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

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Report on Fourth Assessment Visit – Executive *Summary*

Anti-Money Laundering and Combating the Financing of Terrorism

GEORGIA

3 July 2012

Georgia is a member of MONEYVAL. This is the fourth report in MONEYVAL's fourth round assessment visits, following up on the recommendations made in the third round. This evaluation was conducted by the International Monetary Fund (IMF). A representative of MONEYVAL joined the IMF team for part of the evaluation exercise to examine compliance with the European Union anti-money laundering Directives where these differ from the FATF Recommendations and therefore fall within the remit of the MONEYVAL examinations. The report on the 4th Assessment Visit was adopted by MONEYVAL at its 39th Plenary (Strasbourg, 2 - 7 July 2012).

ACRONYMS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BCP	Border check point
CDD	Customer Due Diligence
DNFBP	Designated Non-Financial Businesses and Professions
DMPS	Dealers in precious metals and dealers in precious stones
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FMS	Financial Monitoring Service of Georgia
FT	Financing of Terrorism
GEL	Georgian Lari
IMF	International Monetary Fund
LEAs	Law Enforcement Agencies
NBG	National Bank of Georgia
ML	Money Laundering
MLA	Mutual Legal Assistance
MAI	Ministry of Internal Affairs
MOF	Ministry of Finance
MOJ	Ministry of Justice
MVT	Money Value Transfer
NAPR	National Agency of Public Registry
NBG	National Bank of Georgia
NPO	Nonprofit organization
PEP	Politically-Exposed Person
STR	Suspicious Transaction Report
TCSP	Trust and company service providers
TTF	Topical Trust Fund
UNSCR	United Nations Security Council Resolution

EXECUTIVE SUMMARY

Background Information

This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in Georgia at the time of the on-site visit (29 May to 4 June 2011) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Georgia is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT assessment Methodology 2004, as updated from time to time.

Key Findings

1. **The Georgian AML/CFT regime has significantly improved since the last assessment in 2007.** The amendments to the legal framework enacted between 2008 and February 2012[1] have improved technical compliance with the FATF recommendations, in particular with respect to the criminalization of ML and FT and the preventive measures for financial institutions. Significant progress has been made since 2007 with regard to the effective use of the ML criminal provisions, provisional and confiscation measures, and international cooperation.

2. **However, weaknesses remain with regard to compliance with key elements of the standard.** A combination of technical deficiencies, poor implementation, and limited resources undermine the effectiveness of the financial intelligence unit (FIU) and AML/CFT supervision. In addition, there are still major loopholes in terms of transparency of legal entities, domestic cooperation, measures to prevent terrorism financing, and preventive measures for designated non-financial businesses and professions (DNFBPs).

3. These weaknesses should be urgently addressed in light of the significant ML/FT vulnerabilities and threats. These include: i) customers that are, or are owned by, offshore companies for which the identity of their beneficial owners is unknown or where the identity has not been verified; ii) a rapid and ongoing increase of nonresident deposits; iii) the development of private banking activities, including a clientele of foreign politically-exposed persons (PEPs); iv) the rapid growth of the casino business and rising number of non-face–to-face transactions; v) the existence of large Georgian-led criminal organizations abroad which exposes the risk of proceeds of crime being transferred back to Georgia; and vi) domestic statistics demonstrating the existence of major proceeds-generating crimes, such as corruption, tax evasion, and drug trafficking.

Legal Systems and Related Institutional Measures

4. **Georgia has a comprehensive legal framework in place criminalizing both ML and FT as autonomous offenses.** ML is criminalized through three separate provisions in the Criminal Code. The three provisions comply with all technical aspects and implement all material elements of the offenses set out under the Vienna and Palermo Conventions. In particular, all categories of predicate offenses listed in the international standard are covered, the ML offenses extend to any type of property that represents the proceeds of crime, and all acts constituting an ancillary offense to ML are criminalized.

[1] A number of changes to the legal framework were enacted between December 2011and early February 2012, during the eight-week period following the mission. While their technical compliance with the standard was assessed, the assessment of their implementation has not been possible.

5. **While no shortcomings have been identified in the legal framework, concerns remain with respect to the implementation of the ML provisions.** Based on statistics provided by the authorities, the ML provisions do not seem to be applied effectively to combat the most prevalent proceeds generating crimes, or to combat transnational organized crime. The modest number of legal persons investigated or prosecuted for ML raises concern since the authorities indicated the widespread use of companies in ML schemes. The statutory sanctions available are proportionate. However, the very liberal and frequent use of plea agreements, including in the majority of aggravated ML cases, undermines the dissuasive effect thereof.

6. **FT is criminalized under Georgian law broadly in line with the FATF standard.** However, some legal shortcomings remain. In particular, the requirement for an act to "infringe upon public safety etc." to qualify as a terrorist act unduly narrows the scope of the terrorism offense. The scope of the definition of the term "terrorist acts" does not fully cover the offenses defined in the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and the International Convention for the Suppression of Terrorist Bombings. The definitions of the terms "terrorist" and "terrorist organization" should be expanded to extend to all "terrorist acts" as defined under the FATF standard. At the time of the on-site mission, prosecutions of three persons for terrorism financing were on-going. There had been no convictions for terrorism financing.

7. **Provisional and conviction-based confiscation measures are available with respect to all predicate offenses, as well as the ML and FT offenses, and are applicable to proceeds as well as instrumentalities of crime.** Confiscation is a mandatory sanction and may be applied against property equivalent in value to the proceeds of crime. Around US$13 million has been confiscated since 2005 in the context of ML offenses. However, statistics provided by the authorities suggest that the legal provisions could be applied more effectively to confiscate proceeds of other types of crimes. Concerns also remain in relation to the authorities' practice to apply confiscation measures only in cases where property is actually available for confiscation at the time of conviction.

8. **Georgia has established a framework to implement the relevant United Nations Security Council Resolutions (UNSCRs) and amended this framework in December 2011.** The revisions constitute a significant improvement of Georgia's framework to implement its obligations under international law. However, given its very recent enactment, the effectiveness of the new framework could not be established.

9. **The FIU should further strengthen performance of its core functions.** Some sectors are not under a legal obligation to report suspicious transactions (real estate agents, lawyers, trust and company service providers (TCSPs), and electronic money institutions), thus the FIU is not capable of requesting additional information from them. The quality of analysis of suspicious transaction reports (STRs) is poor, mostly due to lack of analytical tools and weak quality of reporting, and limited use of its powers to access law enforcement information on on-going investigations and prosecutions, or information from financial and nonfinancial institutions other than banks. In recent years, the FIU's increased workload was handled without a corresponding increase in its budget and a significant decrease in human resources.

10. **Although the framework for law enforcement authorities is broadly in place, there is room for improvement in implementation.** Since the decision of the Minister of Justice in 2010 recommending initiating ML investigations when law enforcement agencies (LEAs) suspect the presence of illegal proceeds, the number of ML investigations has increased. LEAs started to make better use of their powers and available investigative techniques. However, LEAs still lack the power to access information held by lawyers when the latter conduct financial activities on behalf of their clients. LEAs also need to increase their reliance on financial analysis and investigation techniques, in

particular in relation to stand-alone money laundering cases, to trace the origin of the illegal funds, detect patterns between suspects and associates, and to identify the ultimate beneficial owners of legal persons, accounts, and transactions, and share this information between the different LEAs.

11. **The measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments are not comprehensive, nor effective.** Customs or other competent authorities do not have the power to stop and investigate the movement of cash and bearer negotiable instruments unless they deem the relevant conduct to be smuggling. Only a small percentage of inbound and outbound movements of currency and bearer negotiable instruments are actually declared.

Preventive Measures–Financial Institutions

12. **The scope of Georgian preventive measures for the financial sector has been recently updated and is relatively comprehensive.** However, it does not cover factoring and credit card services (currently offered only by banks), as well as electronic money and investment funds. Some forms of money value transfer (MVT) operators are not subject to regulation and supervision. They include electronic money institutions, casino accounts operated to move value within Georgia, and self-service terminals accepting cash and providing transfer facilities (known as Pay-boxes).

13. **While most of the customer due diligence (CDD) and record-keeping provisions required under the international standard are in place, their implementation and effectiveness are limited.** There are still some deficiencies in the legal framework, such as the lack of a prohibition on numbered accounts, the existence of a minimum monetary threshold for when standard CDD must be carried out, inconsistencies relating to measures that can be applied on a risk-sensitive basis, and the timing for undertaking CDD. In addition, implementation is generally poor regarding the identification and verification of beneficial owners, documentation of the purpose and nature of the account business, on-going customer due diligence, and the application of risk-sensitive measures to customers. There are still major legal shortcomings regarding reliance on third parties and introduced business, as well as the monitoring of wire transfers.

14. **The requirement for reporting ML and FT suspicious transactions and other information is largely in line with the standard; however, its implementation should be improved.** The number of STRs submitted to the FIU is relatively high. Most of them are filed by banks. Electronic money institutions are not required to report and other sectors are not filing suspicious reports (i.e., leasing, insurance companies). The number of STRs can be explained by financial institutions' reliance on a system based on fixed indicators triggering automatic reports, and by a tendency of defensive reporting. Overall, the quality of STRs is poor and reporting entities are confused about the distinction between requirements to monitor transactions and those to report suspicious transactions, particularly as there is no appropriate guidance. While there are known FT risks in Georgia, no FT-related STRs have ever been received by the FIU.

15. **Internal control and compliance provisions need to be strengthened, particularly for money remittance operators and currency exchange bureaus.** These professions are not required to ensure that the AML compliance officer and other relevant staff have timely access to customer information, nor are they obliged to screen their employees and provide adequate AML/CFT training. There is also no requirement for nonbank financial institutions to have an adequately resourced and independent audit function. Internal control requirements pertaining to CFT were added for all financial institutions after the mission and were, therefore, not assessed.

16. **The National Bank of Georgia (NBG) has introduced many notable improvements to its supervisory framework since the onsite visit, but has limited resources for AML/CFT supervision.** The NBG exercises regulatory and supervisory oversight over the financial institutions (around 1,700 institutions) but with only a staff of five for onsite AML/CFT inspection. Electronic money institutions are not yet subject to AML/CFT supervision. Given its limited resources, the supervisory cycle has been quite long for some institutions, such as currency exchange bureaus and money remittance operators. Furthermore, there has been a lack of systematic off-site monitoring and on-site supervisory planning. Pecuniary sanctions available under sectorial regulations are low for several categories of violations (such as CDD requirements) to be considered as dissuasive and effective. Improvements have been introduced but are too recent to be assessed.

17. **Significant reforms have been recently introduced to the market entry framework.** As these took place after the on-site mission, their implementation has not been reviewed. At the time of the onsite visit, there were no fit or proper tests for owners and administrators for a number of categories of financial institutions.

Preventive Measures–Designated Non-Financial Businesses and Professions

18. **The preventive measures for DNFBPs are substantially similar to those applicable to financial institutions; however, their implementation is at its early stages.** Preventive measures only apply to notaries, casinos, dealers in precious metals and stones and, more recently, accountants. Notaries have implemented the majority of CDD requirements but the identification of beneficial owners presents some challenges. Reporting levels for notaries are relatively low for the number of transactions being conducted and implementation of internal control requirements is weak. The same observation can be made in respect of casinos, where there is little to no compliance with requirements other than customer identification. No STRs have been reported by casinos despite the rapid growth of this industry. Obligations for dealers in precious metals and stones have not been implemented and accountants have only been subject to the AML/CFT requirements since January 2012. The absence of requirements for lawyers, real estate, and TCSPs exacerbates the risk in these already vulnerable sectors.

19. **With the exception of notaries, DNFBPs are not supervised.** A number of supervisory authorities have been designated as AML/CFT supervisors in their respective areas of responsibility. However, other than activities undertaken by the Ministry of Justice pertaining to notaries, no AML/CFT examinations have been conducted.

Legal Persons and Arrangements & Non-Profit Organizations

20. In light of the risk that criminals integrate proceeds generated abroad in Georgia or use Georgian entities to invest abroad, the inability to ensure adequate and accurate information on beneficial ownership of legal entities is a serious weakness. The recent establishment of the National Agency of Public Registry (NAPR) has enhanced access to information on legal persons. However, at the time of the mission, most of the data included in existing registries had not been migrated nor updated. Bearer shares exist under Georgian law but except for listed companies, there are no appropriate measures to ensure that bearer shares are not misused for money laundering.

21. The measures in place in Georgia relating to nonprofit organizations (NPOs) are deficient and do not adequately address the risks in Georgia. No formal review of the sector has been carried out, and there is no formal supervision of the sector. The NAPR provides publicly-available information on NPOs registered since 2010; however, data prior to 2010 is deemed to be unreliable. There is a lack of outreach to the NPO sector. Domestic coordination mechanisms related

to NPOs are weak and there is no appropriate point of contact and procedures to respond to international requests related to NPOs.

National and International Cooperation

22. **Georgia does not have a central coordinating body/committee to steer and coordinate the development and implementation of policies and activities to combat ML and TF.** There is no mechanism allowing for cooperation between the supervisory agencies of FIs and DNFBPs, notably the NBG, the Ministry of Justice, and the Ministry of Finance.

23. **Georgia's mutual legal assistance (MLA) framework is solid and allows for the provision of a wide range of assistance to foreign countries in the context of criminal investigations and prosecutions.** Such assistance does not seem to be subject to any unduly restrictive or unreasonable requirements. While some of the grounds for refusal of MLA are drafted in a rather general manner, the low number of rejected requests leads to the conclusion that in practice these provisions are interpreted in a narrow manner. Both ML and FT are extraditable offenses. For those types of assistance that require dual criminality to be met, the shortcomings noted with respect to the FT offense may limit Georgia's ability to provide MLA or extradite a person in certain cases. Georgia's lack of diplomatic relations with Russia constitutes a practical challenge to effectively provide and receive international cooperation in ML and FT cases.

24. **International cooperation mechanisms are in place for the FIU, LEAs, and supervisors.** Information exchanged with foreign FIUs is comprehensive; however, timeliness could be improved and the FIU would benefit from making more proactive use of international collaboration channels. The NBG is responsive to requests from foreign supervisors but could make additional use of cooperation mechanisms to help ascertain if fit-and-proper criteria are met. LEAs exchange information through a variety of channels including Interpol as well as bilateral and multilateral agreements. However, there is a lack of a clear legal basis that allows LEAs to compel production of information detained by lawyers based on international requests.

Table 1. Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating[2]
Legal systems		
1. ML offense	**LC**	**Effectiveness:** • The ML provisions are not applied in a sufficiently effective manner, both in relation to domestic and transnational predicate crimes.
2. ML offense—mental element and corporate liability	**LC**	• Due to the frequent use of plea agreements, the sanctions regime for ML is not applied in a sufficiently dissuasive and effective manner. **Effectiveness:** • The ML provisions are not applied effectively to legal persons.
3. Confiscation and provisional measures	**LC**	• There is a lack of clear legal basis for the compelled production of financial records from lawyers. **Effectiveness:** • The confiscation framework does not seem to be implemented in a fully effective manner.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**LC**	• No specific provision allowing financial institutions to exchange and share information for the purpose of Recommendation 9 and Special Recommendation VII.
5. Customer due diligence	**PC**	• Electronic money institutions not covered. • No regulation developed for leasing companies (FMS decrees). • Numbered accounts neither regulated nor prohibited • Existence of a minimum threshold for customer identification and verification. • No requirement to terminate the business relationship where the financial institution has commenced the business relationship and is unable to comply with CDD requirements. • No specific prohibition to apply simplified CDD

[2] These factors are only required to be set out when the rating is less than Compliant.

		or regulation developed when it applies. • No specific prohibition to apply simplified CDD in cases of suspicion of ML/FT or high-risk scenarios. • Exception in the time of verification of customer's identity not regulated. • No requirement to apply CDD measures to existing customers it on the basis of materiality and risk, and to conduct CDD on such relationship at appropriate times. **Implementation:** • Limited scope of implementation of ongoing due diligence measures. • Concerns about the identification and verification of legal persons due to the deficiencies identified in Recommendation 33 and NAPR. • Poor compliance with the obligation to understand the ownership and control structure of the customer in all circumstances regardless of the amount of transaction or ownership control. • Banks applying simplified CDD in some cases of opening current accounts, including with countries not compliant with FATF standards. • Poor implementation of enhanced due-diligence requirements to risky customers. • Very poor implementation of measures applied to identify legal arrangements. • Poor implementation of the measures on information of purpose and nature of business. • Poor compliance with the provision established for the timing of verification of the legal person's identity. • Concerns on the CDD applied on brokerage and other intermediaries 'companies' customers operating through banks with omnibus accounts. • Impossible to assess implementation of the new AML/CFT framework (as amended on December

		20, 2011), especially related to: o requirement to determine whether the customer is acting on behalf of another person; o requirement to incorporate those persons who exercise ultimate effective control over a legal person or arrangement; o ongoing due diligence; o timing on verification after starting the business relationship; o identification and verification of CDD procedures on a risk-sensitive basis; and o application of the new requirement to the existing customers. • Concerns on the adequacy of CDD measures when it is performed in banks' offices of representation. • No identification carried out when legal entity representatives operate with money remittance companies.
6. Politically exposed persons	**LC**	• The definition of close business relationship with PEPs does not cover legal arrangements. **Implementation:** • Concerns about the risk procedures applied for the identification of PEPS in medium/small banks and in non-banking financial entities. • Poor implementation on the approval by a senior management. • Poor verification of funds and wealth. • The absence of enhanced ongoing due diligence measures applied to PEPs, in conjunction with the time-frame constriction of the AML/CFT Law, restrict Georgian financial institutions effective management of the ML/FT risks related to that segment of customers.

		• Impossible to assess implementation of the measures introduced by the AML law amendments to apply to PEPs potential customers and PEPs as beneficial owners.
7. Correspondent banking	**PC**	• No requirement to document the respective AML responsibilities of each institution. **Implementation:** • Poor implementation for a correspondent relationship to be approved by a senior manager. • Poor assessment that the respondent institution's AML/CFT controls are adequate and effective. • No information about whether the institution has been subject to an ML/FT investigation, prior the establishment of the correspondent relationship. • In the case of a respondent bank involved in a ML/FT investigation no actions taken by the correspondent institution. • Concerns whether banks ascertain ML/FT risks in correspondent relationships.
8. New technologies & non face-to-face business	**PC**	• Electronic payment system no covered by the AML/CFT Law, including pay box and electronic money institutions. **Implementation:** • Non existence of special procedures applied by FIs to manage the risk of new technologies and of non-face to face transactions. • Possibility to open a non-face to face account, de facto, in the case of pre existence of an account in Georgia or in an OECD country. • Concerns about the implementation and the scope of ongoing CDD measures. • Concerns about the possible misuse of some electronic payment systems that are no under NBG supervision.
9. Third parties and introducers	**PC**	• No requirement to immediately obtain from the third party necessary information related to all

		elements of the CDD process. • No requirement to grant access to other relevant documents relating to all elements of CDD. • No requirement to grant access to information related to beneficial owner. • No requirement that FIs are satisfied that the third party has measures in place to comply with the CDD requirements. • No requirement that competent authorities take into account information available on whether the countries in which the third party can be based adequately apply the FATF Recommendations.
10. Record-keeping	**LC**	• No other competent authorities, apart from NBG, are empowered to request an extension of the record-keeping obligations. **Implementation:** • No proper implementation of the record keeping measures of FIs specifically related to the time reference used for retaining and kept different type of documents such identifications or transactions. • No specific guidance on "the key documents" to be kept in order to ensure the reconstruction of the cycle of transactions. • No record-keeping obligations applied to electronic money institutions. Regarding the maintenance of records of account files and business correspondence, it was no possible to check the implementation of the new provisions. **Effectiveness:** • Shortcomings noted with r**e**gard to the implementation of the CDD measures, and particularly the obligation to identify and verify the ultimate beneficial owner has an impact on the effective implementation of the record keeping requirements.
11. Unusual transactions	**PC**	• Unusual pattern of transactions is not covered under the current definition of unusual

		transactions. • No clear requirement in the AML Law or FMS Decrees to make unusual transactions available to auditors. **Effectiveness:** • Obligation to pay special attention to unusual transactions is confusing and leading to reporting which appears to be counter-productive, as it discourages to better understand these transactions.
12. DNFBP–R.5, 6, 8–11	**NC**	• Customer due diligence measures and record keeping obligations do not apply to lawyers, real estate agents, and trust and company service providers. • Unclear scope of accounting activities that are covered by the legislation. • Absence of definition of "precious metals and precious stones" • No implementing regulations for DPMS. Recommendation 5: • Existence of minimum threshold for customer identification for accountants. • No CDD requirement when establishing a business relationship for sectors other than notaries. • Absence of requirements regarding the identification and verification of legal arrangements. • No obligation for DPMS requiring the verification of the authority of the person purporting to act on behalf of the legal entity or the customer. • No provisions that require accountants and DPMS to understand the ownership and control structure of the legal entity. • No requirement to obtain information on the purpose or intended nature of business

		relationships other than for notaries and accountants. • No regulations that govern cases where DNFBPs may complete the verification of the identity of customers and beneficial owners after the establishment of the relationship. • No requirement for DPMS to terminate the business relationship and to consider making an STR when the DNFBP has commenced the business relationship and is unable to comply with CDD requirements. • No specific prohibition to apply simplified CDD when there is a suspicion of ML/FT or in cases of high risk and no regulation indicating when simplified measures are appropriate. • No requirement to conduct due diligence on existing relationships on the basis of materiality and risk at appropriate times. Recommendation 6 • Definition of close business relationship does not include legal arrangements. Recommendation 9 • No requirement that DNFBPs relying on a third party immediately obtain information related to all elements of the CDD process. • No requirement that DNFBPs are satisfied that the third party has measures in place to comply with all elements of the CDD requirements. • No requirement for third party to grant access to other relevant documents relating to CDD and beneficial ownership. Recommendation 10 • No ability for other competent authorities other than the respective supervisor to request an extension of the record keeping period. Recommendation 11 • Unusual pattern of transactions is not covered

		under the current definition of unusual transaction. • No clear requirement in the AML/CFT Law or FMS Decrees to make unusual transactions available to external auditors. • No specific requirement to examine the background of transaction that have no apparent or visible economic or lawful purpose for casinos or DPMS. **Implementation:** • Beneficial ownership requirements by notaries are not effectively implemented. • CDD measures by casinos are not effectively implemented. • Senior management approval and source of wealth and funds are not obtained when establishing a PEP relationship. • No ongoing due diligence is applied with PEP relationships. • No procedures implemented to mitigate the risks associated with non-face-to- face transactions in internet casinos. **Effectiveness:** • Poor CDD measures in casinos increase the risk of laundering occurring undetected. • Effectiveness and implementation of the following obligations could not be assessed due to their recent coming into force: o All obligations applying to accountants. o Conducting ongoing due diligence of business relationships. o Implementation of policies and procedures to mitigate the risk of non- face-to-face transactions. o Monitoring of risks associated with new

		technologies. o Conducting enhanced due diligence of high risk customers, business relationships and transactions. o Not carrying out transactions or ceasing business relationships if beneficial owner cannot be subject to identification and verification.
13. Suspicious transaction reporting	**LC**	• ML reporting requirements do not extend to electronic money institutions. **Effectiveness:** • Important sectors such as exchange bureaus and insurance companies are filing very low numbers of STRs. • Effectiveness was not established: weak quality of suspicious reporting with respect to money laundering as a consequence of defensive filing. Also, the scope of the STR requirement is not clear and confused with other types of reporting. • None of the STRs were related to FT cases.
14. Protection & no tipping-off	**LC**	• Protection of information and tipping-off requirements do not extend to temporary or long term establishment situation of staff. • The protection against liability does not apply to both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision. Also, this protection should be available even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.
15. Internal controls, compliance & audit	**PC**	• For money remittance operators and currency exchange bureaus, there was no provision to ensure that the AML officer and other appropriate staff have timely access to customer identification data and other CDD information, transaction records, and other relevant information. • There was no provision for money remittance operators and currency exchange bureaus on

		employee screening procedures. • Lack of requirement for financial institutions to have an adequately resourced and independent audit function to test the compliance with AML/CFT policies, procedures and controls. • For money remittance operators and currency exchange bureaus, lack of specific provision on the scope of AML training to indicate that the training should be provided on an ongoing basis and to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends, and that there is a clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting. **Implementation:** • Wording on internal controls to cover CFT aspect was recently included and effectiveness cannot be assessed.
16. DNFBP–R.13–15 & 21	**PC**	Recommendation 13 and SRIV • ML and FT suspicious transaction reporting and the implementation of internal controls do not apply to lawyers, real estate agents and trust, and company service providers. Recommendation 14 • Protection of information and tipping-off requirements do not extend to temporary or long term establishment situation of staff. • The protection against liability does not apply to both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision. • Protection should be available even if individual did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred. Recommendation 15

		• No screening procedures requirements for the hiring of employees for casinos, accountants and DPMS. • Lack of requirement for DNFBPs to have an adequately resourced and independent audit function. Recommendation 21 • No ability for DNFBPs to apply countermeasures in cases where a country continues to not apply or insufficiently applies the FATF Recommendations. • Requirement to give special attention to business relationships and transactions with persons from some countries is confusing and limited to certain number of transaction over GEL 30,000 and should be enlarged to countries which do not or insufficiently apply FAFT recommendations. • No requirement to make information on transactions with no apparent economic or visible lawful purpose available to auditors. • The requirement of examining the purpose of the transaction for transactions with no apparent economic or visible lawful purpose does not extend to examining its background for casinos and DPMS. **Implementation:** • Policies and procedures are not developed by DNFBPs. • Training programs targeted to employees are not delivered by DNFBPs. • Audit functions to test compliance with policies and procedures are not established by DNFBPs. • Background and purpose of transaction conducted in countries that insufficiently apply FATF standards are not examined and documented. • Despite the very real threat of terrorism and TF activity in Georgia, no STRs relating to terrorist

		financing have been received from any DNFBP. • No attempted transactions reported by DNFBPs. **Effectiveness:** • STR reporting level is not commensurate with the level of risk associated with casino and notary sector (i.e. no reporting of STRs by casinos).
17. Sanctions	**LC**	• Fines are too low in nominal terms to be punitive and dissuasive for some categories of violations. Electronic money institutions are not subject to sanctions. • Effectiveness relating to implementation of several categories of sanctions cannot be tested as the sanctions were introduced only in February 2012. This includes sanctions for failure to maintain internal controls, updated sanctions for credit unions, and sanctions for officers of financial institutions.
18. Shell banks	**LC**	• Lack of a specific provision that explicitly requires financial institutions to satisfy themselves that their respondent financial institutions do not permit their accounts to be used by shell banks.
19. Other forms of reporting	**C**	• This Recommendation is fully met.
20. Other NFBP & secure transaction techniques	**LC**	• Insufficient measures taken by the authorities to significantly reduce the reliance on cash.
21. Special attention for higher risk countries	**PC**	• Absence of possibility to require domestic financial institutions to apply counter-measures in cases where a country continues not to apply or insufficiently applies the FATF Recommendations. **Effectiveness:** • The framework is confusing, neither comprehensive nor properly implemented, and it does not target all the relevant jurisdictions. • Requirement to give special attention to business relationships and transactions with persons from some countries is confusing and limited to a certain number of transactions above the threshold of GEL 30,000, and should be enlarged

		to countries which do not or insufficiently apply the FATF recommendations. • Absence of effectiveness of the measures in place, notably because of the long list of watch zone countries and limitation to a number of transactions above threshold.
22. Foreign branches & subsidiaries	**C**	• This Recommendation is fully met.
23. Regulation, supervision and monitoring	**PC**	• The supervisory cycle is relatively long for some institutions such as currency exchange bureaus and money remittance operators, even though their risk profile warrants a more intensive approach. • Electronic money institutions are not subject to AML/CFT supervision. • The effective implementation of significant reforms introduced in February 2012 (such as fit and proper tests for several categories of financial institutions; establishing a systematic AML off-site function, and developing a supervisory plan for on-site inspections) could not be tested. • Reform in the fit and proper tests will not apply retrospectively to the existing 1485 currency exchange bureaus and money remitters.
24. DNFBP—regulation, supervision and monitoring	**NC**	• No supervision of casinos, accountants, and dealers in precious and stones. • No effective, proportionate and dissuasive sanctions for casinos, dealers in precious metals and stones, and accountants. • Sanctioning regime for notaries is not effective, proportionate or dissuasive. • No mechanisms to prevent criminals and their associates to own or control a casino. • No supervisory powers for accounting sector supervisor. **Implementation:** • Supervision undertaken by the Ministry of Justice for notaries does not cover all AML/CFT

		obligations. **Effectiveness:** • Effectiveness of supervisory measures for accountants could not be assessed.
25. Guidelines & Feedback	**PC**	• Limited guidelines and feedback are only predominately orientated towards the banking and insurance sector; no account is taken of other reporting entities. • Guidance for notaries is not comprehensive and no guidance has been issued for casinos, accountants and DPMS to assist with their compliance with non-reporting AML/CFT obligations. • There is no effective feedback being offered via the FMS or other competent body to reporting institutions, including general and specific or case-by-case feedback. **Effectiveness:** • The industry would benefit from more clarity and guidance from NBG on actual implementation of preventive measures, especially on identification of beneficial ownership.
Institutional and other measures		
26. The FIU	**PC**	• Only one annual report is available online (published in January 2012), and it does not include ML/FT typologies and trends. **Implementation:** • Lack of guidance on the manner of reporting including with respect to reporting forms which are complicated and confusing to reporting entities. • No requests for additional/follow-up information have been addressed to nonbank financial institutions and DNFBPs. **Effectiveness:** • Lack of effectiveness in the receipt of STRs regarding potential terrorist financing and ML/FT STRs from several sectors (i.e. bureaux de

		change). Effectiveness has not been established regarding some new reporting entities (e.g., leasing companies and accountants). • Lack of use of the FMS powers to access some law enforcement information (i.e., investigation, prosecution, and trial records). • Poor quality of analysis of STRs and other information mostly due to lack of analytical tools and weak quality of reporting. • Low level of dissemination to PO and MIA (between 5 to 15 cases a year). • Increase in the workload without a corresponding increase in the budget. The limited financial resources and decrease in human resources (around 40 percent since 2007) combined with increased level of reporting affect the effectiveness of the core functions of the FMS, mainly the analysis and dissemination of reports.
27. Law enforcement authorities	**LC**	**Effectiveness:** • Law enforcement investigation and prosecution of money laundering and terrorist financing is not fully effective, in particular, in respect to standalone investigations into money laundering and autonomous money laundering cases related to predicate crimes committed abroad.
28. Powers of competent authorities	**LC**	• Lack of powers of LEAs to access the information detained by lawyers when conducting financial activities on behalf of their clients. **Effectiveness:** • Lack of effectiveness in ML and FT investigations, more precisely, limited use of the powers to compel production of financial information from lawyers and lack of sharing of information between concerned agencies in order to properly investigate the ML and associated predicate crimes and FT.
29. Supervisors	**LC**	• Electronic money institutions are not subjected to the AML Law and supervision. • Effectiveness of the power to supervise leasing companies cannot be tested as they have only been subjected to the AML Law in January 2012.

30. Resources, integrity, and training	**PC**	• Overall, staff of competent agencies should be provided with adequate, relevant and specialized trainings on a regular basis. Trainings on the risks and vulnerabilities of ML and FT, information technology and other resources relevant to the execution of their functions, and assets management are necessary. • Increase in the workload without a corresponding increase in the budget of the FMS. The limited financial resources and decrease in human resources (around 40 percent since 2007) combined with increased level of reporting affect the effectiveness of the core functions of the FMS, mainly the analysis and dissemination of reports. • No sufficient safeguards are in place to warrant LEAs operational independence and autonomy
31. National co-operation	**PC**	• Lack of a central coordinating body/committee to steer and coordinate the development and implementation of policies and activities to combat ML and TF. **Implementation:** • There is no mechanism allowing the cooperation between supervisory agencies of FIs and DNFBPs notably, NBG, MOJ, and MOF.
32. Statistics	**LC**	• Competent authorities have yet to develop comprehensive statistics on property frozen or seized for each type of predicate offense. • The effectiveness of Georgia's AML/CFT systems is not being reviewed on a regular basis.
33. Legal persons–beneficial owners	**PC**	• No specific requirement to obtain data on beneficial ownership. • Absence of appropriate safeguards to ensure that bearer shares and other bearer instruments are not misused for money laundering. **Implementation:** • Inaccurate and inadequate current information on

		beneficial ownership and control of legal persons. • Poor data verification on foreign legal persons and ownership control especially in case of a company located in an offshore territory or with a complex ownership structure of control. • Only a limited number of entities have been registered under the new system established in 2010. • Registry still in construction, some of the information is not reliable and out of date. • Concerns about the updating process of the information. **Effectiveness:** • In light of the risk that criminals integrate proceeds generated abroad in Georgia or use Georgian entities to invest abroad, the inability to ensure adequate and accurate information on the beneficial ownership is a serious weakness.
34. Legal arrangements – beneficial owners	**NA**	
International Cooperation		
35. Conventions	**LC**	• Georgia has ratified and implemented most but not all provisions of the Palermo, Vienna, and FT Conventions.
36. Mutual legal assistance (MLA)	**LC**	• Lack of clear legal basis for the compelled production of records and documents from lawyers. • There are challenges for cooperation with Russia.
37. Dual criminality	**C**	• This Recommendation is fully met.
38. MLA on confiscation and freezing	**LC**	• Lack of clear legal basis for the compelled production of records and documents from lawyers. • The establishment of an asset forfeiture fund has not been considered. • There are challenges for cooperation with Russia.

39. Extradition	**LC**	• Absence of clear procedures to ensure timely handling of extradition requests.
40. Other forms of co-operation	**LC**	• Lack of clear legal basis that allows compelling production by LEAs of financial transactions detained by lawyers based on international requests. **Implementation:** • FIU responses to request of information from foreign counterparts are not always timely. • No information requested from foreign supervisors to ensure that fit and proper criteria are met. **Effectiveness:** • Despite existing risks of foreign proceeds being laundered in Georgia, the absence of spontaneous exchange of information by the FMS and supervisors and the decreasing number of requests from the FMS to foreign counterparts, raise doubts on the overall effectiveness of the regime.
Nine Special Recommendations		
SR.I Implement UN instruments	**PC**	• Georgia has ratified and implemented many but not all provisions of the CFT Convention as outlined in the various sections of this report. In particular, shortcomings remain with respect to the FT offense. • Some shortcomings remain in respect of the implementation of UNSCR 1267 and 1373.
SR.II Criminalize terrorist financing	**PC**	• The requirement for an act to "infringe upon public safety etc." to qualify as a terrorist act unduly narrows the scope of the terrorism offense. • Scope of "terrorist acts" is too narrow. Not all offenses defined in the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation are criminalized under Georgian law and are thus not within the scope of Article 331/1. The financing of offenses under the International Convention for the Suppression of Terrorist Bombings is covered only where it

			can be established that such acts are carried out with terrorist intent. • The definitions of the terms "terrorist" and "terrorist organization" are too narrow as they do not extend to all "terrorist acts" as defined under the FATF standard.
SR.III	Freeze and confiscate terrorist assets	**PC**	• The language of Article 21/31 of the Administrative Procedure Code allows for the courts to review the merits of each case in the context of designations under UNSCR 1267. • Freezing measures under UNSCR 1267 and 1373 may not be applied "without delay." • Court's power to lift a freezing order is not admissible under UNSCR 1267. • Unclear whether there are adequate processes in place to grant access to frozen funds for necessary or extraordinary expenses in line with the requirements under UNSCR 1452. **Implementation:** • Guidance to monitoring entities is not sufficiently detailed. • There is no monitoring of monitoring entities' compliance with freezing orders. • The new mechanism has been introduced only very recently and its effectiveness can therefore not be established.
SR.IV	Suspicious transaction reporting	**LC**	• Reporting requirements do not extend to electronic money institutions companies • Limited scope of the FT offence affects the reporting requirement. **Effectiveness:** • The definition of FT suspicious transactions is now comprehensive after it has been amended in January 2012 to include terrorist organizations; however this additional aspect has not been tested. • FIs met during the assessment are not capable to detect FT suspicion due to the lack of guidance and awareness of FT typologies, trends and indicators. • Despite the very real threat of terrorism and TF

			activity in Georgia, no STRs relating to terrorist financing have been received from any financial institution.
SR.V	International cooperation	**PC**	• Lack of clear legal basis for the compelled production of l records and documents from lawyers. • The legal shortcomings identified with respect to the FT offense may limit Georgia's ability to provide MLA in cases where dual criminality is required. • Shortcomings identified with respect to the FT offense may limit Georgia's ability to extradite a person due to the requirement of dual criminality. • Absence of clear procedures to ensure timely handling of extradition requests. • Lack of clear legal basis that allows compelling production by LEAs of financial transactions detained by lawyers based on international requests. **Implementation:** • No information requested from foreign supervisors to ensure that fit and proper criteria are met. • The NBG has never exchanged information regarding FT. • There are challenges for cooperation with Russia. **Effectiveness:** • Despite existing risks related to terrorism financing in Georgia, the absence of spontaneous exchange of information by the FMS and supervisors and the decreasing number of requests from the FMS to foreign counterparts, raise doubts on the overall effectiveness of the regime.
SR.VI	AML/CFT requirements for money/value transfer services	**PC**	• There were some forms of MVTs (such as electronic money institutions, casino accounts) which were not yet subject to regulation and supervision.

		• Deficiencies in the AML/CFT Law relating to preventive measures, particularly on CDD, apply to MVT operators. • Amount of fines for many types of violations, such as performing services without client identification, is very small for MVT operators to be considered effective and dissuasive. • Effectiveness of implementation of reforms introduced with respect to systematic off-site monitoring and fit and proper tests could not be tested.
SR.VII Wire transfer rules	**PC**	• Ambiguous obligation for the intermediary to transmit the originator information . • No requirement that beneficial institutions be required to adopt effective risk-based procedures for identifying and handling missing or incomplete originator information wire transfers and to consider whether such transfer is suspicious. • No reporting obligations fulfilled for missing originator information. • No sanctions imposed for non-compliance with the reporting obligation established by the AML/CFT law in the case of missing/incomplete information. **Implementation:** • Poor FIs internal controls applied on wire transfers (national/cross-border) for AML/CFT purposes.
SR.VIII Nonprofit organizations	**PC**	• No review of the adequacy of law and regulations related to NPOs. • No identification of types and features of NPOs that are vulnerable to FT. • No periodic reassessment of NPO risks. • No outreach conducted other than the publication of the FATF best practices paper to raise awareness about the risks of terrorist abuse. • No publicly available registration data for NPOs

		registered prior to 2009. • No supervision or monitoring of NPOs. • No requirement to keep transactional information below GEL 3,000. • No appropriate point of contact and procedures to respond to international requests related to NPOs. **Implementation:** • Lack of domestic cooperation and sharing of information related to NPOs between appropriate authorities. **Effectiveness:** • Measures in place do not address the TF vulnerabilities that exist in the sector.
SR.IX Cross-Border Declaration & Disclosure	**NC**	• Lack of clear powers to request and obtain further information from the carrier with regard to the origin of the currency or the bearer negotiable instruments and their intended use. • Lack of powers to be able to stop or restrain currency and bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or FT may be found. • Lack of proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation for ML and FT purposes. • The requirement for the retention of records does not extend to all kind of bearer negotiable instruments declared or otherwise detected, or the identification data of the bearer. • Absence of clear definition of "bearer negotiable instruments." • Weak implementation of the system transportation of currency and bearer negotiable instruments across all BCPs. • Insufficient statistics on number of declarations from various BCPs to assess the effectiveness of

		the measures in place. • Lack of training on the best practice of implementing the requirement of SR.IX. **Effectiveness:** • In a cash-based society, the declaration system is not being implemented effectively to detect the transportation of cash and negotiable instruments that could be transported by launderers or terrorist financiers.