-border cash movements; • The sanctions regime for breaches of the Customs Code should be reviewed; • A clear and effective system needs to be put in place to stop and restrain currency or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of money laundering or terrorist financing may be found; • Clearer coordination arrangements with other law enforcement bodies involved in cross-border issues should be put in place; • A database including lists of high risk groups needs

	creating, and Customs need sensitising and training to detect cross-border movements associated with money laundering and financing of terrorism.
3. Preventive Measures– Financial Institutions	
Risk of money laundering or financing of terrorism	
Financial institution secrecy or confidentiality (R.4)	• There should be consistent provisions in legislation ensuring that requests for information by the FMS cannot be challenged because of confidentiality / secrecy. • Financial institutions should be authorised to share information for the implementation of Recommendation 7 and SR.VII.
Customer due diligence, including enhanced or reduced measures (R.5, R.7)	The evaluators advise that obligations in the AML/CFT methodology marked with an asterisk are put into the AML Law. There should be a specific provision clearly prohibiting the opening of anonymous accounts or accounts in fictitious names in respect of all financial institutions which are able to keep accounts for physical and legal persons. The AML Law should provide full CDD requirements and requirements for on-going due diligence. Explicit legal requirement on the financial institutions to implement CDD measures when: - financial institutions carry out (domestic or international) transactions which appear to be linked and are above the threshold of US$/Euro 15,000, - carrying out occasional transactions that are wire transfers, - there is a suspicion of ML and FT; - financial institutions have doubts about the veracity or adequacy of previously obtained customer identification data. Financial institutions should be obliged to identify the beneficial owner as defined in the FATF Recommendations and also to verify the identity of the beneficial owner. There needs to be an obligation on financial institutions to obtain information on the purpose and nature of the business relationship or to conduct on-

	going due diligence. The Georgian authorities should consider introducing a "risk based approach", performing enhanced and simplified CDD measures for different categories of customers, business relationships, transactions and products. For higher risk customers the monitoring entities should conduct enhanced due diligence and as necessary use reliable independent documents other than those set out in the AML Law. A clear obligation on the financial institutions to consider making an STR to the FMS in case of failure to satisfactorily complete CDD requirements before account opening or commencing business relations or where the business relationship has commenced and doubts about the veracity or adequacy of previously obtained data arise needs to be provided for. An obligation to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times is required.
(R.6)	The Georgian AML/CFT system should introduce enforceable measures concerning the establishment of business relationships with politically exposed persons (PEPs).
(R.8)	Enforceable measures need taking to require financial institutions to have in place or take measures to prevent the misuse of technological developments in AML/CFT schemes and to address the specific risks associated with non-face to face business relationships or transactions.
(R.9)	

Record keeping and wire transfer rules (R.10 and SR.VII)	• AML Law should require the maintenance of necessary records of all domestic and international transactions and not exclusively those transactions "subject to monitoring". • Financial institutions should be permitted by law or regulation to keep all necessary records on transactions for longer than five years if requested to do so in specific cases by a competent authority upon proper authority. • Financial institutions should be required to keep identification data for longer than five years where requested by a competent authority in specific cases on proper authority. • There should be a comprehensive legal framework addressing all the requirements as set out in SR VII in regard of commercial banks and the Georgian Post..
Monitoring of transactions and relationships (R.11 and 21)	• Financial institutions should be obliged to pay attention to and to analyse all complex, unusual large transactions or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. • Financial institutions should proactively analyse all complex, unusual large transactions or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose beyond those transactions "subject to monitoring" under the AML Law. • There should be a specific requirement in the AML Law or in FMS Decrees, to set forth the findings of financial institutions on complex, large and unusual patterns of transactions, that have no apparent or visible economic or lawful purpose, in writing and to keep these findings available for at least 5 years. • There should be a specific requirement on the financial institutions to examine the background and purpose of transactions (with persons from or in countries which do not or insufficiently apply FATF Recommendations) which have no apparent economic or visible lawful purpose, and set out their findings in writing and to make them available to the competent authorities. • A more targeted method for advising financial

	institutions of countries which insufficiently apply the FATF Recommendations should be considered. • Mechanisms need to be considered for applying counter measures.
Suspicious transaction reports and other reporting (R.13 and 14, 19, 25 and SR.IV)	• The reporting requirement which should be in law or regulation should clearly cover all predicate offences required under Recommendation 13. The requirement to report suspicious transactions should clearly cover tax matters. • There should be a clear legal requirement to report funds suspected to be linked or related to financing of terrorism as required by criterion 13.2. • The language of "grounded supposition" should be replaced with "reasonable grounds to suspect". • More guidance and outreach required to ensure that all financial institutions are reporting suspicious transactions. • Safe harbour provisions should cover temporary as well as permanent staff. • The protection in Article 12 (3) AML Law should clearly apply to criminal as well as civil liability. • A clear provision of general application covering tipping off by employees of financial institutions (as well as the financial institutions themselves) should be provided. • Sector specific guidance on suspicious transactions needs to be provided and adequate and appropriate feedback needs to be given to financial institutions (and DNFBP) required to make suspicious transaction reports in line with the FATF Best Practice Guideline on Providing Feedback to Reporting Financial Institutions and Other Persons. • A clear requirement in law or regulation for financial institutions to report where they suspect or have reasonable grounds to suspect that funds of legal and physical persons (whether licit or illicit) are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism should be provided for.

Internal controls, compliance, audit and foreign branches (R.15 and 22)	• A clear provision should be made for compliance officers to be designated at management level. • Financial institutions should be generally required to implement and maintain an adequately resourced and independent audit function. • Ongoing training for employees on current ML/FT techniques, methods and trends is needed. • Financial institutions should establish screening procedures to ensure high standards when hiring employees. • A requirement on financial institutions to apply AML/CFT measures to foreign subsidiaries consistent with home country requirements should be introduced for the future.
The supervisory and oversight system – competent authorities and SROs roles, functions, duties and powers (including sanctions) (R.17, 23, 29 and 30)	• Administrative sanctions system should clearly extend to CFT. A clearly harmonised approach to sanctioning across all supervisory authorities needs to be developed. • The sanctions regime should be much more effective, dissuasive and proportionate. • A Decree is required for brokers companies containing sanctionable obligations. • The Ministry of Economic Development needs legal powers to sanction for AML/CFT. • Sanctions should apply to Directors and Senior management in appropriate cases. • Sanctions should apply to dealers in precious metals and dealers in precious stones, and casinos for non-compliance with the AML Law. • The Ministry of Economic Development should commence its AML/CFT supervisory activities in respect of the Georgian Post and supervision of exchange bureaus needs strengthening. • A programme of inspections needs to be implemented for the postal services. • There should be a general clear power for all supervisors to compel documents in all cases.
Shell banks (R.18)	• There should be an explicit provision prohibiting the establishment of shell banks. • Financial institutions should be prohibited to enter

	into, or continue, correspondent banking relationship with shell banks. • Financial institutions should satisfy themselves that foreign respondent financial institutions do not permit their accounts to be used by shell banks.
Financial institutions – market entry and ownership/control (R.23)	• Fit and proper criteria for shareholders, directors and managers of insurance companies and founders of non-State pension schemes need developing and provisions regulating market entry for currency exchange bureaus. • A licensing regime should be put in place regulating money remittances. • A consistent and harmonised approach should be taken in the assessment of the fitness and propriety of persons holding significant interests in financial institutions.
Ongoing supervision and monitoring (R23, 29)	• The Ministry of Economic Development should commence its AML/CFT supervisory activities in respect of the Georgian Post and supervision of exchange bureaus needs strengthening.
AML/CFT Guidelines (R.25)	• Sector specific guidance on suspicious transactions needs to be provided and adequate and appropriate feedback needs to be given to financial institutions (and DNFBP) required to make suspicious transaction reports in line with the FATF Best Practice Guideline on Providing Feedback to Reporting Financial Institutions and Other Persons.
Money or value transfer services (SR.VI)	• Value transfer business should be licensed/registered.

4. Preventive Measures – Designated Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	• The changes recommended for CDD requirements for financial institutions should be applied also to DNFBP. • Customer due diligence and record keeping requirements set out in Recommendations 5, 6, and 8 to 11 should apply to real estate agents, lawyers and accountants in the situations described in Recommendation 12.
Monitoring of transactions and relationships (R.12 and 16)	• Requirements under Recommendation 13 to 15 and 21 should apply to real estate agents, lawyers, accountants and trust and company service providers subject to the qualifications in Recommendation 16. • More outreach and guidance to those DNFBP with reporting obligations is required to explain the reporting obligation.
Regulation, supervision and monitoring (R.17, 24-25)	• Licensing of casinos should include inquiry into the fitness and propriety of holders or beneficial owners of significant or controlling interests in casinos and those holding management functions. • An effective inspection programme regarding supervision of casinos should be put in place. • Monitoring on AML/CFT issues in respect of dealers in precious metals and dealers in precious stones needs to be developed.
Other designated non-financial businesses and professions (R.20)	
3. Legal Persons and Arrangements and Non-profit Organisations	
Legal Persons–Access to beneficial ownership and control information (R.33)	• It is recommended that the register should include information on the beneficial ownership and control of legal persons.
Legal Arrangements–Access to beneficial ownership and control information (R.34)	

Non-profit organisations (SR.VIII)	• An overall review of the risks in the NPO sector needs to be undertaken. • The Ministry of Finance should begin AML/CFT monitoring for entities engaged in extension of grants and charity assistance. Consideration should be given to effective and proportionate oversight of the whole NPO sector. • Closer liaison between the governmental departments involved is required and greater sharing of information between them and with law enforcement. • STR guidance should be issued in respect of transactions in this sector below the 30,000 GEL.
6. National and International Co-operation	
National Co-operation and Co-ordination (R.31)	• The examiners advise that a coordination of senior officials responsible for AML/CFT in each of the relevant sectors is set up to assess the performance of the system as a whole and make recommendations, as necessary, to government.
The Conventions and UN Special Resolutions (R.35 and SR.I)	• Provide for adequate criminalisation of financing of terrorism and ensure that there is a comprehensive legal structure for the implementation of UN Resolutions. The requirements of the UN Conventions should be reviewed to ensure that Georgia is fully meeting all its obligations under them.
Mutual Legal Assistance (R.32, 36-38, SR.V)	• Enact an autonomous financing of terrorism offence to improve the capacity for rendering MLA. • Consideration should be given to an asset forfeiture fund and a system for sharing of confiscated assets with other countries where confiscation is a result of co-ordinated law enforcement action.
Extradition (R.32, 37 and 39, and SR.V)	• Enact an autonomous offence of terrorist financing to improve extradition capacity in relation to financing of terrorism offences.
Other forms of co-operation (R.40 and SR.V)	• More MOUs should be considered by supervisory authorities and statistical information should be kept and made available to demonstrate extent of

	co-operation. More information should be kept on informal exchanges of information between police authorities.

APPENDIX II

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;

(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2

Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:

(a) heads of State, heads of government, ministers and deputy or assistant ministers;

(b) members of parliaments;

(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;

(d) members of courts of auditors or of the boards of central banks;

(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(f) members of the administrative, management or supervisory bodies of State-owned enterprises.

None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:

(a) the spouse;

(b) any partner considered by national law as equivalent to the spouse;

(c) the children and their spouses or partners;

(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:

(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;

(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.