

Anti-money laundering and counter-terrorist financing measures

Georgia

1st Enhanced Follow-up Report &
Technical Compliance Re-Rating

November 2022

Follow-up report



The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

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The 1st Enhanced Follow-up Report and Compliance Re-Rating on Georgia was adopted by the MONEYVAL Committee through written procedure (19 September – 31 October 2022).

Georgia: First Enhanced Follow-up Report

1. INTRODUCTION

1. The fifth-round mutual evaluation report (MER) of Georgia was adopted in September 2020. This first enhanced follow-up analyses the progress of Georgia in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Georgia has made to improve its effectiveness.

2. FINDINGS OF THE MER AND FOLLOW UP

2. The MER rated Georgia as follows for technical compliance:

Table 1. Technical compliance ratings, September 2020

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
PC	LC	C	LC	LC	PC	PC	NC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	PC	C	LC	PC	LC	LC	LC	LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	PC	PC	PC	PC	LC	LC	PC	PC	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	LC	LC	PC	LC	LC	LC	C	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

Source: [Georgia Mutual Evaluation Report, September 2020](#).

3. Given the results of the MER, Georgia was placed in enhanced follow-up¹.

4. The assessment of Georgia's request for technical compliance re-ratings and the preparation of this FUR were undertaken by the following rapporteurs (together with the MONEYVAL Secretariat):

- Czech Republic
- Malta

5. Section 3 of this FUR summarises Georgia's progress made in improving technical compliance. Section 4 sets out the conclusion and a table showing which FATF Recommendations have been re-rated.

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by Georgia to improve its technical compliance by:

- addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a re-rating (R.22, R.28, R.29 and R.35).

7. For the rest of the Recommendations rated as PC (R.1, R.6, R.7, R.8, R.12, R.15, R.23, R.24, R.25 and R.35) the authorities did not request a re-rating.

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up. This is intended to be a targeted but more comprehensive report on the countries/territories' progress, with the main focus being on areas in which there have been changes, high risk areas identified in the MER or subsequently and on the priority areas for action.

8. This report takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Georgia submitted its country update report – at least six months before the FUR is due to be considered by MONEYVAL².

3.1. Progress to address technical compliance deficiencies identified in the MER

9. Georgia has made sufficient progress to address some of the technical compliance deficiencies identified in the MER. As a result, Georgia has been re-rated on Recommendation 29.

Recommendation 22 (Originally rated PC – no re-rating)

10. In its MER, Georgia was rated PC with R.22, based on: (i) real estate agents, accountants that are not certified and certified accountants when providing legal advice that related to an activity listed under 22.1(d) and TCSPs not being designated as obliged entities and, consequently, not being subject to CDD requirements, which was considered a moderate shortcoming; (ii) no clear requirement in the law to link CDD information to transactions carried out in a casino (c.22.1); (iii) shortcomings identified under R.10 also being applicable to DNFBPs (c.22.1), in particular an incomplete definition for ML (c.10.2(d)), no requirement to collect new information to support ongoing monitoring (c.10.7(b)), no requirement to obtain a copy of the trust deed for business relationships with trustees of foreign legal arrangements (c.10.9), EDD being required for high ML/TF risks rather than higher (c.10.17), SDD being allowed for low (rather than lower) risk customers (c.10.18), no requirement to not enter into or terminate business relationships if appropriate risk preventive measures are not implemented (c.10.19(a)) and no provisions to allow entities to not pursue the CDD process when there is an ML/TF suspicion and there is a risk to “tip-off” the customer (c.10.20); (iv) a requirement to make records available to authorities “in due course” rather than “swiftly” (c.22.2); (v) the definition of close associates and family members of PEPs being too narrow as described under R.12 (c.22.3); (vi) no explicit requirements to identify and assess ML/TF risks that may arise from developing technologies (c.22.4) and; (vii) shortcomings identified under R.17 also being applicable to DNFBPs (c.22.5), in particular the lack of a requirement for entities to satisfy themselves that a third party/intermediary has measures in place to comply with R.10 and R.11 (c.17.1(c)), no prohibition from relying on a third party registered or operating on a high-risk jurisdiction (c.17.2) and no requirement to ensure that group-wide AML/CFT controls are sufficiently adequate (c.17.3(c)).

11. The exemption from the AML/CFT Law on real estate agents, TCSPs, non-certified accountants and certified accountants when providing legal advice is still retained and, as a result, moderate gaps in the fulfillment of all criteria assessed below also remain.

12. For **c.22.1 (a)-(e)**, a requirement for online casinos to provide players’ account transactions to the Revenue Service through an electronic control system has been introduced in the Gambling Law (Art.7 (3/1)), which partly addresses the deficiency, although the legal amendments still fail to explicitly require casinos to link CDD information to financial and gambling transactions carried out.

13. In relation to the issues cascading from R.10, the following progress has been made:

14. The deficiency in the definition of ML (c.10.2(d)) has not been addressed, as the AML/CFT Law still refers exclusively to Article 194 of the Criminal Code.

² This rule may be relaxed in the exceptional case where legislation is not yet in force at the six-month deadline, but the text will not change and will be in force by the time that written comments are due. In other words, the legislation has been enacted, but it is awaiting the expiry of an implementation or transitional period before it is enforceable. In all other cases the procedural deadlines should be strictly followed to ensure that experts have sufficient time to do their analysis.

15. To address the deficiencies identified in the MER under c.10.7(b) and c.10.9, Georgia has undertaken steps in relation to the insurance sector, which are not applicable to covered DNFBPs.
16. To address the deficiencies identified in the MER for c.10.17 in relation to EDD requirements and c.10.19(a) regarding non-engagement and termination of business relationships, Georgia has adopted, on June 5, 2020, a regulation “On Approval of the Procedure of Identification and Verification of a Customer by Obligated Entity” from the Head of the Financial Monitoring Service, which partly addresses the deficiencies, although its scope is limited to the context of identification and verification rather than all CDD measures.
17. Deficiencies noted in the MER in relation to c.10.18 and c.10.20 remain unaddressed for covered DNFBPs.
18. In relation to **c.22.2**, no changes have been made to Art.27(5) of the AML/CFT Law in order to introduce a requirement to make records held by covered DNFBPs available to authorities “swiftly” rather than “in due course”. Therefore, this deficiency remains unaddressed.
19. To address the deficiency noted in the MER in relation to the definition of close associates and family members of PEPs, which also affects **c.22.3**, Georgian authorities proposed a pack of legislative amendments which were not in force at the time of reporting and, as such, cannot be taken into account for this FUR, in line with the Rules of Procedure. As a result, this deficiency remains unaddressed.
20. Regarding **c.22.4**, there have been no changes made to the AML/CFT Law to include a requirement to identify and assess ML/TF risks that may arise from developing technologies, since Art.8(3) makes reference to “new” technologies, as described in the MER. As such, this deficiency has not been addressed.
21. No progress has been reported in relation to the issues from R.17 having an impact on **c.22.5**, which, consequently, remain unaddressed.
22. Overall, Georgia has reported some progress under R.22 by introducing a central electronic reporting for online casinos, although this still fails to explicitly set out the requirement to link CDD information to the transactions conducted in the casino. The moderate gaps in the coverage of DNFBPs by the AML/CFT Law remain, as the exemptions on real estate agents, TCSPs, non-certified accountants and certified accountants when providing legal advice are still retained. Furthermore, concerns remain with c.22.2, c.22.3, c.22.4 and c.22.5. **R.22 therefore remains partially compliant.**

Recommendation 28 (originally rated PC - no re-rating)

23. In its MER, Georgia was rated PC with R.28, based on: (i) the prohibition on criminal ownership and control of casinos not explicitly covering the BO of a significant or controlling interest in a casino or the “operator” of a casino (c.28.1); (ii) prohibitions not extending to associates of criminals holding significant or controlling interests, holding management functions or being operators of casinos (c.28.1); (iii) certain categories of DNFBPs not covered by the AML/CFT Law, as explained in the assessment for R.21, and, as such, a lack of a supervisor and a system to monitor their compliance with AML/CFT requirements (c.28.2 and c.28.3); (iv) no fit and proper measures being applied to DPMS, certified accountants and lawyers and no sanctions being applied to DPMS and lawyers (except suspension) (c.28.4); (v) no explicit obligation for supervisors to consider the number and diversity of operators in a sector when determining the nature and frequency of inspections and no demonstration that internal controls, policies and procedures of DNFBPs were being taken into account for supervisory purposes (c.28.5).
24. To address the deficiency identified in the MER for **c.28.1**, Georgia has amended, in June 2020, the Gambling Law (Art.11.10) in order to exclude from holding a permit to operate a casino those persons, founders, partners, beneficial owners (which would include persons holding or being beneficial owners of a significant or controlling interest in the casino) or other persons authorized to manage and represent the casino that have been convicted of serious intentional economic crimes, therefore the shortcoming has

been addressed. However, no information has been provided with regard to the lack of a prohibition for associates of criminals to own, control and/or manage a casino.

25. With regards to **c.28.2**, **c.28.3**, **c.28.4** and **c.28.5**, either no changes have been reported or no progress has been achieved, thus all associated deficiencies remaining unaddressed.

26. Georgia has achieved by progress by requiring a lack of criminal conviction also for BOs of casinos. However, no changes to the framework that was in place at the time of the on-site have been reported for the other issues raised in the MER. Additionally, as covered in the assessment of R.21, the lack of regulation of some DNFBP sectors, most notably real estate agents and TCSPs still remains, which was considered a moderate shortcoming on its own. As a result, **the rating of R.28 remains partially compliant**.

Recommendation 29 (Originally rated PC – re-rated as LC)

27. In its MER, Georgia was rated PC with R.29, based on: (i) no explicit reference in the legislation to require the FMS to conduct either operational or strategic analysis of information related to ML/TF (c.29.4); (ii) a potential narrow scope of the FMS analyses due to incomplete definitions for ML (AML/CFT Law, Art.2 (Z.8)) which do not refer to all relevant parts of the CC (i.e. Art. 186 and 194.1) (c.29.4); and (iii) the FMS lacking power to disseminate information and results of their analyses upon request and without a court order to all relevant competent authorities, including the MoF Investigation Service when conducting criminal investigation of other than ML, TF or drug-related crimes, which was considered a significant shortcoming (c.29.5).

28. To address the deficiencies identified in the MER for **c.29.4**, Georgia has proposed a pack of legislative amendments to the AML/CFT Law to amend the ML definition (Art.2 (Z.8)) and to explicitly include a requirement for FMS to conduct operational and strategic analysis of information related to ML/TF (Art. 34.1(1)). However, since the amendments were not in force at the time of reporting, they could not be considered for the purposes of this FUR, in line with the Rules of Procedure.

29. To address the deficiencies identified in the MER for **c.29.5**, Georgia has amended, on May 24, 2022, the AML/CFT Law in order to provide a legal basis to the FMS to: (i) spontaneously disseminate the results of their analyses when there are reasonable grounds to suspect ML/TF or any other criminal activity to the Investigation Service of the Ministry of Finance (Art.34.1); and (ii) share intelligence upon a grounded request and without a court order to all relevant competent authorities (including the Investigation Service of the MoF) for the purposes of achieving any investigation under the Criminal Code of Georgia (Art. 39.6).

30. Georgia has addressed the important limitations in relation to the ability of the FMS to disseminate information and results of analysis upon request and without a court order to all LEAs, which was a significant shortcoming. Only minor shortcomings remain regarding a lack of explicit reference to require the FMS to conduct operational and strategic analysis and the scope of the ML definition, for which legislative changes are already underway. Taking this into consideration, **Georgia is re-rated as LC for R.29**.

Recommendation 35 (originally rated PC – no re-rating)

31. In its MER, Georgia was rated PC with R.35, based on: (i) no information on civil or administrative sanctions that may be applied to leasing companies, casinos, lawyers (except suspension) and DPMS for breaching the AML/CFT legislation and lack of proportionality of the range of sanctions applicable to notaries (c.35.1); (ii) no information on sanctions applicable to directors or senior management of leasing companies and DNFBPs, except notaries and lawyers operating as natural persons and audit firms (c.35.2); and (iii) collective investment funds and fund managers, real estate agents, non-certified accountants,

accountants providing legal advice and TCSPs not being designated as obliged entities and, as a result, no sanctions being applicable to them.

32. To address the deficiencies identified in the MER for **c.35.1**, Georgia has put regulation in place for the investment fund sector since June, 2022, including a framework regulating sanctioning (“Determination, Imposition and Enforcement of Penalties for Investment Fund and Asset Management Companies”). Additionally, the Gambling Law (Art.29.1(u)) now includes compliance with the AML/CFT Law as one of the licensing breaches for which casinos can be sanctioned in accordance with Article 34 of the “Law on licences and permits”, which envisages fines of up to 7000 GEL (approximately 2500 EUR) and, in the case of continued non-compliance, a repeal of the license. However, no changes have been made in relation to the framework for notaries since the adoption of the MER and no changes have been reported regarding other sectors (lawyers, leasing companies, DPMS, real estate agents, TCSPs and accountants).

33. No changes in relation to the deficiencies for **c.35.2** or the scope of obligated institutions have been reported.

34. Whilst Georgia has made some progress by introducing a broad regulatory framework for the investment fund sector and making sanctions for AML/CFT breaches applicable to casinos, the majority of the deficiencies identified in the MER remain unchanged (lack of available sanctions to lawyers (except suspension), leasing companies, DPMS, real estate agents, TCSPs and accountants). Therefore, **the rating for R.35 should remain PC.**

4. CONCLUSION

35. Overall, Georgia has made sufficient progress in addressing some of the TC deficiencies identified in its MER in relation to Recommendation 29.

36. Further steps have been taken to improve compliance with R.22, R.28 and R.35 since adoption of the MER, but some gaps remain. Georgia is encouraged to continue its efforts to address the remaining deficiencies.

37. Overall, in light of the progress made by Georgia since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. Technical compliance with re-ratings, November 2022

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
PC	LC	C	LC	LC	PC	PC	NC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	PC	C	LC	PC	LC	LC	LC	LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	PC	PC	PC	PC	LC	LC	PC	LC	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	LC	LC	PC	LC	LC	LC	C	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

Georgia will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Georgia is expected to report back within one year’s time.

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This report analyses Georgia's progress in addressing the technical compliance deficiencies identified in the Mutual Evaluation Report of September 2020.

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