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

MONEYVAL (2010) 3

Georgia

Progress report[1]

18 March 2010

[1] Second 3rd Round Written Progress Report Submitted to MONEYVAL

Georgia is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 32nd Plenary meeting (Strasbourg, 15-18 March 2010). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref. MONEYVAL(2010)13) at http://www.coe.int/moneyval

LIST OF ACRONYMS

AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
AML Law	Law of Georgia on Facilitating the Prevention of Illicit Income Legalization
CCG	Criminal Code of Georgia
CDD	Customer due diligence
CTC	Counter Terrorist Center
DNFBP	Designated non-financial businesses and professions
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FMS	Financial Monitoring Service of Georgia
FSA	Financial Supervisory Agency of Georgia
GEL	Georgian Lari
IMF	International Monetary Fund
ISISC	International Institute of Higher Studies in Criminal Sciences
JVI	Joint Vienna Institute
MoU	Memorandum of Understanding
NBG	National Bank of Georgia
NPO	Non-profit Organization
PEP	Politically Exposed Person
STR	Suspicious Transaction Report
TF	Terrorism financing
UN	United Nations

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

Position as at date of last progress report (23 July 2008)

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.

New developments since the adoption of the 1st progress report

Georgia has continued the development and strengthening of its AML/CFT system since the third round evaluation of Georgia by MONEYVAL its 27th plenary meeting in Strasbourg on July 23, 2008. The main developments since the adoption of the First Progress Report are as follows:

- Adoption of the new *Organic Law of Georgia on the National Bank of Georgia* (24.09.2009). Based on the above-mentioned law, the Financial Supervisory Agency of Georgia (FSA), set up at the National Bank of Georgia (NBG) (pursuant to the legislative amendments of March 14, 2008), was liquidated on December 1, 2009.

  According to the new organic law, one of the main objectives of the NBG is the supervision of the Georgian financial sector represented by commercial banks, non-bank depository institutions, microfinance organizations, insurance undertakings, reinsurance undertakings, founders of non-state pension schemes, securities independent registrars, brokerage companies, stock exchange, central depository, specialized depository, assets managing companies and accountable companies as well as entities performing money remittance services and currency exchange bureaus.

  Thus, nowadays, the NBG exercises all the powers of the FSA in the field of supervision of the financial sector.

  According to the above-mentioned law, normative acts, adopted by the FSA, regulating the Georgian financial sector, remain legally valid before the adoption of new normative acts by the NBG.

  The goal and objective of the National Bank in terms of supervision over the financial sector have been clearly determined. Namely, the National Bank's objective shall be to support financial sustainability and transparency of financial sector and to protect of customer and investor's rights.

The power of the NBG has been increased over the supervision of the insurance sector, which is an adequate response to the development of the Insurance Market. This enhanced power will actively support the implementation of state programs in the field of insurance and the protection of citizens' right.

The new organic law authorizes the NBG, in emergencies, where the stable functioning of the financial system is threatened, upon the decision of the National Bank to immediately take appropriate measures concerning the banking system (namely, setting certain restrictions for commercial banks and/or exempting them from restrictions; other action necessary for maintaining the sustainability of financial system).

The normative act defines also clearly the power of the NBG as a regulator for the imposition of sanctions over the institutions it regulates.

According to the legislative amendments of September 24, 2009 of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization (AML Law)*, the FSA was replaced by the NBG as the supervisory body that is authorized to control the fulfillment of requirements of the above-mentioned law by the representatives of financial sector.

- Due to the requirements of the new organic law and the FATF Recommendation 17, the NBG issued the following decrees concerning the imposition of pecuniary penalties for violation of the requirements of the AML Law of Georgia:

  - Decree of the President of the National Bank of Georgia of December 25, 2009, #242/01 on Approving the Regulation on Determination and Imposing Pecuniary Penalties against Commercial Banks;
  - Decree of the President of the National Bank of Georgia of December 31, 2007, #344 on Approving the Rule on Registration and Regulation of Exchange Bureaus;
  - Decree of the President of the National Bank of Georgia of February 22, 2010, #18/01 on Approving Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Securities Registrars and Brokerage Companies for Violations of the Requirements of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization.
  - Decree of the President of the National Bank of Georgia of February 22, 2010, #19/01 on Approving Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Founder of Non – State Pension Scheme, Assets Management Company and Specialized Depositary;
  - Decree of the President of the National Bank of Georgia of February 22, 2010, #22/01 on Approving the Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Microfinance Organizations and Money Remitters;
  - Decree of the President of the National Bank of Georgia of February 22, 2010, #23/01 on Approving Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Insurer.

- Following important innovation includes the amendments to the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization* prepared by the Financial Monitoring Service of Georgia (FMS) pursuant to the requirements of the FATF Recommendations.

  The draft amendments were submitted to the Parliament of Georgia in January 2010 that stipulates:
  - Improvement of the definition of beneficial owner;
  - Adoption of a definition of Politically Exposed Persons (PEPs) and effectuation of measures set up by the Recommendation 6;

- Creation of a legal basis for monitoring entities in order to have a legal access to the electronic database of the Civil Registry Agency of the Ministry of Justice of Georgia in the process of identification of persons establishing business relationship with them.

Concerning the implementation of the Recommendation 6, it is important to note, that the Parliament of Georgia ratified the *UN 2003 Convention on Corruption* on October 10, 2008 by the Resolution #337-II .

- Pursuant to the requirements of Recommendation 22, following draft amendments have been presented to the Parliament of Georgia in the field of establishing a branch or setting or acquiring the subsidiary by the financial institutions outside Georgia:

  - *Amendments to the Law of Georgia on the Activities of Commercial Banks;*
  - *Amendments to the Law of Georgia on Securities Market;*
  - *Amendments to the Law of Georgia on Founder of Non-State Pension Scheme;*
  - *Amendments to the Law of Georgia on Insurance.*

  The above-mentioned legislative amendments intend to carry out appropriate measures in conformity with the FATF Recommendation 22, in case of establishing a branch or setting or acquiring the subsidiary abroad, if laws and regulations effective in the foreign country, where the subsidiary is located, do not provide for compliance with FATF Recommendations.

  The above-mentioned amendments set also fit and proper criteria for shareholders, directors and managers for insurance companies and founders of non-state pension scheme according to the requirements of the Recommendation 23.

- After the amendments made to the AML Law of Georgia in March, 2008 (according to which, entities performing money remittance services, microfinance organizations and the National Agency of Public Registry were added to the list of monitoring entities), the FMS approved appropriate *regulations on receiving, systemizing, processing the information and forwarding it to the Financial Monitoring Service of Georgia* for the following institutions:
  - Microfinance organizations (Decree #10 of the Head of the FMS, December 15, 2008);
  - Entities performing money remittance services (Decree #1 of the Head of the FMS, February 17, 2009);
  - Legal Entity of Public Law - the National Agency of Public Registry (Decree #2 of the Head of the FMS, February 16, 2010).

- For the further implementation of Recommendation 13, the FMS sent to the commercial banks *the Guidance on Essential Indicators for Detection of Suspicious or Unusual Transactions* (Letter #0101/27-2, January 27, 2010).

  According to paragraph 10, Article 5 of the AML Law, for the purposes of this law, monitoring entities determine themselves the principles for identifying transactions of persons having business relationship with them as unusual.

  In addition, according to paragraph 3^2 of Article 3 of the *Regulation on Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia* (approved on July 28, 2004 under the Decree #95 of the Head of the FMS), for purposes of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization*, Banks shall themselves set principles for defining transactions of entities having business relations with them

as unusual, according to requirements of this Regulation and guidelines of the Financial Monitoring Service of Georgia.

Therefore, based on Guidelines sent by the FMS, banks are obliged to set up the principles for defining transaction of a person having business relationship with them as unusual.

- In February 2010, the NBG issued for financial institutions the *Guidance on the Risk-Based Approach to Combat Illicit Income Legalization* (Guidance provides some principles of Risk-Based Approach for the assessment of risks related to money laundering). Guidance is applicable for all financial institutions of the Georgian financial market under the supervision of the NBG.

  Based on the FATF recommendations, the above-mentioned principles define the indicators for the classification of customers according to the risks associated with them and the procedures for their identification.

  According to this document, when establishing business relationship, a financial institution shall determine the initial risk associated with the customer by assessing the following risk categories:
  - Country risk;
  - Customer risk;
  - Product/services risk.

- As of the requirements of Recommendation 31, in 2008-2009 the MoUs have been concluded between the FMS of Georgia and the supervisory bodies.

  Memorandums ensure direct access of the FMS to the database of the Ministry of Justice of Georgia, the Ministry of Internal Affairs of Georgia and the Ministry of Finance of Georgia. Besides, Memorandums define rules and procedures for sending feedbacks by law enforcement agencies on cases received from the FMS of Georgia.

  Memorandums have been concluded between the law enforcement agencies and the supervisory bodies. The MoUs authorize law enforcement agencies to request to monitoring entity through the supervisory body to retain identification information (documents) for longer than six years in specific cases.

- Since the adoption of the First Progress Report staff of the FMS of Georgia jointly with the representatives of supervisory bodies and law-enforcement agencies has participated in the following trainings and seminars:

  - November 17-21, 2008 – *"Bulk Cash Smuggling Training and Workshop"* - joint training of the US Department of Justice and the Department of Homeland Security Service was held in Tbilisi in cooperation with the Office of the Prosecutor General. During the training the representatives of the United States Homeland Security Service, the United States Department of the Treasury and the Prosecutor's Office of Georgia made presentations and discussed the technique of money laundering investigations (both on theoretical and practical levels), relevant international and foreign experience;
  - September 21-24, 2009 – *"Money Laundering"* - joint training of the Police International Technical Cooperation Service ("Service de Cooperation Technique International de Police") and the Embassy of France in Georgia. The training dealt with money laundering cases. The representatives of the Office of the Prosecutor General, the Ministry of Internal Affairs, the Revenue Service of the Ministry of Finance and the FMS of Georgia dealing with money laundering cases has been involved in the training;

- November 30 – December 3, 2009 – *"Financial Analysis Techniques Course"* - joint training of the Office of Technical Assistance, the US Department of Treasury and the FMS of Georgia was held in Tbilisi. The training was organized for the representatives of the FMS of Georgia. It covered the topics related to the sources and technique for analyzis of information available to the FIU;
- January 25 – February 5, 2010 – "*Financial Investigative Techniques Course"* – training of the Office of Technical Assistance, the US Treasury Department was held in Tbilisi. The training was attended by all relevant staff dealing with money laundering cases from the Office of the Prosecutor General, the Ministry of Internal Affairs and the FMS of Georgia. During the training representatives of the United States Department of the Treasury, the Prosecutor's Office of Georgia and the FMS made presentations and discussed the Georgian AML/CFT system, functions of financial institutions and their due diligence obligations, sources of financial information, problems of combating the terrorism financing, technique of financial investigations.

As regards to international cooperation, the Georgian FIU has signed Memorandum of Understandings with similar agencies of 25 countries (Lichtenstein, Serbia, Ukraine, Estonia, Czech Republic, Israel, Slovenia, Romania, Thailand, Panama, Belgium, Bulgaria, China, Croatia, Moldova, Lebanon, Armenia, Indonesia, Turkey, Sweden, "the former Yugoslav Republic of Macedonia", Poland, Cyprus, Latvia, Aruba). Among them, seven of MoUs (with Turkey, Sweden, "the former Yugoslav Republic of Macedonia", Poland, Cyprus, Latvia and Aruba) were signed after the adoption of the First Progress Report. Negotiations are in the process with India, Saudi Arabia, Republic of San-Marino and Andorra.

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures as to this recommendation.
Recommendation of the MONEYVAL Report	*Preparation/conspiracy to commit money laundering should be fully covered in Georgian law;*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled (the amendments have not been made).
Recommendation of the MONEYVAL Report	*Simple possession or use of laundered proceeds should be covered;*
Measures reported as of 23 July 2008 to implement the Recommendation of	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.

the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures as to this recommendation.
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures as to this recommendation.
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in 2008 the Recommendation is fulfilled (the amendments have not been made).
Recommendation of the MONEYVAL Report	*The financial value threshold should be removed;*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled (the amendments have not been made).

report	
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 reported as of 23 July 2008 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.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	In order to further reinforce capacity of law-enforcement officials, the Ministry of Justice of Georgia launched complex training of the staff of the Prosecution Service of Georgia in January 2010. The training is in the process and will be terminated in March 2010. In terms of the above-mentioned training all prosecutors, including prosecutors occupying high managing positions and investigators of the Prosecution Service of Georgia will undergo two weeks trainings on novelties in criminal justice system, including those related to AML and Terrorism Financing. At the same time, in January 2010, the Minister of Justice of Georgia issued recommendations on rules and methodology to detect crimes of money laundering, to correctly apply Article 194 (legalization of illicit income) of *the Criminal Code* and improve the quality of investigation of money laundering cases.

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 reported as of 23 July 2008 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)
Measures taken to implement the recommendations	No additional information at this point.

since the adoption of the first progress report	
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional information at this point. The Article mentioned in the First Progress Report remains as it was.
Recommendation of the MONEYVAL Report	*The AML Law should provide full CDD requirements and requirements for on-going due diligence.*
Measures reported as of 23 July 2008 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 has been 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: 1. Who their customers are; 2. What is their business activity; 3. 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.
Measures taken to implement the recommendations since the adoption of the first progress report	On February 24, 2009, the New *Instruction on Opening Accounts in Banking Institutions of Georgia* was approved under the Decree #18 of the Head of the Financial Supervisory Agency of Georgia (FSA). The Instruction regulates the procedures of opening bank accounts in national and foreign currency for Georgian resident and non-resident physical persons and legal entities as well as for organizational formations not representing legal entities. The Instruction defines types of bank accounts, list of documents in case of opening bank accounts for Georgian resident and non-resident physical persons and legal entities.
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures as to this recommendation.
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 reported as of 23 July 2008 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."
Measures taken to implement the recommendations since the adoption of the first progress report	The draft law submitted to the Parliament of Georgia intends to change the definition of the "beneficial owner". This new definition is based on the relevant provisions of the Third Directive (2005/60EC) concerning the beneficial owner. Consequently, paragraph „q'' of Article 2 of the AML Law of Georgia will introduce the following definition: "q) Beneficial owner – natural person(s) representing an ultimate owner(s) or controlling person(s) of a customer; beneficial owner of a business legal entity (as well as of an organizational formation not representing a legal entity, provided for in the Georgian legislation) shall be the direct or indirect ultimate owner, holder or/and controlling natural person(s) of 25% or more of such entity's share or voting stock, or natural person(s) otherwise exercising control over the management of the business legal entity." Obligations of monitoring entities for the identification of the beneficial owner as defined by the AML Law of Georgia have not been changed.
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	By the FMS, the above-mentioned changes have been introduced in all the relevant regulations of other monitoring entities – financial institutions (microfinance organizations, insurance companies and non-state pension scheme founders, entities performing money remittance services, currency exchange bureaus, securities' registrars, broker companies and credit unions).
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	After the liquidation of the FSA, *the Guidance on the Risk Based Approach to Combat Illicit Income Legalization* has been issued by the NBG that is applicable to all financial institutions. The Guidance was sent to financial institutions on February 15, 2010 under the letter #2–16/438 of the Vice-President of the NBG. According to the risks associated with customers, the document defines indicators for risk assessment, the procedure of identification and verification of a client that is in full compliance with the relevant FATF Recommendations. More precisely, according to the Guidance, when establishing a business relationship, a financial institution shall determine the initial risk associated with the customer by assessing the following risk categories:

	- Country risk; - Customer risk; - Product/services risk.
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	By the FMS, the above-mentioned changes have been introduced in all the relevant regulations of other monitoring entities – financial institutions (microfinance organizations, insurance companies and non-state pension scheme founders, entities performing money remittance services, currency exchange bureaus, securities' registrars, broker companies and credit unions).
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 reported as of 23 July 2008 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 cannot 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)
Measures taken to implement the recommendations since the adoption of the first progress report	According to the relevant regulations for monitoring entities issued by the FMS, in case of suspicion about the authenticity of identification data, the monitoring entity is obliged to send a respective reporting form to the Financial Monitoring Service of Georgia.
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Changes of paragraph 11, Article 6 of the AML Law of Georgia were introduced in all relevant regulations for monitoring entities.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	It is important to note that paragraph 12 will be added to Article 6 of the AML Law. According to this provision, banks and other monitoring entities shall be entitled to use the electronic databases of identification documents provided by the Civil Registry Agency of the Ministry of Justice. According to Article 111 of the Law of Georgia on the Procedure for Issuance of the Registration and ID (Residence) Certificates for Georgian Citizens and Foreign Citizens Residing in Georgia as well as of the Passport of the Citizen of Georgia this kind of information can be used as a ID document for the Person's identification. In such a way, a person has to present his/her identity card or passport to monitoring entity for the establishment of business relations. The verification procedure will be conducted though the use of electronic database of the Civil Registry Agency of the Ministry of Justice. In case of use of electronic databases of identification documents provided by the Civil Registry Agency, monitoring entity must keep the obtained identification data in electronic form.

Recommendation 5 (Customer due diligence) II. Regarding DNFBP[1]	
Recommendation of the MONEYVAL Report	*The changes recommended for CDD requirements for financial institutions should be applied also to DNFBP.*
Measures reported as	Above mentioned changes made in AML Law are applied also to DNFBP.

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

of 23 July 2008 to implement the Recommendation of the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	By the FMS, the above-mentioned changes have been introduced in all the relevant regulations of all monitoring entities, including DNFBPs.
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.*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	*The Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry – Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia* was approved on February 16, 2010 under Decree #2 of the Head of the Financial Monitoring Service of Georgia. The National Agency of Public Registry is a legal entity of Public Law under the Ministry of Justice of Georgia, registering all agreements concerning the real estate acquisition. The Regulation is in conformity with all requirements of the AML Law, including the obligation of identification of a person having business relationship with the Agency. Article 6 of the Regulation defines obligations of the Agency with respect to identification and registration of identification information (documents) as follows: "1. The Agency shall identify transaction participants (their representatives, proxies, as well as the third person in whose favor transaction is concluded), when: a) The transaction amount exceeds GEL 30 000 (or its equivalent in other currency); b) The transaction represents a suspicious transaction according to Subparagraph (e) of Article 2 of this Regulation; c) In other cases provided for in the legislation. 2. The identification process shall be conducted in compliance with the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization*, this Regulation, statutory acts issued by the Ministry of Justice of Georgia and guidelines and recommendations of the FMS.

	3. In spite of supposition on equivocacy and amount of the transaction, the Agency shall not suspend rendering its services, except for the following cases: a) Transaction participant or / and other relevant person can not be identified; b) Any party of the transaction is on the list of terrorists or persons supporting terrorism. c) Other cases provided for in the legislation. 4. In the event of considering the case determined in Subparagraph (a), Paragraph 3 of this Article as suspicious, as well as in the event provided for in Paragraph 3 (b) of this Article, the Agency shall immediately submit the respective information and/or the available materials and any other information on the transaction and parties thereof to the Service. 5. The following information, shall be obtained through the identification process: a) in case of physical person: a.a) First name, last name; a.b) Personal number; a.c) Citizenship; a.d) Date of birth; a.e) Address, place of residence by the place of registration, and if this information is not available - actual place of residence; b) In case of legal entity: b.a) Full name; b.b) Identification number of the tax payer; c)Organizational formation (arrangement) provided for in the legislation not representing a legal entity: c.a) Full name; c.b) Identification number of a tax payer (if such); 6. Documents necessary for identification process shall be: a) If the physical person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; if the physical person is registered as a sole trader – also the document confirming its registration; b)If the physical person is a foreign citizen – passport issued by the competent authority of the relevant State or other official document containing relevant data, equalized to the passport according to the Georgian legislation, which includes data necessary for person's identification. c) In case of resident legal entity (or organizational formation which does not represent a legal entity) – respective act as determined by the Georgian legislation on establishing the entity, or excerpt from the respective registry and document confirming authority for representation of an entity; d)In case of non-resident legal entity - foundation and registration documents issued by the competent authorities of foreign countries and document proving authority for representation of such entity shall be presented. 7. Agency shall undertake reasonable measures to ascertain and verify identity of beneficial owners of persons having business relationship with the Agency".

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	After the adoption of amendments to the AML Law recently submitted to the Parliament of Georgia for approval, the databases of the Civil Registry Agency will become accessible on-line to all monitoring entities, including DNFBPs. Consequently, monitoring entities will be authorized to use these databases to obtain persons' identification data.

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 reported as of 23 July 2008 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~.
Measures taken to implement the recommendations since the adoption of the first progress report	By the FMS, the above-mentioned changes have been introduced in the relevant regulations of all monitoring entities – financial institutions (microfinance organizations, insurance companies and non-state pension scheme founders, entities performing money remittance services, currency exchange bureaus, securities' registrars, broker companies and credit unions).
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 reported as of 23 July 2008 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).
Measures taken to implement the recommendations since the adoption of the first progress report	As it was already mentioned in the First Progress Report, the amendment of Article 7 of the AML Law has been introduced in the relevant regulations for commercial banks as well as for all other monitoring entities.
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 reported as of 23 July 2008 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	Memorandum of understanding between Law enforcement authorities and

since the last evaluation	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.
Measures taken to implement the recommendations since the adoption of the first progress report	Obligation set in Article 7 of the AML Law has been introduced in the relevant regulations for commercial banks as well as for all other monitoring entities.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	Memorandums of Understanding has been signed between the law enforcement agencies and the supervisory bodies. The memorandums authorize the law enforcement agencies, in specific cases, to request from the monitoring entity through the supervisory agency to retain identification information (documents) for longer than six years.

Recommendation 10 (Record keeping) II. Regarding DNFBP[2]	
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 reported as of 23 July 2008 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;
Measures taken to implement the recommendations since the adoption of the first progress report	Obligation of the monitoring entities to retain information (documents on transactions), set forth in the AML Law, has been introduced in all respective regulations for monitoring entities (DNFBPs). According to Article 8 of the newly adopted *Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry – Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia*: - Agency shall be obligated to keep information (documents) presented for

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

	identification of a person for the period not less than 6 years from the moment of registration of the transaction (right) unless a longer term is required by the supervisory authority (paragraph 1); - Information (documents) on transaction, including those presented for the identification of an entity, shall be kept electronically or / and in their original form, and where impracticable, a copy thereof shall be retained (paragraph 2); - The information (documents) retained in the Agency shall fully reflect the implemented transaction and persons involved therein. In addition, information shall be recorded, systemized and filed in a way, that when needed (timely submission to the supervision authorities as well as necessity to use as evidence in criminal cases) it can be found and retrieved in a shortest period of time (paragraph 4); - Documents (information) shall be retained in a way to be accessible to persons authorized under internal regulation and effective legislation (paragraph 5).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures as to this recommendation. The AML Law clearly covers all tax and customs issues with respect to the suspicious transaction reporting.
Recommendation of the MONEYVAL	*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.*

Report	
Measures reported as of 23 July 2008 to implement the Recommendation of the Report	Amended definition of the "suspicious transaction" contains provision concerning funds 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Content of the above-mentioned definition has been preserved.
Recommendation of the MONEYVAL Report	*The language of "grounded supposition" should be replaced with "reasonable grounds to suspect".*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled (the amendments have not been made).
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 reported as of 23 July 2008 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.
Measures taken to	The FMS issued *the Guidance for Commercial Banks on Essential Indicators for*

implement the recommendations since the adoption of the first progress report	*Detection of Suspicious or Unusual Transactions* (sent to commercial banks under the letter #0101/27-2 of January 27, 2010). According to paragraph 10 of Article 5 of the AML Law of Georgia, for the purposes of this Law, monitoring entities shall determine themselves the principles for identifying transactions of persons having business relationship with them as unusual. In addition, according to paragraph 3^2 of Article 3 of the *Regulation on Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia* (Decree #95 of the Head of the FMS, July 28, 2004), for the purposes of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization,* banks shall themselves set principles for defining transactions of entities having business relations with them as unusual, according to requirements of this Regulation and guidelines of the Financial Monitoring Service of Georgia. Therefore, banks have to set up principles for defining a transaction of a person having business relations with them as unusual based on guidelines sent by the FMS. To date, it is ensured delivery of corresponding feedbacks to financial institutions on cases investigated after sending of STRs by the FMS to law enforcement agencies.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	*More outreach and guidance to those DNFBP with reporting obligations is required to explain the reporting obligation*
Measures reported as of 23 July 2008 to implement the Recommendation of the Report	In this area no changes have been made.
Measures taken to implement the recommendations since the adoption of the first progress report	In January 2010, the Financial Monitoring Service of Georgia jointly with the Ministry of Justice of Georgia organised seminars for the representatives of the National Agency of Public Registry related to the *Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry – Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia.* Among the other topics, the seminars discussed the reporting obligation of the Agency.

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

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	On February 16, 2010 *the Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry – Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia* was approved under the Decree #2 of the Head of the Financial Monitoring Service of Georgia. The Regulation set forth all requirements of the AML Law, including the definition of suspicious transaction. Namely, according to paragraph ”e’’ of Article 2_of the above-mentioned Regulation, suspicious transaction is 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. According to Article 3 of the same Regulation, suspicious transaction is a subject to monitoring by the National Agency of Public Registry. Moreover, pursuant to the requirements of Article 9 of the same Regulation, the Agency must send respective information on suspicious transaction and its participants to the Financial Monitoring Service of Georgia. Similar obligations to submit report on transactions subject to monitoring, set forth in the AML Law, have been introduced in all respective regulations for other monitoring entities (DNFBPs).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures as to this recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of	*A clear requirement in law or regulation for financial institutions to report where*

the MONEYVAL Report	*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 reported as of 23 July 2008 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).
Measures taken to implement the recommendations since the adoption of the first progress report	Definition of suspicious transaction (paragraph (h) of Article 2 of AML Law as amended on 19.03.2008), mentioned in the First Progress Report of Georgia and obligation of monitoring entities to submit report on such transactions has been introduced in all respective regulations for monitoring entities, approved by the Head of the FMS. No additional changes as to this recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable	*The Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry – Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia* (approved on February 16, 2010 under Decree #2 of the Head of the FMS) includes the definition of suspicious transaction (paragraph "e" of Article 2) similar to the provision of the AML Law of Georgia. According to paragraph 2 of Article 3 of the Regulation, any transaction (regardless its amount) shall be subject to monitoring, if there is a supposition that any party to

means" and other relevant initiatives)	the transaction is related or is likely to be related with the terrorists or persons supporting terrorism (see answer on Recommendation 13). According to paragraph 1 and 2 of Article 9 of the same Regulation, the Agency shall ensure provision of the Service with information in an electronic format. The Service shall be provided with the following type of information: a) Identification details of transaction participants (their representatives, proxies, as well as the third person in whose favor transaction is concluded) provided for in Article 6 of this Regulation; b) Type of transaction; c) Content of transaction (including information on date and place of registration of the right originated on the basis of transaction, registration number of application, data on area, as well as transaction amount and currency); d) Information pertaining to the suspicious transaction, which became the ground for considering transaction as suspicious. According to paragraph 3 and 4 of the same Article, the following timeframes shall be set for submission of information to the Service: a) If the amount of transaction or group of transactions exceeds GEL 30,000 or its equivalent in other currency, the information shall be submitted within five working days from the moment of registration of transaction (right) in the Agency; b) If the transaction or identification details is/are considered as suspicious, the information shall be submitted within not later than three working days from the moment supposition on suspiciousness arose. c) If a transaction represents the transaction provided for in Paragraph 3, Article 3 of this Regulation – within not later than 3 working days from the moment of registration transaction (right) in the Agency; d) If any person involved in a transaction is included in the list of terrorists or persons supporting terrorism or/and is likely to be related to terrorists or terrorism-supporting persons, the report shall be submitted on the day the information is received. In the latter case, in addition to the respective information, all relevant materials and documents available to the Agency shall be forwarded to the Service. In the event of revealing suspicious transaction and submitting related reporting form to the Service, the Agency shall be obligated to focus special attention on other activities implemented by the transaction participants in the Agency. Similar obligations to submit report on transactions subject to monitoring, set forth in the AML Law, have been introduced in all respective regulations for other monitoring entities - DNFBPs.

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures as to this recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 to implement the Recommendation of the Report	In this area no legislative changes has been made.
Measures taken to implement the recommendations since the adoption of the first progress report	Draft amendment to the AML Law submitted to the Parliament of Georgia is aimed at implementation of the Recommendation 6. Consequently, according to this amendment, the definition of Politically Exposed Persons (PEPs), his/her family members and a person having close business relationship with the Politically Exposed Person (PEP) will be the following: "v) Politically Exposed Persons (PEPs) - foreign citizens, who have been entrusted with prominent public functions in a respective country and / or carry out significant public and political activities. They are: Heads of State or of government, members of government, their deputies, senior officials of government institutions, members of parliament, members of the supreme courts and constitutional court, high ranking military officials, members of the central (national) bank's council, ambassadors, senior executives of state owned corporations, political party (union) officials and members of executive body of the political party (union), other prominent politicians, their family members as well as persons having close business relations with them; a person shall be considered as a politically exposed during a year following his/her resignation from the foregoing positions. w) Family member – spouse of a person, his/her parents, siblings, children (including step – children) and their spouses. x) Person having close business relationship with the Politically Exposed person (PEP) – natural person who owns or/and controls a share or voting stock of that legal entity, in which a share or voting stock is owned or /and controlled by the Politically Exposed Person (PEP); also, a person having other type of close business relationship with the Politically Exposed Person (PEP)." According to the draft law the following Article 6^1 will be also added to the AML Law of Georgia: "Article 6^1. Obligations of Monitoring Entities with respect to Politically Exposed Persons (PEPs) 1. Monitoring entity shall identify whether the person having a business relations with the entity and his/her beneficial owner belongs to the category of Politically Exposed Persons (PEPs). 2. If a person having the business relationship with the monitoring entity or/and its beneficial owner represents a Politically Exposed Person (PEP), in addition to the steps stipulated under this Law, the monitoring entity shall take the following actions: a)Obtain permission from the management to establish business relationship with such person; b)Take reasonable measures to ascertain the origin of funds of such person as well as the identity of the beneficiary of the account; c)Perform permanent monitoring over its business relations with such

	person. 3. If the person (its beneficial owner) becomes Politically Exposed Person (PEP) after establishing business relations with the monitoring entity, the latter shall undertake measures provided for in Paragraph 2 of this Article against such person upon availability of the aforementioned information." Concerning the measures for implementation of Recommendation 6, it is important to note, that under the Resolution #337-II the Parliament of Georgia ratified the *UN 2003 Convention on Corruption* in October 10, 2008.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 to implement the Recommendation of the Report	Article 6, paragraph 6 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."
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled.
(other) changes since the first progress report	

(e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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).
Measures taken to implement the recommendations since the adoption of the first progress report	Following obligation has been added to the *Regulation on Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia* approved under the Decree #95 (28.07.04) of the Head of the FMS of Georgia: "Commercial Banks should pay special attention to any money laundering threats that may arise from new technologies that might favor anonymity, and take measures, to prevent their use in money laundering schemes. Commercial Banks should have policies and procedures in place as it is considered under legislation to address any specific risks associated with non face to face business relationships or transactions." (paragraph 24, Article 6).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	To date, according to the relevant normative acts of the FMS, all monitoring entities are obliged to pay special attention to unusual transactions, to ascertain the purpose of such transactions within the scope of their capability and to keep obtained results in written form.
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	The requirement of paragraph 9, Article 5 of the AML Law of Georgia has been introduced in relevant regulations of monitoring entities (including financial as well as non-financial institutions - microfinance organizations, insurance companies and non-state pension scheme founders, entities performing money remittance services, currency exchange bureaus, securities' registrars, broker companies, credit unions, notaries, the National Agency of Public Registry, casinos, entities organizing lotteries and other commercial games, customs authorities).
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 reported as of 23 July 2008 to implement the Recommendation of	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

the Report	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.
Measures taken to implement the recommendations since the adoption of the first progress report	Due to the amendments to the AML Law (19.03.2008) the obligation of monitoring entities (microfinance organizations, insurance companies and non-state pension scheme founders, entities performing money remittance services, currency exchange bureaus, securities' registrars, broker companies, credit unions, notaries, the National Agency of Public Registry, casinos, entities organizing lotteries and other commercial games; customs authorities) to retain/record the information related to unusual transaction was introduced in their respective regulations. According to the AML Law and above-mentioned regulations, at present all monitoring entities have to keep those records for at least 6 years from the date of transaction.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The FMS issued the *Guidance for Commercial Banks on Essential Indicators for Detection of Suspicious or Unusual Transactions* (sent to commercial banks under the letter #0101/27-2, on January 27, 2010). According to paragraph 3^2 of Article 3 of the Regulation on Commercial Banks (approved under the Decree #95 of July 28, 2004 and amended on June 13, 2008) commercial banks shall themselves set principles for defining transactions of entities having business relations with them as unusual.

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in the previous Progress Report the recommendation is fulfilled.
Recommendation of the MONEYVAL Report	*The protection in Article 12 (3) AML Law should clearly apply to criminal as well as civil liability.*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled.
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 reported as of 23 July 2008 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.
Measures taken to implement the	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled.

recommendations since the adoption of the first progress report	
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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)."
Measures taken to implement the recommendations since the adoption of the first progress report	For conducting the monitoring process, all regulations approved by the FMS, sets the obligation of monitoring entities to designate an employee (or special structural unit) in charge of monitoring based on appropriately legalized resolution and, at the same time, position of the employee in charge of monitoring (head of structural unit) shall correspond to the senior hierarchy level in the organizational chart of monitoring entity. In case of currency exchange bureaus, the owner of the currency exchange bureau is obliged to designate an employee in charge of monitoring on the basis of an appropriately legalized resolution and assign him/her to fulfill the respective functions (if the owner is a physical person, he may perform functions himself) (paragraph ,,b'' Article 5).
Recommendation of the MONEYVAL Report	*Financial institutions should be generally required to implement and maintain an adequately resourced and independent audit function.*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Besides the measures reported in the First Progress Report, according to paragraph 3 of Article 14 of the *Law of Georgia on Insurance* from May 2, 1997 (as it was amended on September 24, 2009) an insurance company has to submit annual external audit to the NBG. According to the relevant *Regulation on Reporting and Periodic Financial Accounting from Brokerage Company*, brokerage company is obliged to prepare and submit the annual financial statement and the audit report to the National Bank of Georgia. The same obligation is defined under the *Rule on Reporting and Defining the Forms by the Securities' Registrar*, according to which the Security Registrar has to prepare the financial statement of last year confirmed by the independent audit and to submit to the National Bank of Georgia.
Recommendation of the MONEYVAL Report	*Ongoing training for employees on current ML/FT techniques, methods and trends is needed*
Measures reported as of 23 July 2008 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."
Measures taken to implement the recommendations since the adoption of the first progress report	Regulations of the following monitoring entities - microfinance organizations, insurance companies and non-state pension scheme founders, entities performing money remittance services, currency exchange bureaus, securities' registrars, broker companies, and credit unions - also include requirements similar to the provisions of the Regulation for Commercial Banks.
Recommendation of the MONEYVAL Report	*Financial institutions should establish screening procedures to ensure high standards when hiring employees.*
Measures reported as of 23 July 2008 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."
Measures taken to implement the recommendations since the adoption	Regulations of the following monitoring entities - microfinance organizations, insurance companies and non-state pension scheme founders, entities performing money remittance services, currency exchange bureaus, securities' registrars, broker companies, and credit unions - also include requirements similar to the

of the first progress report	provisions of the Regulation for Commercial Banks.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	*The Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry – Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia* was approved on February 16, 2010 under Decree #2 of the Head of the Financial Monitoring Service of Georgia. The National Agency of Public Registry is a legal entity of Public Law, registering all agreements concerning the real estate acquisition. The Regulation is in conformity with all the requirements of the AML Law, including the obligation of identification of a person having a business relationship with the Agency. *Article 3* of the Regulation defines also transactions (operations) subject to monitoring. Namely, subject to monitoring shall be: - Transaction if the amount of the concluded transaction exceeds 30 000 GEL; - Suspicious transaction; - Transaction (regardless its amount) if there is a supposition that a person involved in the transaction is or may be related with persons supporting terrorism; - Transaction, regardless its amount, concluded (implemented) by the person registered in watch or suspicious zone. *Article 4* sets obligations of the Agency with respect to implementation of internal control. *Article 5* requires from the Agency to designate an employee (or employees) in charge of monitoring. *Article 8* requires from the Agency to keep information (documents) presented for identification of a person and all other records and documents for the period not less than 6 years. *Article 9* establishes an obligation of the Agency to present information on

	transactions subject to monitoring to the FMS. According to paragraph 6, Article 9: "The Agency shall strictly observe confidentiality of information related to form completion and submission to the Service. In case of suspicion regarding the transaction or parties thereof, and in the event of completion of the reporting form and submission to the Service, the information thereon shall not be provided to persons involved in the relevant transaction, their representatives and proxies and any other persons." As it was mentioned in the First Progress Report, Article 202[1] of the Georgian Criminal Code provides violation secrecy of a transaction subject to monitoring as an offence. According to this article the spreading of the fact that the transaction subject to monitoring was referred to the FMS by management and employees of the 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. This article covers also the staff of the National Agency of Public Registry.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Sanctions are imposed for the violation of the AML Law and respective normative acts. Sanctions for insurance company, microfinance organizations and entities performing money remittance services, founders of non-state pension scheme and participants of securities' market have been established under the act of the President of the National Bank of Georgia. Sanctions for commercial banks are determined under Decree of the President of the National Bank of Georgia of December 25, 2009 #242/01 *on Approving the Regulation on Determination and Imposing Pecuniary Penalties against Commercial Banks.* Sanctions for currency exchange bureaus are set forth under Decree of the President of the National Bank of Georgia of December 31, 2007, #344 on

	Approving the Rule on Registration and Regulation of Exchange Bureaus. Sanctions for microfinance organizations and money remitters are determined under Decree of the President of the National Bank of Georgia of February 22, 2010, #22/01 *on Approving the Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Microfinance Organizations and Money Remitters.* Sanctions for insurance companies are determined under Decree of the President of the National Bank of Georgia of February 22, 2010, #23/01 *on Approving Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Insurer*. Sanctions for founders of non-state pension scheme are determined under Decree of the President of the National Bank of Georgia of February 22, 2010, #19/01 *on Approving Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Founder of Non-State Pension Scheme, Assets Management Company and Specialized Depositary*. Sanctions for securities registrars and brokerage companies are determined under Decree of the President of the National Bank of Georgia of February 22, 2010, #18/01 *on Approving Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Securities Registrars and Brokerage Companies for Violations of the Requirements of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization.* All the above-mentioned normative acts determine pecuniary penalties for violation of the requirements defined under the AML Law by monitoring entities. This includes the obligation on reporting about transaction above threshold, as well as on suspicious transactions. Sanctions for notaries are defined under *the Regulation on Disciplinary Liability of Notaries* (approved on September 15, 2003 under Decree #1025 of the Minister of Justice of Georgia, as amended in February 1, 2005). The above-mentioned Regulation determines notification or written warning as sanctions for the notary who does not duly meet the requirements of the AML Law of Georgia (Articles 4, 6, 7 and 8). If the notary fails repeatedly to comply with the requirements of the AML Law of Georgia or any applicable normative acts issued by the FMS the sanction will be the dismissal of the notary from the office (paragraph m, Article 6). For the violation of provisions of the AML Law by the entities organizing lotteries and other commercial games, sanctions are determined under the Article 37^1 of *the Law of Georgia on Entities Organizing Lotteries and Other Commercial Games*. Sanctions are imposed by the Revenue Service of the Ministry of Finance of Georgia. According to the above-mentioned law, for the licensing of casinos and entities organizing other commercial games it is obligatory to be registered in the FMS. In case of violation of such an obligation by an organizer of commercial games, the Revenue Service imposes pecuniary penalties.
Recommendation of the MONEYVAL Report	*The sanctions regime should be much more effective, dissuasive and proportionate*
Measures reported as of 23 July 2008 to implement the Recommendation of the Report	Please see above.

Measures taken to implement the recommendations since the adoption of the first progress report	Paragraph 3 of Article 30 of the *Law of Georgia on Activities of Commercial Bank*s, stipulates pecuniary as well as other kind of sanctions for the violation of the requirements of the AML Law of Georgia Namely, if the bank or its administrator or controlling person has violated requirement of the AML Law of Georgia the National Bank shall have the right to apply the following sanctions consecutively, or non-consecutively based on the seriousness of the violation and any actual or potential risk it poses to the assets of the bank: a)Send a written warning to the commercial bank; b)Undertake special measures or issue instruction (guidance) requesting that commercial bank ceases and does not permit in the future the specific violation and takes required measures for its elimination within a timeframe set by the National Bank; c)Impose pecuniary penalties in the amount not exceeding bank's own funds, and according to the procedure set by the National Bank; d)Make the commercial bank pay the pecuniary penalty in the amount and according to the procedure set by the National Bank, if the administrator's actions inflicted financial loss to the bank or allowed violation of regulations and requirements set by the NBG for banking activities; e) Suspend authority of an administrator to sign and request from the Supervisory Board of the commercial bank his / her temporary resignation or discharge from the position; f) Request from the Supervisory Board and Directorate convening of the special general meeting of shareholders to review violations and take measures for their elimination; g) Suspend or limit assets growth, allocation of profit, payment of dividends and bonuses, increasing salaries and attraction of deposits; h)In special cases when interests of commercial bank's depositors or other creditors are endangered, suspend bank's active operations and introduce the regime of temporary administration; i) Request from the controlling person of the commercial bank abolishing or limitation of control, in case of revealing non-submission of financial or other information or any other violation. Such cancellation or limitation shall be accompanied with conditions and timeframe, considered expedient by the National Bank proceeding from the existing circumstances; j) Revoke a banking license of the commercial bank. According to the above-mentioned normative act, the administrator is defined as a member of the Supervisory Board, Directorate (Management Board), as well as a person who is authorized on his own or in concert with one or more others to enter into commitments on behalf of a bank (subparagraph "a", Article 1). *The Law of Georgia on Insurance* includes similar provisions under the Article 21^1 ("Infraction and Sanctions") in case of violations of the requirements of the AML Law by insurance companies. According to the draft amendments presented to the Parliament of Georgia similar responsibility will be established for other financial institutions (such as non-state pension scheme founders, securities registrars' and brokerage companies).
Recommendation of the MONEYVAL Report	*A Decree is required for brokers companies containing sanctionable obligations.*
Measures reported as	Please see above.

of 23 July 2008 to implement the Recommendation of the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	Please see above.
Recommendation of the MONEYVAL Report	*The Ministry of Economic Development needs legal powers to sanction for AML/CFT*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	According to paragraph 2 of Article 48 of the new *Organic Law of Georgia on the National Bank of Georgia* of December 1, 2009, the National Bank is authorized to regulate entities performing money remittance services and currency exchange bureaus by way of registering, auditing them and setting minimum requirements for them.
Recommendation of the MONEYVAL Report	*Sanctions should apply to Directors and Senior management in appropriate cases*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	According to subparagraph (d) of paragraph 2 of Article 30 of the *Law of Georgia on Activities of Commercial Banks*, the National Bank shall be entitled to apply sanctions against commercial bank, its administrators and controlling persons if the bank, or its administrator or controlling person has violated the requirements of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization.* The sanctions are defined under paragraph 3 of Article 30 of the above-mentioned law. Concerning the bank administrator, sanctions include the possibility to suspend authority of an administrator to sign and request from the Supervisory Board of

	the commercial bank his/her temporary resignation or discharge from the position. According to paragraph "a" of Article 1 of the above-mentioned law, administrator is defined as a person who is a member of the Supervisory Board and Directorate (Management Board), as well as a person who is authorized on his own or in concert with one or more others to enter into commitments on behalf of a bank. Paragraph "ii" of the same article defines a controlling person as a person exercising control. As of December 1, 2009 similar requirements were established by the Article 21^1 of the *Law of Georgia on Insurance.* According to this law, various sanctions are defined for the violation of the requirements of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization,*including the possibility to suspend authority of an administrator of the insurer to sign and request from the Supervisory Board/general meeting his/her temporary resignation or discharge from the position. According to paragraph "r" of Article 2 of the same law, the Administrator is a person who is a member of the governing body of the insurer. For application of similar sanctions to the administrators of other financial institutions, the following draft amendments are presented to the Parliament of Georgia: - Amendments to the Law of Georgia on Securities Market; - Amendments to the Law of Georgia on Founders of Non-State Pension Scheme.
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 reported as of 23 July 2008 to implement the Recommendation of the Report	No changes have been made.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional information at this point.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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".
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled.
Recommendation of the MONEYVAL Report	*Financial institutions should be prohibited to enter into, or continue, correspondent banking relationship with shell banks.*
Measures reported as of 23 July 2008 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;
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled.
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 reported as of 23 July 2008 to implement the Recommendation of	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

the Report	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.
Measures taken to implement the recommendations since the adoption of the first progress report	Georgia considers that taking into account the information provided in 2008 the recommendation is fulfilled.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
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 reported as of 23 July 2008 to implement the Recommendation of the Report	As mentioned above.
Measures taken to implement the recommendations since the adoption of the first progress report	

Recommendation of the MONEYVAL Report	*Mechanisms need to be considered for applying counter measures.*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The NBG issued the *Guidance on the Risk Based Approach to Combat Illicit Income Legalization.* Based on the FATF Recommendations, the document defines indicators for classification of customers according to the risks associated with them and procedures for their identification. The document was sent to financial institutions on February 15, 2010 under the letter #2-16/438 of the Vice-President of the NBG. It was also published on the official web site of the National Bank of Georgia.

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	For ensuring the effective implementation of FATF Recommendations in case of establishing a branch or setting or acquiring the subsidiary by Georgian financial institutions, the following draft amendments were presented to the Parliament of Georgia. - *Amendments to the Law of Georgia on Insurance;* - *Amendments to the Law of Georgia on Securities Market;* - *Amendments to the Law of Georgia on Non-State Pension Scheme Founders.* The above-mentioned amendments set forth a number of obligations for financial institutions in case of establishing a branch or setting or acquiring the subsidiary abroad (except branches of commercial banks). According to the draft amendments, the following documents shall be submitted to the National Bank of Georgia within 14 days following the establishing the branch or setting or acquiring the subsidiary: *a)*Financial institution's decision on development of the AML / CFT program by subsidiary or branch upon commencement of its operations, for the purpose of fighting the illicit income legalization and terrorism financing and complying with recommendations of the Financial Actions Task Force (FATF); b)In the event laws and regulations effective in the foreign country, where the subsidiary (branch) is located, do not provide for compliance with the FATF recommendations by subsidiary or branch, or measures for fighting money laundering and terrorist financing are not used and the FATF recommendations are not or are insufficiently applied: b.a) Financial institution shall undertake an obligation in writing that it will ensure application by its subsidiary or branch of measures set for fighting

	illicit income legalization and terrorist financing in conformity with requirements established in Georgia for the relevant financial institution and the FATF recommendations; b.b) Financial institution shall ensure submission of information to the National Bank of Georgia on the fact that the subsidiary or branch is unable to exercise measures provided for in Georgian legislation for fighting illicit income legalization and terrorist financing, as such measures are prohibited or limited by the legislation of the foreign country where the subsidiary or branch is located. The requirements of the NBG in case of establishing a branch, a division (service centre) and a representative office by commercial banks are defined under Decree of the President of the NBG of February 22, 2010, #24/01. Consequently, the previous Decree #240 of the President of the NBG of September 5, 2006 on *Approving the Rules of Establishing Branches, Divisions (Service Centers) and Representatives by Commercial Banks* was abrogated. According to Article 5 of the newly adopted Decree #24/01: **"**Article 5. Establishing a Branch outside Georgia 1. The following documents shall be attached to the application for establishing a branch by a commercial bank outside Georgia, submitted to the National Bank of Georgia: a) The decision of the bank's supervisory council on establishing the branch; b) A business plan of a branch for a three-year term, describing the financial feasibility and rights and duties imposed on the branch by the head office; c) The copies of application and all related documents, which were submitted to the foreign state banking supervisory authorities according to the location of the branch in connection with its establishing; d) A complete package of normative acts, on the basis of which, in the country of the location of the branch its licensing, regulation and fighting against illicit income legalization and terrorism financing are exercised. e) Statement of the Bank's Supervisory Council that for the purpose of fighting illicit income legalization and terrorism financing and complying with FATF recommendations the branch, upon commencement of its activities will have a program for fighting illicit income legalization and terrorism financing which shall include: e.a) Procedures for appointing persons for internal control and management level positions, recruitment of other employees, which should at maximum extent facilitate prevention of possible involvement of the Bank's employees in the processes of illicit income legalization and terrorism financing; e.b) Current training program of employees; e.c) Internal audit function for checking the system; f) In the event laws and regulations effective in the foreign country, where the subsidiary is located, do not provide for compliance with the FATF recommendations by the branch or a subsidiary, or measures for fighting money laundering and terrorist financing are not used and the FATF recommendations are not or are insufficiently applied: f.a) Supervisory Council of the Bank shall undertake an obligation in writing that it will ensure application by its branch of measures set for fighting illicit income legalization and terrorist financing in conformity with requirements established in Georgia for banks and the FATF recommendations, within the framework of the laws and statutory acts

	of the country where the branch is located; f.b) The Bank shall ensure submission of information to the National Bank of Georgia on the fact that the branch is unable to exercise measures provided for in Georgian legislation for fighting illicit income legalization and terrorist financing, as such measures are prohibited or limited by the legislation of the foreign country where the subsidiary is located. 2. After submitting the documents indicated in paragraph one of this Article in full, the National Bank of Georgia shall consider the issue of establishing a branch and notify the applicant commercial bank of its decision in writing within 15 business days."
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.

Measures taken to implement the recommendations since the adoption of the first progress report	According to the new *Organic Law of Georgia on the National Bank of Georgia*, the NBG is the supervisory body for entities performing money remittance services and currency exchange bureaus. Nowadays, money transfers are conducted by the post offices that represent entities performing money remittance services. According to paragraph 2 of Article 48 of the *Organic Law of Georgia on the National Bank* of Georgia, for the purposes of supporting the prevention of illicit income legalization and circulation of forged money the National Bank shall be authorized to regulate money transfer agents and currency exchange points by way of registering, auditing them and setting minimum requirements for them. According to paragraph 2 and 3 of Article 50 of the same law: "2. The National Bank shall supervise the money transfer agents and currency exchange points only by preventing circulation of forged money and, for the purposes of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization*, registering them, revoking their registration, auditing them and setting minimum requirements and sanctions to them. 3. The rule of registration and revocation of registration by the National Bank, the amount of pecuniary penalty and the rule of its imposition shall be defined under the National Bank's normative act. The amount of monetary penalty shall be wired to the state budget of Georgia."
Recommendation of the MONEYVAL Report	*A programme of inspections needs to be implemented for the postal services.*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	As of December 1, 2009, the NBG provides the registration of entities performing money remittance services as well as the regulation of their activity.
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 reported as of 23 July 2008 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".
Measures taken to implement the recommendations since the adoption of the first progress report	According to the draft amendments to subparagraph (f), paragraph 5 of Article 22 of the *Law on Insurance* in order to receive a license, with other documentation, a person has to: "f) Submit documents on all administrators and owners of the significant share of the insurer by which it is proved that such persons: f.a) Have not been declared by the court as legally incapable; f.b) Have not been convicted for illicit income legalization or / and terrorism financing; f.c) Have not been convicted for economic crime or / and other crime against business or economic activity; f.d) Simultaneously do not represent administrators of the other insurer, except for the case when they occupy administrator's position in an insurance organization or reinsurance company subject to control of the given insurance organization / reinsurance company or /and in that insurance organization / reinsurance company, which is controlling the given insurance organization /reinsurance company." According to the draft law presented to the Parliament of Georgia the following Article 31^2 will be added to the *Law of Georgia on Non State Pension Provision and Insurance* "Article 31^2. Fit and Proper Criteria for Members of the Governing Body of the Founder According to Article 21 of the same law, for the registration in the National Bank the founder shall submit documents to the National Bank on all members of the founder and its governing body, by which it is proved that such persons: f.a) Have not been declared by the court as legally incapable; f.b) Have not been convicted for illicit income legalization or / and terrorism financing; f.c) Have not been convicted for economic crime or / and other crime against business or economic activity; f.d) Simultaneously are not members of the governing body of the other founder of pension scheme. Concerning the currency exchange bureaus, according to paragraph 2 of Article 48 of the *Organic Law of Georgia on the National Bank of Georgia*, for the purposes of supporting the prevention of illicit income legalization and circulation of forged money the National Bank shall be authorized to regulate money transfer agents and currency exchange points by way of registering, auditing them and setting minimum requirements for them."
Recommendation of the MONEYVAL Report	*A licensing regime should be put in place regulating money remittances.*
Measures reported as of 23 July 2008 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.
Measures taken to implement the	According to paragraph, 2 of Article 48 of the *Organic Law on the National Bank of Georgia,* for the purposes of supporting the prevention of illicit income

recommendations since the adoption of the first progress report	legalization and circulation of forged money the National Bank shall be authorized to regulate money transfer agencies and currency exchange points by way of registering, auditing them and setting minimum requirements for them. According to paragraph 2 and 3 of Article 50 of the same law: "2. The National Bank shall supervise the money remittance entities and currency exchange bureaus only by preventing circulation of forged money and, for the purposes of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization*, registering them, revoking their registration, auditing them and setting minimum requirements and sanctions to them. 3. The rule of registration and revocation of registration by the National Bank, the amount of monetary penalty and the rule of its imposition shall be defined under the National Bank's normative act. The amount of monetary penalty shall be wired to the state budget of Georgia."
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Concerning the draft Law on Insurance see above.
(other) changes since the first progress report (e.g. drafts, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 to implement the	No changes have been made

Recommendation of the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	No additional information at this point.
Recommendation of the MONEYVAL Report	*An effective inspection programme regarding supervision of casinos should be put in place.*
Measures reported as of 23 July 2008 to implement the Recommendation of the Report	No changes have been made
Measures taken to implement the recommendations since the adoption of the first progress report	No additional information at this point.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	The FMS issued *the Guidance for Commercial Banks on Essential Indicators for Detection of Suspicious or Unusual Transactions* (sent to commercial banks under the letter #0101/27-2 of January 27, 2010). According to paragraph, 3^2 of Article 3 of the Regulation on Commercial Banks (approved under Decree #95 of the Head of the FMS on July 28, 2004) commercial banks shall themselves set principles for defining transactions of

	entities having business relations with them as unusual. The Financial Monitoring Service of Georgia has concluded MoUs with law enforcement agencies: -The Ministry of Internal Affairs of Georgia (June 30, 2008); -The Ministry of Justice of Georgia (including Chief Prosecutor's office (January 20, 2009). Among the important mutual obligations provided by the concluded MoUs, it is important to note the obligation of law enforcement agencies to send to the Financial Monitoring Service of Georgia the information on measures carried out by them on the alleged facts of money laundering and terrorism financing pursuant to the information received from the FMS of Georgia. Currently, financial institutions are provided by the FMS with corresponding feedbacks on cases investigated after sending STRs to law enforcement agencies.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	At the present time there are sixteen ongoing autonomous money laundering investigations and two prosecutions in the Unit for Prosecution of Illicit income Legalization of the Office of Chief Prosecutor of Georgia. In the above-mentioned cases the predicate offences are most probably committed in foreign countries. Please also see the response to question 1 on pages 59-60. In order to increase the capability of investigation / prosecution of money laundering cases (including autonomous money laundering cases) since the adoption of the First Progress Report the respective investigators and prosecutors of Georgia have participated in the following trainings: Training on money laundering and financial crimes investigation organized by the

	United States Department of Justice. Date and place of the training: From January 25, 2010 to February 5, 2010**,** Tbilisi, Georgia. Training on money laundering and financial crimes investigation, organized by the Office of Chief Prosecutor of Georgia of the Ministry of Justice of Georgia in association with the Embassy of France in Georgia; Date and place of the training: 21-24 September, 2009, Tbilisi, Georgia. Seminar on Anti-Money Laundering and Combating the Financing of Terrorism for Criminal Justice Officials **o**rganised by the International Monetary Fund (IMF) in collaboration with the Joint Vienna Institute (JVI). Date and place of the training: 22-26 June, 2009, Vienna, Austria. Workshop on Typologies of ML/FT organised by the International Monetary Fund (IMF) in association with International Institute of Higher Studies in Criminal Sciences **(**ISISC). Date and place of the training: 8-12 June 2009, Syracuse, Italy Training on money laundering and financial crimes investigation organised by the Revenue Service (Financial Police) of the Ministry of Finance of Georgia and the Financial Police of the Kingdom of the Netherlands. The training consisted of three stages which were conducted in April, June and November, 2008 in Georgia. In terms of the same training in July 2008 five representatives of the Investigative Department of the Revenue Service of Georgia had study visit to the Kingdom of the Netherlands, where they familiarized with the work of their colleagues and participated in the respective seminars. In this respect also it should be mentioned *the Asset Tracing/Asset Recovery Training* which is scheduled to be held in March 2010 in Georgia. The above-mentioned training is organized by the Ministry of Justice of Georgia in association with the Basel Institute on Governance and is to be conducted by the experts of the Basel Institute on Governance respectively. The participants of the training will be the investigators and prosecutors involved in the investigation and prosecution of financial crimes and money laundering. The number of participants is 25 persons. Certainly, the investigation and prosecution of autonomous money laundering cases will be the part of the above-mentioned training as well.
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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional information at this point.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other	

enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	The Financial Monitoring Service of Georgia has concluded the MoUs with: - The National Bank of Georgia (May 30, 2007); - The Financial Supervisory Agency of Georgia (May 28, 2008); - The Ministry of Internal Affairs of Georgia (June 30, 2008); - The Ministry of Justice of Georgia (including Chief Prosecutor's Office (January 20, 2009). After the signing the above-mentioned Memorandums, the databases of the Ministry of Justice of Georgia (including public and civil registry, as well as the Bureau of Data on Public Officials Financial Disclosure), the Ministry of Finance of Georgia (including databases of Customs and Revenue Services) became accessible to the FMS. According to the above-mentioned MoUs, among other important mutual obligations of signing authorities, the law enforcement agencies have to send to the Financial Monitoring Service of Georgia the information on measures carried out by them based on the information submitted by the FMS of Georgia on the alleged facts of money laundering and terrorism financing.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 to implement the Recommendation of the Report	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" 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.
Measures taken to implement the recommendations since the adoption of the first progress report	According to the Georgian legislation, entrepreneurial (commercial) and non-entrepreneurial (non-commercial) legal entities are subject to registration by the National Agency of Public Registry from January 1, 2010 (until January 2010 – the Revenue Service of the Ministry of Finance). An enterprise is considered established from the moment of registration in the registry of entrepreneurial and non-entrepreneurial (non-commercial) legal entities.

	The terms of enterprise registration are defined under Article 5 of the *Law of Georgia on Entrepreneurs* (as it was amended 25.12.2009), as follows: "1. A person interested in the enterprise registration shall submit relevant application to the registering authority. 2. In the event of requesting the enterprise registration, the application shall be attached with the Charter (partners' agreement) notarized and signed by all partners of the enterprise, in which the following shall be stated: a)Name of the enterprise / firm name; b)Legal form of the enterprise; c)Legal address of the enterprise; d)The name, surname, place of residence and personal number of each founding partner; if the founder is a legal entity – its firm name, legal form, legal address, registration date, identification number and details of its representatives; e)Governing body of the enterprise, procedure of decision making, and in case of limited liability company – details on share participation of partners; f) All those limitations (if such) that pertain to exercising the representational authority by the person responsible for representation; g)In case of a limited partnership – indication which of the partners is limited and which is full partner. 3. For registration of an enterprise, in addition to the application, Charter (partners' agreement) and other registration documents, determined by the Georgian legislation, a document should be submitted in which full name, place of residence and personal number of the person(s) authorized for enterprise governance and representation as well as of a procurist (if such) are to be indicated. If enterprise has several persons authorized for representation it should be stated whether they represent the enterprise jointly or severely. Document shall be signed by the persons empowered to appoint person(s) authorized for enterprise governance and representation, procurist (if such) and notarized. Notarization of a document shall not be mandatory if persons empowered to appoint person(s) authorized for enterprise governance and representation and procurist (if such) sign the document in a registering authority. In addition, sample signature(s) (used in legal relations) of person(s) responsible for governance (representation) shall be submitted. Signature sample shall be notarized or the signature is to be affixed in the registering authority. 4. If partners of the enterprise, persons authorized for governance or / and representation are natural persons, not having Georgian citizenship, or foreign legal entities, they shall submit details equivalent to the requirements set for the citizen of Georgia or an enterprise registered in Georgia. The procedure for ascertaining equivalence of documents to be submitted for registration shall be determined by the Minister of Justice of Georgia. In case of a foreign legal entity, documents proving its registration as a legal entity shall be certified or legalized in conformity with the respective procedure." The terms of registration of non entrepreneurial (non-commercial) legal entities are defined under Articles 29-30 (as amended 25.12.2009) of the *Civil Code of Georgia* as follows: "1. A person interested in the registration of non-entrepreneurial (non – commercial) legal entity shall submit relevant application to the registering authority.

	2. In the event of requesting the registration of non-entrepreneurial (non – commercial) legal entity, the application shall be attached with the foundation document (charter / members' agreement) notarized and signed by all partners of the non-entrepreneurial (non – commercial) legal entity, in which the following shall be stated: a) Name of the non-entrepreneurial (non – commercial) legal entity; b) Location (legal address) of the non-entrepreneurial (non – commercial) legal entity; c) Purpose of activities of the non-entrepreneurial (non – commercial) legal entity; d) Details on founder(s) of non-entrepreneurial (non – commercial) legal entity (in case of natural person - name, surname, date of birth (date, month, year), place of residence and personal number of each founding partner; if the founder is a legal entity – its name, legal form, registration data and details of its representatives;). Information on each founder shall be entered separately; e) Data on governing body of non-entrepreneurial (non – commercial) legal entity; f) Procedure for establishing (electing) governing body of non-entrepreneurial (non – commercial) legal entity and period of its authority; g) Details on the head of non-entrepreneurial (non – commercial) legal entity (name, surname, date of birth (date, month, year), place of residence and personal number); h) Regulation and procedure for decision making by the governing body (head) of non-entrepreneurial (non – commercial) legal entity; i) Person (s) authorized for representation of the non-entrepreneurial (non – commercial) legal entity, procedure for their election and term of office; j) Details on the person authorized for representation (name, surname, date of birth (date, month, year), place of residence and personal number); k) Procedure for admission, resignation and expulsion of the member of non-entrepreneurial (non – commercial) legal entity, if it is a non-entrepreneurial (non – commercial) legal entity based on a membership; *l)* Name of the authority responsible for decision making on reorganization and liquidation, regulation and procedure of decision-making, if different from regulation and procedure stated in Subparagraph (h), of this Paragraph." In addition, Article 30 of the *Civil Code of Georgia* defines the rule of registration of a branch of a foreign non-entrepreneurial (non – commercial) legal entity. According to paragraph 3 of Article 30: "3. In the event of establishing a branch of foreign non-entrepreneurial (non – commercial) legal entity, the following documents shall be presented to the registering authority: a) Application for registration of branch (representation office); b) Decision of foreign non-entrepreneurial (non – commercial) legal entity certified in conformity with the Georgian legislation on appointing the branch (representation) manager or power of attorney on granting the person governance authority; c) Details set under this Law, certified in conformity with the Georgian legislation, on non-entrepreneurial (non – commercial) legal entity and its manager."

	Due to the above-mentioned legislative amendments, for registration the information about founders (controlling persons) of entrepreneurial (commercial) and non-entrepreneurial (non-commercial) legal persons should be submitted and they are subject to identification. It is important to note, that according to paragraph 1 of Article 7 of *the Law of Georgia on Entrepreneurs*, details entered to the Registry of Entrepreneurial and Non-Entrepreneurial (Non-commercial) Legal Entities shall be public. Any person can get acquainted with details of the Registry of Entrepreneurial and Non-Entrepreneurial (Non-commercial) Legal Entities and obtain excerpt from the registering authority. In addition, it should be mentioned that the database of the Registry of Entrepreneurial and Non-Entrepreneurial (Non-commercial) Legal Entities is publicly available on-line. In respect of the right of the supervisory authority to require information on beneficial owners of insurance companies (as it was already mentioned in the First Progress Report), according to paragraphs "m" and "n" of Article 21 of the *Law on Insurance* (as it was amended 24.09.2009) from December 1, 2010 the National Bank of Georgia is authorized to require and obtain: - Information regarding the direct and beneficial owners of insurer; - Information on origin of capital of insurer.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	Definition of beneficial owner will be changed according to the draft amendments presented to the Parliament of Georgia. See the answer on Recommendation 5.

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 reported as of 23 July 2008 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).
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 to implement the Recommendation of the Report	In this area no changes have been made**.**
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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).
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
Recommendation of the MONEYVAL Report	*A designating authority is required for UNSCR 1373;*
Measures reported as of 23 July 2008 to implement the Recommendation of	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

the Report	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.
Measures taken to implement the recommendations since the adoption of the first progress report	Based on Article 26 (paragraph "a") of the *Law of Georgia on Combating Terrorism*, the President of Georgia issued Decree #18 on January 17, 2008, which approved the *Rule of Organizing Overall Counterterrorist Activities in the Country and Coordination of Activities of Agencies in Combating Terrorism.* According to the rule, the overall organization and coordination of counterterrorist activities in the country is exercised by the Counterterrorist Center of the Ministry of Internal Affairs of Georgia. A designating authority as it is required for UNSCR 1373 is the Counterterrorist Center of the Ministry of Internal Affairs of Georgia; The Instructions and requests of Counterterrorist Center are obligatory and must be observed by any agency. Governmental agencies are obliged to submit to the Counterterrorist Center any information in accordance with the List of Information ensuring overall counterterrorist activities approved by the same decree of 17 January 2008. During the conduct of special (operational/operational-technical) and operational-investigative measures of counterterrorist activities the Counterterrorist Center and other agencies are authorized to use capacities, property or material-technical base of other governmental agencies in accordance with the rules provided by legislation. With the approval of the Minister of Internal Affairs of Georgia, the director of the Counterterrorist Center shall annually submit a report on the counterterrorist activities conducted in the country to the President of Georgia.
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 reported as of 23 July 2008 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.).
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
Recommendation of the MONEYVAL Report	*Clearer guidance on obligations required*
Measures reported as of 23 July 2008 to implement the Recommendation of the Report	In this area no changes have been made.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
Recommendation of the MONEYVAL Report	*Publicly known procedures for considering de-listing and unfreezing are required, and for persons inadvertently affected*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
Recommendation of the MONEYVAL Report	*All supervisors should actively check compliance with SR.III*
Measures reported as of 23 July 2008 to implement the Recommendation of the Report	In this area no changes have been made.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or	

draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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).
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
Recommendation of the MONEYVAL Report	*Enact an autonomous offence of terrorist financing to improve extradition capacity in relation to financing of terrorism offences*
Measures reported as of 23 July 2008 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.
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant	

initiatives)	

Special Recommendation VI (Money or value transfer services)	
Rating: Partially compliant	
Recommendation of the MONE\YVAL Report	*Value transfer business should be licensed/registered.*
Measures reported as of 23 July 2008 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 15^{th} of may of this year GFSA is authorized to register and control these entities for the purpose of Money Laundering and Terrorist Financing.
Measures taken to implement the recommendations since the adoption of the first progress report	According to the new *Organic Law of Georgia on the National Bank of Georgia*, as of December 1, 2009 the National Bank is authorized to regulate entities performing money remittance services and currency exchange bureaus by way of registering, auditing them and setting minimum requirements for them. According to paragraph 2 and 3 of Article 50 of the same law: "2. The National Bank shall supervise the money transfer agents and currency exchange points only by preventing circulation of forged money and, for the purposes of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization*, registering them, revoking their registration, auditing them, setting minimum requirements, and imposing sanctions against them. 3. The rule of registration and revocation of registration by the National Bank, the amount of pecuniary penalty and the rule of its imposition shall be defined under the National Bank's normative act. The amount of pecuniary penalty shall be wired to the state budget of Georgia". According to paragraph 2 of Article 48 of the same law, for the purposes of supporting the prevention of illicit income legalization and circulation of forged money the National Bank shall be authorized to regulate money transfer agents and currency exchange bureaus by way of registering, auditing them and setting minimum requirements for them. According to the AML Law, entities performing money remittance services are considered as monitoring entities. *The Regulation on Receiving, Systematizing and Processing the Information by Money Remittance Entity and Forwarding to the Financial Monitoring Service of Georgia* was approved on February 17, 2009 under Decree #1 of the Head of the Financial Monitoring Service of Georgia. The Regulation defines obligations of entities performing money remittance services for identification of persons having business relations with them, registration and keeping the identification documents, as well as obligations for submission of reports to the Financial Monitoring Service of Georgia on transactions subject to monitoring.
(other) changes since the first progress report	

(e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 to implement the Recommendation of the Report	The Law obligates monitoring entities to perform the identification of persons 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). 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.
Measures taken to implement the recommendations since the adoption of the first progress report	Article 6^1 of the *Regulation on Receiving, Systemizing and Processing the Information by Commercial Banks and Forwarding to the Financial Monitoring Service of Georgia* has not been changed. Besides, Article 6 of the *Regulation on Receiving, Systemizing and Processing the Information by the Money Remittance Entity and Forwarding to the Financial Monitoring Service of Georgia (*approved under Decree #1 of the Head of the Financial Monitoring Service of Georgia of February 17, 2009) determines obligations of entities performing money remittance services for identification of their clients. Namely, 1. Pursuant to the Article 6 of the *Law of Georgia on Facilitating the Prevention of Illicit Income Legalization*, the Money Remittance Entity, based on its major activity, shall identify all persons having a business relationship with (their representatives, proxies, as well as the third person in whose favor transaction is concluded), when: a) The amount of operation / transaction implemented through the money remittance network (system) exceeds GEL 1 500 (or its equivalent in other currency); b) The transaction represents a suspicious transaction according to Subparagraph (e) of Article 2 of this Regulation; 2. When implementing operations determined in Subparagraph (a), Paragraph 1 of this Article the Money Remittance Entity shall record person's identification details in a money transfer order (instant money remittance application form). 3. In the course of making local and international money remittances the following information shall be recorded on the Money Remittance Entity: a) Name b) Account number (if such) or the person's unique number; c) Address (address may change by the ID / Passport and date and Place of Birth, Identification Number of the Payer). 4. Identification details noted in Paragraph 3 of this Article shall be filled in an electronic document of the respective money remittance system, so that after implementing transfer / money remittance such information is forwarded to the money receiving institution. 5. If full recording of identification details listed in Paragraph 3 of this Article in an electronic format is not feasible technically, the Money Remittance Entity, upon request of the additional identification details by money receiving institution, shall provide such information. 6. When executing local transfers, only recording of information determined in Subparagraphs (a) and (b) of this Article shall be permitted. In such case payer - the Money Remittance Entity, upon receipt of request of the money receiving institution (or in other cases as determined by the legislation) shall provide such information within three working days. 7. In spite of supposition on equivocacy and amount of the operation / transaction, the Money Remittance Entity shall continue providing services to the client except for cases listed in Paragraph 8 of this Article. 8. The Money Remittance Entity shall refuse to serve the client in following cases: a) Client and / or representative of the Money Remittance Entity can not be

	identified; b) Client (or representative) of the Money Remittance Entity is included in the list of terrorists or persons supporting terrorism. 9. In the event of considering the case determined in Subparagraph (a), Paragraph 8 of this Article as suspicious as well as in the event provided for in Paragraph 8 (b) of this Article, the Money Remittance Entity shall immediately submit the reporting form made in conformity with the Annex 2 of this Decree and / or all the available information (documents). 10. Documents required for identification shall be: a) if the physical person is Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; b) if the physical person is foreign citizen – passport issued by the competent authority of the relevant State or other official document containing relevant data, equalized to the passport according to the Georgian legislation. 11.The following information shall be obtained through the identification process: a) First name, last name b) Citizenship; c) Date of birth; d) Place of residence; e) Number of ID (Passport) and citizen's personal number by ID (Passport); f) If the physical person is registered as a sole trader – the relevant registration date, number, registering authority, identification number of tax payer; 12.The Money Remittance Entity shall record country and authority, which issued documents presented for identification, as well as date of issuance and validity period thereof. 13.If the documents (information) stored in or presented to the Money Remittance Entity allow, the client's bank account details shall also be recorded. Concerning the post office, see the answer on Recommendation 23.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 to implement the Recommendation of the Report	No changes have been made
Measures taken to	

implement the recommendations since the adoption of the first progress report	
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 reported as of 23 July 2008 to implement the Recommendation of the Report	No changes have been made
Measures taken to implement the recommendations since the adoption of the first progress report	On October 8, 2009 the *Instruction on Assigning the Status of Charitable Institution to an Organization and Canceling and Revoking thereof and Maintaining the United Registry* (approved under Decree #149 of the Ministry of Finance of March 17, 2005) was amended. According to paragraph 1 and 2 of Article 5 of the *Instruction (Additional Obligations and Responsibilities of Organizations Having the Status of Charitable Institution):* 1. In addition to acquiring the status of charitable institution the organizations shall be charged with the additional obligations and responsibilities envisaged under the tax legislation. Namely, a charitable institution shall prior to April 1 of each year submit the following documents to the respective tax authority: a) Program report on activities during the last year, with description of activities (including economic activities); b) Financial report on received income with indication of sources and expediency of incurred expenses; c) Financial statements (balance sheet and income statement) for the last year confirmed by the independent auditor. 2. Organization shall ensure publishing the program report on its activities and financial statements (balance sheet and income statement) for the last year in press as well as their availability for interested parties. According to paragraph 1 of Article 6 of the same Instruction, the Revenue Service of the Ministry of Finance of Georgia shall maintain the united registry of the charitable institutions. According to paragraph 5 of Article 6, registry of charitable institutions shall be available to all interested persons.
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 reported as of 23 July 2008 to implement the Recommendation of the Report	No changes have been made
Measures taken to implement the recommendations since the adoption of the first progress	No additional changes or measures to this recommendation.

report	
Recommendation of the MONEYVAL Report	*STR guidance should be issued in respect of transactions in this sector below the 30,000 GEL*
Measures reported as of 23 July 2008 to implement the Recommendation of the Report	No changes have been made
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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 reported as of 23 July 2008 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.

<table>
<tr><td></td><td>
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
<table>
<tr><td>Name of Customs border authority</td><td>Entrance (number of cases)</td><td>Exits (number of cases)</td><td>Declaring amount (GEL)</td></tr>
<tr><td>Tbilisi Airport</td><td>14</td><td>9</td><td>50 523 360 (≈21 683 845 EUR)</td></tr>
<tr><td>Gardabani</td><td>1</td><td>-</td><td>44 709 (≈19 188 EUR)</td></tr>
<tr><td>Sadaxlo</td><td>5</td><td>-</td><td>514 023 (≈220 610 EUR)</td></tr>
<tr><td>Tsitely Khidi</td><td>1</td><td>2</td><td>1 834 720 (≈787 433 EUR)</td></tr>
<tr><td>BaTumi Airport</td><td>2</td><td>15</td><td>1 415 370 (≈607 455 EUR)</td></tr>
<tr><td>Sarphi</td><td>32</td><td>2</td><td>4 002 259 (≈ 1 717 707 EUR)</td></tr>
</table>
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 Regulation. Number of STRs from customs received in 2007 rises 4 times in comparision with the previous year.
</td></tr>
<tr><td>Measures taken to implement the recommendations since the adoption of the first progress report</td><td>As the continuation of the process described in the First Progress Report, in 2008 the FMS of Georgia received 147 STRs from Customs authorities. In 2009, the total number of received STRs is 293.</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 reported as of 23 July 2008</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>
</table>

<table>
<tr><td>to implement the Recommendation of the Report</td><td></td></tr>
<tr><td>Measures taken to implement the recommendations since the adoption of the first progress report</td><td>No additional changes or measures to this recommendation.</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 reported as of 23 July 2008 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><td>Name of Customs border authority</td><td>Entrance (number of cases)</td><td>Exits (number of cases)</td><td>Declaring amount (GEL)</td></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>Measures taken to implement the recommendations since the adoption of the first progress report</td><td>No additional changes to this recommendation.</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 reported as of 23 July 2008 to implement the Recommendation of the Report</td><td>No changes have been made</td></tr>
<tr><td>Measures taken to implement the recommendations since the adoption of the first progress report</td><td>Currently the United Custom and Tax Code is in the process of drafting by the Ministry of Finance according to which the Custom Service shall be authorized 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>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>
</table>

Measures reported as of 23 July 2008 to implement the Recommendation of the Report	No changes have been made
Measures taken to implement the recommendations since the adoption of the first progress report	No additional changes or measures to this recommendation.
Recommendation of the MONEYVAL Report	*A database including lists of high risk groups needs creating, and Customs need sensitizing and training to detect cross-border movements associated with money laundering and financing of terrorism*
Measures reported as of 23 July 2008 to implement the Recommendation of the Report	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."
Measures taken to implement the recommendations since the adoption of the first progress report	On July 21, 2008 under Decree #4 of the Head of the Financial Monitoring Service of Georgia, paragraph 5 has been added to Article 5 of the *Regulation on Receiving, Systemizing and Processing the Information by Customs Authorities and Forwarding to the Financial Monitoring Service of Georgia* (approved under Decree #152 of the Head of the Financial Monitoring Service of Georgia of November 16, 2004). According to this provision, special attention shall be paid to persons carrying cash, checks and other securities whose permanent place of residence or/and country where they came from or are traveling to is non-cooperative or a watch and/or a suspicious zone. Watch Zones are defined by the Resolution of the Government of Georgia N118 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,* while, suspicious zones are identified as such by monitoring entities themselves, in this case by the customs authorities.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

4. Specific Questions

Specifics Questions raised in the 1st Progress Report

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.

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.

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.
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: a) 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. b) 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.

Additional Questions since the 1st Progress Report

How many autonomous money laundering convictions have been achieved since the first progress report? What were the underlying predicate offences? What sentences were imposed and what were the amounts of the confiscation orders applied?
On June 20, 2008 Tbilisi City Court rendered two autonomous money laundering convictions against two persons respectively. The above-mentioned persons were convicted for the attempt of laundering 120 000 USD. According to the standard envisaged by Article 194 (Legalization of Illicit Income) of the Criminal Code of Georgia the Court established that the money the criminals attempted to conceal and disguise was not obtained from the legal means. Accordingly, the particular predicate offence was not specified in that case. The defendants pleaded guilty and cooperated with the investigation; therefore, the plea agreement was concluded with them. Due to the above-mentioned the sentences applied against each defendant are as follows: - Suspended sentence for 5 years (the 5 months and 13 and 14 days respectively which the defendants spent in prison was included in their sentence); - 10 000 GEL Fine; - Confiscation of 120 000 USD. Currently there are sixteen ongoing autonomous money laundering investigations and two prosecutions in the Unit for Prosecution of Illicit Income Legalization of the Office of Chief Prosecutor of Georgia.
Please explain fully how the administrative sanctioning regime now operates for infringements of AML/CFT laws, regulations, decrees or other enforceable guidance. Is every infringement of these instruments potentially sanctionable? Please describe the range of administrative sanctions now available to be taken by or on behalf of GFSA. For what types of specific infringement have sanctions been imposed since the last progress report on banks, insurance companies, exhange bureaux and money remittance entities and, if possible, give examples of the maximum and minimum penalties imposed for each type of infringement. [Please ensure that these answers can be read in conjunction with the statistics provided at 6c].
Sanctions are imposed for the violation of the AML Law and respective normative acts of supervisory bodies. Under the relevant acts of the President of the National Bank of Georgia, sanctions for commercial banks, insurer, microfinance organizations and entities performing money remittance services, currency exchange bureaus, founders of non-state pension schemes and participants of securities' market have been established. • Sanctions for commercial banks are determined under Decree of the President of the National Bank of Georgia of December 25, 2009, #242/01 on *Approving the Regulation on Determination and Imposing Pecuniary Penalties against Commercial Banks*; • Sanctions for currency exchange bureaus are determined under Decree of the President of the National Bank of Georgia of December 31, 2007, #344 *on Approving the Rule on Registration and Regulation of Exchange Bureaus*; • Sanctions for microfinance organizations and money remitters are determined under Decree of the President of the National Bank of Georgia of February 22, 2010, #22/01 on *Approving the Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Microfinance Organizations and Money Remitters*; • Sanctions for insurance companies are determined under Decree of the President of the National Bank of Georgia of February 22, 2010, #23/01 on *Approving Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Insurer*; • Sanctions for founder of non-state pension scheme are determined under Decree of the President of the National Bank of Georgia of February 22, 2010, #19/01 *on Approving Regulation on Defining,*

Imposing and Collecting Pecuniary Penalties against Founder of Non-State Pension Scheme, Assets Management Company and Specialized Depositary;

- Sanctions for securities registrars and brokerage companies are determined under Decree of the President of the National Bank of Georgia of February 22, 2010, #18/01 *on Approving Regulation on Defining, Imposing and Collecting Pecuniary Penalties against Securities Registrars and Brokerage Companies for Violations of the Requirements of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization.*

All the above-mentioned normative acts determine pecuniary penalties for violation of the requirements defined under the AML Law by monitoring entities. This concerns the obligation on reporting about transaction above threshold, as well as on suspicious transactions.

Table below includes all type of infringements set under the Georgian legislation and the relevant sanctions for respective financial institutions.

Monitoring Entities

Banks

Type of Infringement	**Penalty**
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in compliance with the set procedure, or/and in the event of revealing belated submission of such information (without observance of the established timeframe), for each fact of violation	Belated submission up to 30 days – GEL 100; Belated submission for 30 days and more – GEL 300;
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia	in the amount of GEL 5,000 for each fact of violation;
For rendering services to any person without identification	in the amount of GEL 1,000 for each fact of violation.
In the event of revealing violation of requirements set for recording and retaining information (document) related with the monitoring process	in the amount of GEL 1,000 for each fact of violation;
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia in compliance with the set procedure, or / and in the event of revealing belated submission (without observance of the established timeframe) for each fact of violation	Belated submission up to 30 days – GEL 100; Belated submission for 30 days and more – GEL 300
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia	in the amount of GEL 5,000 for each fact of violation;

Microfinance Organizations

Type of Infringement	**Penalty**

For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in compliance with the set procedure, or/and in the event of revealing belated submission of such information (without observance of the established timeframe), for each fact of violation	150 for each fact of violation;
For failure to submit the Form on Registration of Microfinance Organization in the Financial Monitoring Service of Georgia to the FMS	2 000 GEL
For failure to submit a new registration form to the FMS after the changes of the information in the previous one	300 GEL
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia	1 000 GEL for each fact of violation
For submission false information	700 GEL for each fact of violation
For rendering services to any person without identification	300 GEL for each fact of violation
In the event of revealing violation of requirements set for recording and retaining information (document) related with the monitoring process	300 GEL for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia in compliance with the set procedure, or / and in the event of revealing belated submission (without observance of the established timeframe)	150 GEL for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia	1 500 GEL for each fact of violation
For submission false information about the information and documents additionally requested by the Financial Monitoring Service of Georgia	700 GEL for each fact of violation
Non-registration of transactions (operations) by the special software	2 000 GEL
Insurance Companies	
Type of Infringement	**Penalty**
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in compliance with the set procedure, or/and in the event of revealing belated submission of such information (without observance of the	100 GEL - up to 30 days; for 30 days and more – GEL 150; for each fact of violation.

established timeframe), for each fact of violation	
For failure to submit the Form on Registration of Insurance Company in the Financial Monitoring Service of Georgia to the FMS	2000 GEL
For failure to submit a new registration form to the FMS after the changes of the information in the previous one	500 GEL
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia	1000 GEL for each fact of violation
For rendering services to any person without identification	200 GEL for each fact of violation
For submission false information	500 GEL
In the event of revealing violation of requirements set for recording and retaining information (document) related with the monitoring process	500 GEL for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia in compliance with the set procedure, or / and in the event of revealing belated submission (without observance of the established timeframe), for each fact of violation	Belated submission up to 30 days – 100 GEL; Belated submission for 30 days and more - 150 GEL; for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia	1000 GEL for each fact of violation
For submission false information about the information and documents additionally requested by the Financial Monitoring Service of Georgia	700 GEL
Non-registration of transactions (operations) by the special software	2000 GEL
Money Remittance Services	
Type of Infringement	**Penalty**
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in compliance with the set procedure, or/and in the event of revealing belated submission of such information (without observance of the established timeframe), for each fact of violation	50 for each fact of violation

For failure to submit the Form on Registration of Money Remittance Service in the Financial Monitoring Service of Georgia to the FMS	1500 GEL
For failure to submit a new registration form to the FMS after the changes of the information in the previous one	150 GEL
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia	500 GEL for each fact of violation
For submission false information	500 GEL for each fact of violation
For rendering services to any person without identification	150 GEL for each fact of violation
In the event of revealing violation of requirements set for recording and retaining information (document) related with the monitoring process	150 GEL for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia in compliance with the set procedure, or / and in the event of revealing belated submission (without observance of the established timeframe), for each fact of violation	50 GEL for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia	1 000 GEL for each fact of violation
For submission false information about the information and documents additionally requested by the Financial Monitoring Service of Georgia	500 GEL for each fact of violation
Non-registration of transactions (operations) by the special software	2 000 GEL
Non-State Pension Schemes	
Type of Infringement	**Penalty**
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in compliance with the set procedure, or/and in the event of revealing belated submission of such information (without observance of the established timeframe) for each fact of violation	100 GEL - up to 30 days; for 30 days and more – GEL 150; for each fact of violation.
For failure to submit the Form on Registration of Non-State Pension Schemes in the Financial Monitoring Service of Georgia to the FMS	2000 GEL
For failure to submit a new registration form to the FMS after the changes of the	500 GEL

information in the previous one	
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia	1000 GEL for each fact of violation
For rendering services to any person without identification	200 GEL for each fact of violation
In the event of revealing violation of requirements set for recording and retaining information (document) related with the monitoring process	500 GEL for each fact of violation
For submission false information	500 GEL
For submission false information about the information and documents additionally requested by the Financial Monitoring Service of Georgia	700 GEL
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia in compliance with the set procedure, or / and in the event of revealing belated submission (without observance of the established timeframe), for each fact of violation	Belated submission up to 30 days – 100 GEL; Belated submission for 30 days and more - 150 GEL; for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia	1000 GEL for each fact of violation
Securities' Registrars, Broker Companies	
Type of Infringement	**Penalty**
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in compliance with the set procedure, or/and in the event of revealing belated submission of such information (without observance of th	150 GEL for each fact of violation
For failure to submit the Form on Registration of Securities' Registrars (Broker Company) in the Financial Monitoring Service of Georgia to the FMS	2000 GEL
For failure to submit a new registration form to the FMS after the changes of the information in the previous one	300 GEL
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia	1000 GEL for each fact of violation
for submision of false information	700 GEL for each fact of violation
For rendering services to any person without identification	300 GEL for each fact of violation

In the event of revealing violation of requirements set for recording and retaining information (document) related with the monitoring process	300 GEL for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia in compliance with the set procedure, or / and in the event of revealing belated submission (without observance of the established timeframe), for each fact of violation	150 GEL for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia	1500 GEL for each fact of violation
For submission false information about the information and documents additionally requested by the Financial Monitoring Service of Georgia	700 GEL for each violation
Non-registration of transactions (operations) by the special software	2000 GEL
Exchange Bureaus	
Type of Infringement	**Penalty**
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia in compliance with the set procedure, or/and in the event of revealing belated submission of such information (without observance of the established timeframe), for each fact of violation	100 GEL for each fact of violation
For failure to submit the Form on Registration of Foreign Exchange Bureau in the Financial Monitoring Service of Georgia to the FMS	50 GEL
For failure to submit information on transactions subject to monitoring to the Financial Monitoring Service of Georgia	150 GEL for each fact of violation
For rendering services to any person without identification	50 GEL for each fact of violation
In the event of revealing violation of requirements set for recording and retaining information (document) related with the monitoring process	100 GEL for each fact of violation
For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia in compliance with the set procedure, or / and in the event of revealing belated submission (without observance of the established	100 GEL for each fact of violation

timeframe), for each fact of violation

For failure to submit information and documents additionally requested by the Financial Monitoring Service of Georgia	150 GEL for each fact of violation
Non-registration of transactions (operations) by the special software	200 GEL

Sanctions for notaries are set under the *Regulation on Disciplinary Liability of Notaries* approved under Decree #1025 of September 15, 2003 of the Minister of Justice of Georgia (as amended in February 1, 2005).

The Regulation determines notification or written warning as sanctions for the notary who does not duly meet the requirements of the AML Law of Georgia. If the notary fails repeatedly to comply with the requirements of the AML Law of Georgia or any applicable normative acts issued by the FMS the sanction will be the dismissal of the notary from the office (Article 4, 6, 7 and 8).

For the violation of provisions of the AML Law by the entities organizing lotteries and other commercial games, sanctions are determined under the Article 37^1 of the *Law of Georgia on Entities Organizing Lotteries and Other Commercial Games.* Sanctions are imposed by the Revenue Service of the Ministry of Finance of Georgia.

According to the above-mentioned law, for casinos and entities organizing other commercial games it is obligatory to be registered in the FMS and to submit relevant information to the FMS.

Have sanctions been taken against any financial institution for failure to have adequate systems in place for dealing with PEPs as required by Rec 6?

The draft amendments to the AML Law submitted to the Parliament of Georgia intends implementation of the requirements of Recommendation 6. For this purpose, after the adoption of the above-mentioned amendments, it has been planned that the National Bank of Georgia will define relevant sanctions against financial institutions for failure to have adequate systems in place for dealing with PEPs.

Have STRs been received by the FIU in connection with customers identified by financial institutions as PEPs? How many have been passed to law enforcement, and what were the results so far in terms of investigations, prosecutions and convictions?

As it has been already mentioned above, the draft amendment recently submitted to the Parliament of Georgia intends to implement the requirements of Recommendation 6. Therefore, to date, in the absence of such normative act the financial institutions are not obliged to identify customers as PEPs. In result, the FMS of Georgia have not yet received any STRs on customers identified as PEPs by financial institution.

How many freezing orders have been made pursuant to the UNSCR Resoloutions 1267 and 1373 since the last progress report?

No freezing orders have been made in Georgia pursuant to the UNSCR Resolutions 1267 and 1373.

5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[4]

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.	Third Directive and the Implementation Directive are not fully implemented yet in Georgia.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[5] (please also provide the legal text with your reply)	According to subparagraph (q) of Article 2 of the AML Law of Georgia the definition of beneficial owner is the following: "Beneficial owner – the natural person(s) who ultimately owns or controls the entity." However, the draft amendment submitted to the Parliament of Georgia intends to change the definition of Beneficial Owner. Consequently, paragraph "q" of Article 2 of the AML Law of Georgia will introduce the following definition: "q) Beneficial owner – natural person(s) representing an ultimate owner(s) or controlling person(s) of a customer; beneficial owner of a business legal entity (as well as of an organizational formation not representing a legal entity, provided for in the Georgian legislation) shall be the direct or indirect ultimate owner, holder or/and controlling natural person(s) of 25% or more of such entity's share or voting stock, or natural person(s) otherwise exercising control over the management of the business legal entity."

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	In February 2010, the NBG issued *the Guidance on the Risk-Based Approach to Combat Illicit Income Legalization* (Guidance provides some principles of Risk-Based Approach for the assessment of risks related to money laundering) for financial institutions. Based on the FATF Recommendations, the above-mentioned principles define the indicators for the classification of customers according to the risks associated with them and the procedures for their identification. According to this document, when establishing business relationship, a financial institution shall determine the initial risk associated with the customer by assessing the following risk categories: - Country risk; - Customer risk; - Product/services risk. *The Guidance on the Risk-Based Approach to Combat Illicit Income Legalization* has been issued for the following financial institutions*:* microfinance organizations, insurance companies and non-state pension scheme founders, entities performing money remittance services, currency exchange bureaus, securities' registrars, broker companies, credit unions.

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

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

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[6] are provided for in your domestic legislation (please also provide the legal text with your reply).	The draft amendments to the AML Law submitted to the Parliament of Georgia is aimed at implementation of the Recommendation 6. According to this amendment, the definition of Politically Exposed Persons (PEPs), his/her family members and a person having close business relationship with the Politically Exposed Person (PEP) will be the following: v) Politically Exposed Persons (PEPs) - foreign citizens, who have been entrusted with prominent public functions in a respective country and / or carry out significant public and political activities. They are: Heads of State or of government, members of government, their deputies, senior officials of government institutions, members of parliament, members of the supreme courts and constitutional court, high ranking military officials, members of the central (national) bank's council, ambassadors, senior executives of state owned corporations, political party (union) officials and members of executive body of the political party (union), other prominent politicians, their family members as well as persons having close business relations with them; a person shall be considered as a politically exposed during a year following his/her resignation from the foregoing positions. w) Family member – spouse of a person, his/her parents, siblings, children (including step – children) and their spouses. x) Person having close business relationship with the Politically Exposed Person (PEP) – natural person who owns or/and controls a share or voting stock of that legal entity, in which a share or voting stock is owned or /and controlled by the Politically Exposed Person (PEP); also, a person having other type of close business relationship with the Politically Exposed Person (PEP)." According to the draft law the following Article 6^1 will be also added to the AML Law of Georgia: "Article 6^1. Obligations of Monitoring Entities with respect to Politically Exposed Persons (PEPs) 1. Monitoring entity shall identify whether the person having a business relations with the entity or his/her beneficial owner belongs to the category of Politically Exposed Persons (PEPs). 2. If a person having the business relationship with the monitoring entity or/and its beneficial owner represents a Politically Exposed Person (PEP), in addition to the steps stipulated under this Law, the monitoring entity shall take the following actions: a)Obtain permission from the management to establish business relationship with such person; b)Take reasonable measures to ascertain the origin of funds of such person as well as the identity of the beneficiary of the account; c)Perform permanent monitoring over its business relations with such person. 3. If the person (its beneficial owner) becomes Politically Exposed Person (PEP) after establishing business relations with the monitoring entity, the latter shall undertake measures provided for in Paragraph 2 of this Article against such person upon availability of the aforementioned information."

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

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	As it was already mentioned, Article 202[1] of the *Criminal Code of Georgia* prohibits only the "Tipping off" of the transaction report. However, according to Article 274 of the *Criminal Procedure Code of Georgia* investigator and prosecutor are obliged to ensure that the information concerning the criminal case shall not be unveiled. For the above-mentioned purpose, investigator and prosecutor have right to take written obligation from the participants of the investigative action**,** that without his/her prior permission they will not disclose the information concerning the criminal case and to urge about the criminal responsibility if the information is anyway disclosed. The sanctions for the infringement of the previously mentioned obligation are provided by Article 374 of the *Criminal Code of Georgia*. The above-mentioned sanctions are as follows: fine or corrective work up to two years or deprivation of liberty up to one year.
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	In case of the application of Article 202[1] of the *Criminal Code of Georgia* there are no specific circumstances where prohibition is lifted. As for the cases defined by Article 274 of the *Criminal Procedure Code of Georgia* and Article 374 of the Criminal Code of Georgia, as it was mentioned above, if participant of investigative action is not duly urged by investigator and/or prosecutor, that person shall not be subject to criminal liability for the disclosure of the information concerning the criminal case.

"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.	Yes, according to Article 107[1] of the *Criminal Code of Georgia* corporate liability can be applied where crime is committed on behalf of, by using of and/or for the benefit of the legal entity by a responsible person. According to the same article the term *responsible person* is defined as follows: The person who is responsible for the management, representation of the legal entity or making decision on behalf of the legal entity and/or is the member of supervisory, controlling or auditing body of the legal entity.
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, due to the amendments made to the *Criminal Code of Georgia* on September 26, 2008, the criminal liability of legal person can be applied where the crime is committed for the benefit of the legal person as a result of lack of supervision or control by the persons who occupy a leading position within that legal person. In this respect the *Criminal Code of Georgia* also uses the term responsible person, which completely covers the person who occupies a leading position within the legal person. Please see above the definition of the responsible 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.	*The Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry – Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia* was approved on February 16, 2010 under Decree #2 of the Head of the Financial Monitoring Service of Georgia. The National Agency of Public Registry is a legal entity of Public Law, registering all agreements concerning the real estate acquisition. The Regulation is in conformity with all requirements of the AML Law, including the obligation of identification of a person having business relations with the Public Registry. Article 3 of the Regulation defines also transactions (operations) subject to monitoring. Namely, subject to monitoring shall be: - transactions if the amount of the transactions exceeds 30 000 GEL; - suspicious transactions; - transactions (regardless its amount) if there is a supposition that a person involved in the transaction is or might be related with terrorists or persons supporting terrorism; - transactions, regardless its amounts, implemented by the person registered in watch or suspicious zone. Article 4 sets the obligations of the Agency concerning the internal control. Article 5 requires from the Agency to designate an employee (or employees) in charge of monitoring. Article 8 requires from the Agency to keep information (documents) presented for identification of a person and all other records and documents for the period not less than 6 years. Article 9 establishes an obligation of the Agency to submit the report on transactions subject to monitoring by the FMS. According to the AML Law of Georgia the same requirements are set forth for notaries, customs authorities, entities, organizing lotteries and other commercial games (including casinos), entities engaged in activities related to precious metals, precious stones and products thereof, as well as antiquities.

6. Statistics

Money laundering and financing of terrorism cases

a. Statistics provided in the last progress report:

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) Please complete, to the fullest extent possible, the following tables since the adoption of the first progress report.

2008 (June – December)												
	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	6	N/A	2	3	1	2	1	6 815 609 EUR	**2**	543 486 EUR	**1**	87 248 EUR
FT												

2009												
	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	N/A	4	6	1	1	5	1 738 200 EUR			Please see the note below.	
FT												

Note: In 2009 on one criminal case 400 000 EUR was removed from the possession of criminal by means of imposing fine instead of confiscation. Before using such measure, the above-mentioned money was placed on the bank account of the offender's mother.

2010 January												
	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	7	N/A	4	5			1	46 500	1	10 590		
FT												

c) AML/CFT sanctions imposed by supervisory authorities.

Please complete a table (as beneath) for administrative sanctions imposed for AML/CFT infringements in respect of each type of the supervised entity in the financial sector (eg, banks, insurance, securities etc).
If similar information is available in respect of supervised DNFBP, please provide an additional table (or tables), also with information as to the types of AML/CFT infringements for which sanctions were imposed.
Please adapt the tables, as necessary, also to indicate any criminal sanctions imposed on the initiative of supervisory authorities and for what types of infringement.

	2007 for comparison	**2008**	**2009**
Number of AML/CFT violations identified by the supervisor	**7 banks 82 currency exchange bureaus**	**10 Banks- 159 currency exchange bureaus**	**10 banks- 67 currency exchange bureaus**
Type of measure/sanction*			
Written warnings			
Fines	**583 100 GEL (255,052 EURO) for banks, 41,000 GEL (17,934 EURO) for currency exchange bureaus**	**1,347,600 GEL (615,736 EURO) for banks, 8,250 GEL (3,770 EURO) for currency exchange bureaus**	**464 800 GEL (199,442 EURO) for banks, 21,750 GEL (9,333 EURO) for currency exchange bureaus**
Removal of manager/compliance officer			
Withdrawal of license			
Other**			
Total amount of fines	**624, 100 GEL (272,986 EURO)**	**1, 355, 850 GEL (619,506 EURO)**	**486,550 GEL (208,775 EURO)**
Number of sanctions taken to the court (where applicable)			
Number of final court orders			
Average time for finalising a court order			

*** Please amend the types of sanction as necessary to cover sanctions available within your jurisdiction**
**** Please specify**

7. STR/CTR

a. Statistics provided in the last progress report

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**														
insurance companies	**278**	**0**														
Notaries	**2704**	**10**														
Currency exchange	**238**	**0**														
broker companies	**654**	**18**														
securities' registrars	**291**	**47**		28		7	5	6	6[7] + 11[8]			2	3[7] + 7[8]			
lawyers	-	-														
accountants/auditors	-	-														
company service providers	-	-														
others (please specify and if necessary add further rows)	-	-														
Total	**27287**	**558**														

[7] Based on 2005 notification by FIU
[8] Based on 2004 notification by FIU

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[9] + 2[10]			[3]	1[9] + 4[10]			
lawyers	-	-														
accountants/auditors	-	-														
company service providers	-	-														
others (Customs)	14	0														
Total	**42884**	**2281**	**1**													

[9] Based on 2005 notification by FIU

[10] Based on 2004 notification by FIU

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														
insurance companies	382	0														
Notaries	8574	19														
Currency exchange	990	18														
broker companies	1165	24														
securities' registrars	310	16		57	0	17	0	2	1[11] + 1[12]							
lawyers	-	-														
accountants/auditors	-	-														
company service providers	-	-														
others (Customs)	57	0														
Total	**60048**	**4668**														

[11] Based on 2007 notification by FIU

[12] Based on 2006 notification by FIU

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[13] + 1[14]		
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**												

[13] Based on 2005 notification by FIU
[14] Based on 2006 notification by FIU

b) Please complete, to the fullest extent possible, the following tables since the adoption of the 1st Progress Report

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.
"C*ases 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).

2008 (June – December)															
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	24384	3715	2	28	2	5	2								
Insurance Companies	130	-	-												
Notaries	5245	-	-												
Currency Exchange	1155	-	-												
Broker Companies	35	5	-												
Securities' Registrars	129	3	-												
Lawyers	-	-	-												
Accountants/Auditors	-	-	-												
Company Service Providers	-	-	-												
Customs authorities	91	-	-												
Total	**31 169**	**3723**	**2**												

2009 - Statistical Information on reports received by the FIU								2009 - 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	40595	6277	3	32	3	5	3	2[15]	4[16]						
Insurance Companies	176	1	-												
Notaries	5994	1	-												
Currency Exchange	2541	-	-												
Broker Companies	13	114	-												
Securities' Registrars	258	4	-												
Lawyers	-	-	-												
Accountants/Auditors	-	-	-												
Company Service Providers	-	-	-												
Customs authorities	293	-	-												
Entities, organizing lotteries and other commercial games	19	-	-												
Microfinance organizations	1387	7	-												
Casino	2	-	-												
Entities performing money remittance services	4	-	-												
Total	**51 282**	**6404**	**3**												

[15] Based on 2008 notification by FMS

[16] Based on 2008 notification by FMS

2010 (January)															
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	2885	555	-	14	0	3	0								
Insurance Companies	10	-	-												
Notaries	274	-	-												
Currency Exchange	261	-	-												
Broker Companies	20	4	-												
Securities' Registrars	14	-	-												
Lawyers	-	-	-												
Accountants/Auditors	-	-	-												
Company Service Providers	-	-	-												
Customs authorities	15	-	-												
Entities, organizing lotteries and other commercial games	4	-	-												
Microfinance organizations	130	1	-												
Casino	-	-	-												
Entities performing money remittance services	-	-	-												
Total	**3 613**	**560**	**-**												

Note: Information concerning the alleged facts of terrorism financing displayed above in the statistics tables, which were submitted by the Financial Monitoring Service of Georgia to the law enforcement authorities of Georgia, did not trigger the investigation, as far as in all the abovementioned cases there was mere coincidence of names of suspects with the names indicated in the lists of terrorists issued by the respective competent body.

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,	• The reporting requirement which should be in law or regulation should clearly cover all predicate offences

19, 25 and SR.IV)	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)	
5. 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

Excerpt from Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

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;

Excerpt from Commission directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of ‘politically exposed person’ and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

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