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

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Anti-money laundering and counter-terrorist financing measures

Georgia

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

December 2023

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.

The 2nd Enhanced Follow-up Report and Technical Compliance Re-Rating on Georgia was adopted by the MONEYVAL Committee through written procedure (7 December 2023).

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Georgia: 2nd Enhanced Follow-up Report

I. INTRODUCTION

1. The mutual evaluation report (MER) of Georgia was adopted in September 2020. Given the results of the MER, Georgia was placed in enhanced follow-up.[1] Its 1st Enhanced Follow-up Report (FUR)[2] was adopted in November 2022. The report analyses the progress of Georgia in addressing the technical compliance (TC) deficiencies identified in its MER or subsequent FURs. 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.

2. The assessment of Georgia request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Isle of Man
- Jersey
- North Macedonia
- Romania

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

II. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

4. This section summarises the progress made by Georgia to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER and applicable subsequent FUR for which the authorities have requested a re-rating (R.1, R.6, R.7, R.12, R.15, R.22, R.23, R.28, R.35).

5. For the rest of the Recommendations rated as partially compliant (PC) (R.24, R.25) or NC (R.8) the authorities did not request a re-rating.

6. This report takes into consideration only relevant laws, regulations or other Anti-money laundering and combating financing of terrorism (AML/CFT) measures that are in force and effect at the time that Georgia submitted its country reporting template – at least six months before the FUR is due to be considered by MONEYVAL.[3]

II.1 Progress to address technical compliance deficiencies identified in the MER and applicable subsequent FURs

7. Georgia has made progress to address the technical compliance deficiencies identified in the MER and applicable subsequent FURs. As a result of this progress, Georgia has been re-rated on Recommendation 12. The country asked for a number of re-ratings for other Recommendations 1, 6, 7, 15, 22, 23, 28 and 35, which are also analysed but no re-rating has been provided.

1. Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.
2. First enhanced follow-up report, available at https://rm.coe.int/moneyval-2022-12-fur-ge/1680a92f17.
3. 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.

8. Annex A provides the description of country's compliance with each Recommendation that is reassessed, set out by criterion, with all criteria covered. Annex B provides the consolidated list of remaining deficiencies of the re-assessed Recommendations.

III. CONCLUSION

9. Overall, in light of the progress made by Georgia since its MER or 1st Enhanced FUR was adopted, its technical compliance with the Financial Action Task Force (FATF) Recommendations has been re-rated as follows:

Table 1. Technical compliance with re-ratings, December 2023[4]

R.1	R.2	R.3	R.4	R.5
PC (FUR2 2023) ~~PC (MER)~~	LC (MER)	C (MER)	LC (MER)	LC (MER)
R.6	R.7	R.8	R.9	R.10
PC (FUR2 2023) ~~PC (MER)~~	PC (FUR2 2023) ~~PC (MER)~~	NC (MER)	C (MER)	LC (MER)
R.11	R.12	R.13	R.14	R.15
LC (MER)	**C (FUR2 2023)** ~~PC~~	C (MER)	LC (MER)	PC (FUR2 2023) ~~PC (MER)~~
R.16	R.17	R.18	R.19	R.20
LC (MER)	LC (MER)	LC (MER)	LC (MER)	LC (MER)
R.21	R.22	R.23	R.24	R.25
C (MER)	PC (FUR2 2023) ~~PC (FUR1 2022)~~ ~~PC (MER)~~	PC (FUR2 2023) ~~PC~~	PC (MER)	PC (MER)
R.26	R.27	R.28	R.29	R.30
LC (MER)	LC (MER)	PC (FUR2 2023) ~~PC (FUR1 2022)~~ ~~PC (MER)~~	LC (FUR1 2022) ~~PC (MER)~~	C (MER)
R.31	R.32	R.33	R.34	R.35
LC (MER)	LC (MER)	LC (MER)	LC (MER)	PC (FUR2 2023) ~~PC (FUR1 2022)~~ ~~PC (MER)~~
R.36	R.37	R.38	R.39	R.40
LC (MER)	LC (MER)	LC (MER)	C (MER)	LC (MER)

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

10. 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, in December 2024.

4. Recommendations with an asterisk are those where the country has been assessed against the new requirements following the adoption of its MER or FUR.

Annex A: Reassessed Recommendations

Recommendation 1 – Assessing risks and applying a risk-based approach

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (no upgrade requested)
FUR2	[2023]	[PC] (upgrade requested, maintained at PC)

1. These requirements were added to the FATF Recommendations when they were revised in 2012 and therefore were not assessed under the 4th Round mutual evaluation of Georgia, which occurred in 2012.

2. Georgia was rated PC in the 5th round of evaluations. Since then, Georgia introduced amendments to the AML/CFT Law (adopted on 16 May 2023) in order to enhance the compliance with R.1.

3. **Criterion 1.1** – In accordance with the 2014-2017 AML/CFT Strategy and the Action Plan adopted by the Government (Decree N236 from 18 March 2014), Georgia launched its first national risk assessment (NRA) to identify and assess the Money laundering/terrorist financing (ML/TF) risks for the country. The NRA was finalised and published on 30 October 2019. A new NRA was initiated in 2023 but has not yet been adopted. The FATF "National Money Laundering and Terrorist Financing Risk assessment" and the WB NRA public guidance informed the methodological basis for conducting the NRA. The NRA incorporates sectorial ML/TF risk assessment conducted by the National Bank of Georgia (NBG). This covers assessment of the risks specific to each sector of financial institutions supervised by the NBG, for the period from 2020 to 2022. The assessment of the ML/TF risks is based on analysis of a range of quantitative and qualitative information gathered from the public sector and the private sector (through supervisory inspections and surveys conducted by means of thematic questionnaires filled in by the financial sector representatives). As was noted under Immediate Outcome 1, Georgia made a considerable effort to ensure that the NRA includes in-depth analysis of threats and vulnerabilities faced by the country. Analysis of the draft NRA demonstrates that gaps remain in considering the impact of some inherent contextual factors that may influence the risk profile of a country, such as integrity levels in the public and private sectors, informal economy/ prevalence of cash, presence of foreign and domestic politically exposed persons (PEPs) and their associates, geographical, economic, demographic, and other factors. There is no proper assessment of specific ML risks in, for example, the real estate sector;, trade-based ML (including in the free industrial zones of Georgia); and the use of non-profit organisation (NPOs) for ML. Authorities improved assessment of potential TF risk, but did not appropriately consider especially trade-based TF, the origin and destination of financial flows, threats other than terrorism itself (e.g., trafficking of arms, smuggling of migrants, drug trafficking, etc.). There is only a general analysis of ML/TF risks related to virtual asset service providers (VASPs), collective investment funds and fund managers or trust and service company providers (TCSPs). The NRA does not consistently analyse data for the same period of time, some analysis covers the period starting from 2019, and others from 2020.

4. Whilst the overall risk assessment in the NRA 2019 may seem reasonable, this could not be said for all the sectorial risks. In the NRA 2019, only gambling and legal persons were assessed as presenting the highest ML risk (medium-high), whereas analysis of the country's ML/TF typologies indicated also the frequent use of bank accounts, remittance services provided by non-bank financial institutions, the use of real estate and cash.

5. **Criterion 1.2** – As of 2023 the Inter-Agency Council is the designated body responsible for co-ordinating the ML/TF risk assessment. It consists of all national authorities involved in combating ML/TF and is chaired by the Financial Monitoring Service of Georgia (FMS).

6. **Criterion 1.3** – The NRA shall be updated as required, but at least once in every 3 years (AML/CFT Law, Art. 5(3)). The first NRA was adopted in 2019 and the second NRA is planned to be

adopted in 2023. This demonstrates that the frequency for updating the NRA does not match the legislator's expectations.

7. In addition, the NBG is required to conduct sectoral risk assessments and assess the risk of individual institutions annually or more frequently (NBG Supervisory Framework on AML/CFT,[5] Art. 5(10) and Art. 8(2)).

8. **Criterion 1.4** – The NRA report is a public document and shall be published, except for parts including sensitive information (AML/CFT Law, Art. 5(4)). In addition, the task force to be created within the Standing Interagency Commission shall promptly inform obliged entities about ML/TF risks (AML/CFT Law, Art. 6(3(f)).

9. The NBG provides the outcomes of its annual sectoral analysis of ML/TF risks (apart from confidential parts) to supervised financial institutions (FIs) through the AML/CFT off-site Supervision Portal and shares these with the FMS, and where appropriate, other competent authorities (NBG Supervisory Framework on AML/CFT, Art. 8(7), Art. 21(2)).

10. **Criterion 1.5** – Objectives of the NRA include among others: (i) implementing legislative, institutional, and other required measures to manage risks identified at the national and sectorial levels; and (ii) prioritising the allocation of resources for the purposes of facilitating the prevention of ML/TF crime (AML/CFT Law, Art. 5(2)). However, deficiencies in the comprehensive identification and reasonable assessment of ML/TF risks by the Georgian authorities (cf. c. 1.1 and Immediate Outcome 1) may limit the ability to allocate resources adequately to risks and implement appropriate prevention and mitigation measures at a national level. On the basis of NRA findings, six priority tasks were identified by the authorities to promote effective management of ML/TF risks. However, the link between these six priority tasks and national and sectorial risks identified in the report (e.g., fraud (medium-high threat), cybercrime (medium threat), gambling sector (medium-high risk), legal persons (medium-high risk), banking sector (medium risk) and payment service providers (PSPs) (medium risk), were not always apparent.

11. In parallel, Georgia adopted a National Strategy of Georgia of 2019-2021 on the Fight against Terrorism and its three-year Action Plan, that envisages implementation of measures to combat TF. In April 2023, the Government adopted "The 2023-2026 National Strategy for Facilitating the Prevention, Detection and Suppression of ML/TF, as well as the Financing of the Proliferation of Weapons of Mass Destruction" and "The Action Plan 2023-2026 for the Implementation of the National Strategy for Facilitating the Prevention, Detection and Suppression of ML/TF, as well as the Financing of the Proliferation of Weapons of Mass Destruction". Those Strategy and the Action Plan are to be updated after the NRA 2023 is finalised and adopted.

12. At an individual level, the General Prosecutor's Office adopted a Strategy for 2017-2021, which was followed by a new Strategy for 2022-2027, highlighting among other tasks, a periodic assessment of the risks of ML/TF and allocation of resources to ensure that these are mitigated. Also, "National Counterterrorism Strategy for 2022-2026" and its corresponding Action Plan were approved in January 2022. According to the Strategy and its Action Plan, one of the objectives envisaged by Terrorism Prevention Pillar is the prevention of financing of terrorist and violent extremist organizations and groups. The NBG is required to distribute the supervisory resources and apply supervisory measures in accordance with identified risks (NBG Supervisory Framework on AML/CFT, Art. 1(4)).

13. **Criterion 1.6** (a) & (b) – The AML/CFT framework of Georgia provides for the possibility to exempt fully or partially a number of activities designated under the FATF Recommendations. As such, among the sectors that are not designated as obliged entities under the AML/CFT Law: (i) real estate agents; and (ii) TCSPs. Exemptions are, however, either not supported by a risk assessment or

5. Order N 297/04 of the Governor of the National Bank of Georgia on Approving the Supervisory Framework of the National Bank of Georgia on Combating Money Laundering and Financing of Terrorism.

are not in line with the NRA results, and they do not occur in strictly limited and justified circumstances. Georgia introduced amendments into the AML/CFT Law (adopted on 16 May 2023) designating VASPs, collective investment funds and fund managers, accountants that are not certified and accountants when providing legal advice as obliged entities.

14. With respect to AML/CFT requirements applied to obliged entities recognised as such by the legislation (AML/CFT Law, Art.3), exceptions from certain provisions can be granted through the regulation of FMS, in "strictly limited" circumstances, when the ML/TF risks are low. Such an exception shall be appropriately grounded, and be applicable in strictly defined circumstances, and to particular types of obliged entities or activities (AML/CFT Law, Art. 9(1-2)).

15. **Criterion 1.7** –

(a) Georgia requires obliged entities to take enhanced measures to manage and mitigate "higher" ML/TF risks, which include high-risk customers, PEPs, unusual transactions, high-risk jurisdictions, reinsurance, and correspondent relationships (AML/CFT Law, Art 18-23).

(b) Obliged entities shall have regard to the NRA report, guidance and recommendations issued by the FMS and supervisory authorities when assessing their ML/TF risks (AML/CFT Law, Art. 8(6)).

16. **Criterion 1.8** – Obliged entities are allowed to apply simplified measures in relation to "lower – risk" customers, and for that, they shall obtain sufficient information to determine the reasonableness of considering a customer as lower-risk (AML/CFT Law, Art. 24).

17. **Criterion 1.9** – The AML/CFT Law sets forth requirements for obliged entities to assess and manage their ML/TF risks. It determines the supervisory authority for each category of obliged entity (AML/CFT Law, Art. 4), and sets out a requirement for the supervisory authorities to ensure that provisions of the AML/CFT Law and relevant regulations are implemented by obliged entities (AML/CFT Law, Art. 38(1)). See analysis of R.26 and R.28 for more information. Deficiencies under R.26 and 28 have an impact on Georgia's compliance with this criterion.

18. **Criterion 1.10** – Obliged entities are required to assess their ML/TF risks (taking into account their customers, beneficial owners, their location and nature of business, products, services, transactions, delivery channels, and other risk factors) (AML/CFT Law, Art. 8(2)).

(a) The AML/CFT Law explicitly requires that risk assessments shall be documented. FIs supervised by the NBG are required to document the outcomes of their ML/TF risk assessment (Art. 8(2), as amended on 16 May 2023).

(b) Obliged entities are required to implement effective systems for the assessment and managing of ML and TF risks having regard to the nature and size of their business (AML/CFT Law, Art 8(1). The NBG further clarifies that supervised FIs shall apply a methodology that would ensure complete analysis of ML/TF risks (NBG Guideline on organisational and group ML/TF Risks, Art. 5(3(b)). These FIs are required to assess the risks related to their business structure and model of organisation, and risk related to clients, products and services, transactions, delivery channels, geographical area, etc. (NBG Guideline on ML/TF risk assessment, Art 4(3)). Risk assessment shall be followed by a decision about the measure to address the identified risks, which can include both risk-control, and risk-prevention measures (NBG Guideline on organisational and group ML/TF Risks, Art.6; NBG Guideline on ML/TF risk assessment, Art. 4(4)).

(c) Obliged entities are required to periodically update their ML/TF risk assessment (AML/CFT Law, Art. 8(2)). The NBG further clarifies that for its supervised FIs, ML/TF risk analysis is an uninterrupted cycle (NBG Guideline on organisational and group ML/TF Risks, Art 3(1)), which should be conducted at least once a year, but not less than once every two years (if justified that there was no considerable change). In exceptional circumstances, the NBG can determine another timeframe and regularity (NBG Guideline on ML/TF risk assessment, Art. 4(5)).

(d) Obliged entities are required, upon request, to demonstrate to the supervisory authority that ML/TF risks were appropriately assessed, and effective measures taken to manage those risks (AML/CFT Law, Art. 8(7)). The NBG further clarifies that supervised FIs shall present a documented risk analysis to the NBG upon request (NBG Guideline on organisational and group ML/TF Risks, Art. 5(5)).

19. **Criterion 1.11** –

(a) Obliged entities are required to implement policies, procedures and internal controls, which are consistent with the nature and size of their business and associated ML/TF risks (AML/CFT Law, Art. 29(1)). These shall be approved by the governing body or a person with managing authority (AML/CFT Law, Art. 29(2)). The person with managing authority is implicitly: (i) the partner(s) in a partnership; and (ii)director(s), in a limited liability company, a joint-stock company and co-operative (Law on Entrepreneurs, Art. 9(1)).

(b) Obliged entities are required to have independent audits to test the effectiveness of the control systems and designate a member of their governing body or a person with management authority who shall be responsible for the effectiveness of the controls (AML/CFT Law, Art. 29 (2(d) and 5)), and enhance them if necessary.

(c) Obliged entities are required to implement effective measures (AML/CFT Law, Art 8(5)), which would include application of enhanced measures for managing ML/TF risks. In order to mitigate ML/TF risks, they shall apply enhanced due diligence (EDD), and other effective measures where higher ML/TF risks are identified (AML/CFT Law, Art 18-23).

20. **Criterion 1.12** – Obliged entities are allowed to apply simplified measures in relation to "lower-risk" customers, and for that, they shall obtain sufficient information to determine the reasonableness of considering a customer as lower-risk. Application of simplified measures is prohibited when there is a suspicion of ML/TF.

Weighting and conclusion

21. Deficiencies identified in the identification and assessment of ML/TF risks by Georgia, and application of exemptions have a bearing on the rating. **R.1 remains rated partially compliant.**

Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (no upgrade requested)
FUR2	[2023]	[PC] (upgrade requested, maintained at PC)

22. In the 4th round MER of 2012, Georgia was rated PC on SR. III. Several deficiencies were identified, including that the courts were able to review the merits of each case in the context of designations under United Nations Sanctions Committee Resolutions (UNSCR) 1267 and had the power to lift a freezing order made pursuant to the same resolution. There were doubts regarding the ability to implement targeted financial sanctions "without delay" for designations under both UNSCR 1267 and 1373, and on the processes in place to grant access to frozen funds for necessary or extraordinary expenses in line with the requirements under UNSCR 1452.

23. Georgia was rated PC in the 5th round of evaluations. Since then, Georgia has revised its legislation. Currently the legal framework for implementation of the targeted financial sanctions (TFS) consists of the AML/CFT Law (Chapter X) adopted on 30 October 2019, and the Government Decree N 487 on "Establishment of the Interagency Commission on Implementation of the United Nations Security Council Resolutions" from 21 December 2011, with the latest amendments introduced on 5 June 2023.The latter also adopts the Statute of the Governmental Commission for Implementation of United Nations Security Council Resolutions (Commission Statute). Where provisions of these legal acts differ from one of the other, the evaluation team, governed by the hierarchy of legal acts, takes into account the provisions of the AML/CFT Law (Law on Normative Acts, Art.7).

24. **Criterion 6.1** – In relation to designations pursuant to UNSCR 1267/1989 and 1988 sanctions regimes:

(a) Georgia has identified the Governmental Commission on Enforcement of UNSCRs (Commission) as the competent authority responsible for proposing designation of persons or entities to the UNSC Committees 1267/1989 and 1988 (AML/CFT Law, Art. 40 and 43).

(b) Georgia has established a mechanism for identifying targets for designation pursuant to UNSCR 1267/1989 and 1988. The Working Group of the Commission on the basis of the competent authority's proposal submits to the Committee information and evidence on persons and entities for designation. When proposing designations to the UNSC Committees, the Commission shall consider if criteria set by the respective UNSCRs are met (AML/CFT Law, Art. 43(1); Commission Statute, Art. 4(b), and Art. 6; Rules and Procedure for Compiling Lists of Persons Involved in Terrorism and/or Terrorist Financing" ("Rules and Procedures"), Art. 1(3), Art.2(1-3) and Art.4).

(c) The Commission shall apply an evidentiary standard of proof of "reasonable suspicion" when deciding whether or not to make a proposal for designation (AML/CFT Law, Art. 43(1)). In addition, the Rules and Procedures stipulate that when deciding on the person or entity the Commission concludes whether the presented information and evidence is sufficient to convince an objective observer on the person's connection with the financing of terrorism regardless of presence of criminal proceedings (Rules and Procedure, Art. 1(3) and Art. 4).

(d) The Commission shall follow the procedures and use standard forms for listing, as adopted by the respective UNSCR (AML/CFT Law, Art. 43(2)).

(e) When submitting a designation proposal, the Commission shall include sufficient information to identify the person (AML/CFT Law, Art. 43(2)). In addition, the appeal submitted to the UN Sanctions Committee shall include information necessary to identify the person, relevant circumstances of the case, and as detailed as possible information on the grounds for designation of the person or entity (Rules and Procedures, Art. 2(4)). There is nothing that

prohibits Georgia to specify whether its status as a designating state may be made known should a proposal be made to the 1267/1989 Committee.

25. **Criterion 6.2** – In relation to designations pursuant to UNSCR 1373:

(a) Georgia has identified the Commission as the competent authority responsible for designating persons or entities pursuant to the UNSCR 1373, as put forward either by Georgia or by foreign states (Commission Statute, Art. 4(b), and Art. 6(4)).

(b) Georgia has a mechanism for identifying targets for designation pursuant to UNSCR 1373. Measures in place include obligation of the Commission to promptly examine an application of the working group made on the basis of a competent authority's initiative, and to decide based on UNSCR 1373 designation criteria to list, request additional information or reject the application. The legislation stipulates also the basis for the competent authority to initiate the application to the Commission. (AML/CFT Law, Art. 41(2); Commission Statute, Art.4(b(b) and Art. 6(4); Rules and Procedures, Art-s. 3-4).

(c) The Commission promptly examines a request of a competent authority of a foreign state on the application of measures referred to in the UNSCR 1373 (2001), and provided that there is a reasonable suspicion that a person meets the appropriate criteria referred to in the UNSCR 1373 (2001), the Commission takes a respective decision on application of measures pursuant to UNSCR 1373 or refusal of the request. (AML/CFT Law, Art. 2(p)(r) and Art. 41 (2-3)).

(d) The Commission shall apply an evidentiary standard of proof of "reasonable suspicion" when deciding whether or not to designation a person (AML/CFT Law, Art. 41(3)). In addition, the Rules and Procedures stipulate that when deciding on the person or entity the Commission concludes whether the presented information and evidence is sufficient to convince an objective observer on the person's connection with the financing of terrorism regardless of presence of criminal proceedings (Rules and Procedure, Art. 1(3) and Art. 4).

(e) The Commission, if necessary, decides to request another country to give effect to the actions initiated under its freezing mechanisms. The Commission shall adopt a form for addressing the competent jurisdiction of another state, which shall ensure that the request is substantiated and contains information sufficient for the identification of the person. (Commission Statute, Art. 6(5-6)). The form was adopted by the Commission in April 2023 and contains basic information on the listed person and on identity. While it does not explicitly require filling in specific information supporting the designation (e.g., grounds for designation), the authorities clarified that this is expected to be provided under the section "other additional information".

26. **Criterion 6.3** –

(a) The Commission shall, within its competence, co-operate and exchange information with competent authorities and international organisations. The Task Force operating under the Commission shall collect, process and disseminate information required for performing the Committee's functions (AML/CFT Law, Art. 40(3-4)).

(b) The Commission shall operate ex-prate when proposing designation to the respective UNSC Committee, when dealing with the requests of the domestic and foreign state authorities (AML/CFT Law, Art. 41 (2) and Art. 43(1)). There is no legal or judicial requirement for the involved competent authorities to hear or inform the person or entity against whom a designation is being considered.

27. **Criterion 6.4** – Georgia implements the TFS without delay. The UN Resolutions on prevention, detection and suppression of TF adopted under the Chapter VII of the UN Charter are binding in Georgia. These are enforced from the moment of publication of those (inclusions, removals and amendments to information on designated persons and entities) on the official website of the UN Sanctions Committee (AML/CFT Law, Art.41(1)).

28. With respect to UNSCR 1373, no provision is available that decisions of the Commission on designating persons or entities pursuant to UNSCR 1373 are binding for all natural and legal persons within the country and shall be applied without delay. Decisions of the Commission enter in force upon signing the minutes of the meeting and shall be published within 2 working days (Rules and Procedure, Art.3(5-6)).

29. **Criterion 6.5** – Georgia identified the Committee, as a competent authority responsible for implementing and enforcing the TFS.

(a) There is no explicit requirement under the Georgian legislation for all natural and legal persons within the country to "freeze" (as defined in the FATF Glossary), without delay and without prior notice, the funds or other assets of designated persons and entities.

The authorities advise that, the National Bureau for Enforcement regularly checks the UN sanctions lists of designated persons and includes the designated person or entity in the Debtors' Registry, and from there all natural and legal persons are required to comply immediately with the freezing order. However, except for the "banking institutions" (see following paragraph), there is no legislation provided that would confirm this statement.

Respectively, once the person is included in the Debtors' Registry, there is an explicit requirement for the "banking institutions", no later than the following banking day to notify about the accounts and its' balance and freeze it (Law on Enforcement Proceedings, Art. 19.2(3)). It is, however, unclear which type of entities are covered under the term "banking institution". "No later than the following banking day" does not amount to action taken "without delay". There is no similar obligation set in the legislation for any other natural or legal person with respect to information displayed in the Debtors' Registry.

If so requested by the National Bureau for Enforcement, all administrative authorities, bank institutions, natural and legal persons, being in a contractual relationship with the debtor shall furnish it with information on the debtor's property condition, revenues, bank accounts, balance, and cash flow of such accounts (Law on Enforcement Proceedings, Art.17(2)). This however does not amount to freezing without delay, and without prior notice.

Moreover, within the scope of the Law on Enforcement Proceedings, enforcement measures cannot be applied with respect to a number of objects (e.g., financial collateral, settlement account of a systemically important payment system, assets on nominal holder accounts of securities market intermediaries, pension assets etc.) (Art. 2.1).

(b) In accordance with the AML/CFT Law (Art. 41(4)), a reference to the assets under Chapter X regulating actions of the Committee, including UNSCR 1373, fully extends to all types of funds and other assets covered under (i) to (iv) of this sub-criterion, that are owned or controlled, directly or indirectly, wholly or jointly. There is an express application to funds or assets belonging to people who are acting on behalf of, or at the direction of, designated persons. When it comes to obligation to freeze, however, there are limitations indicated above, in c.6.5(a) with respect to property upon which enforcement measures cannot be applied.

(c) The obliged entities are prohibited from establishing or continuing a business relationship or concluding/carrying out an occasional transaction if there are reasonable grounds to suspect that a customer or any other party to a transaction is one of the persons referred to in c. 6.5(b) (AML/CFT Law, Art. 10(7)). This requirement while largely in line with the FATF standards put additional threshold of a "reasonable grounds to suspect". Limitation under the Law on Enforcement Proceedings (Art. 2.1) as explained under c. 6.5(a) apply. Except for this, there is no explicit prohibition extending to the nationals of Georgia, including any persons and entities within its jurisdiction, to take the preventive measures set out under this criterion. The CC, Art. 331.1 criminalises TF. The TF offence, however, requires the proof

of intention by the defendant, whereas the prohibition on making funds or other assets available does not have a "mens rea" requirement.

(d) Georgia does not have a mechanism for communication of designations to the financial sector and the designated non-financial business and professions (DNFBPs) immediately upon taking such action, but the obliged entities are advised to consult the UN consolidated list of targeted sanctions independently (UNSCR Implementation Guideline, Section 1.1.1, 3.1.4). Obliged entities are provided with a UNSCR Implementation Guideline adopted by the Commission on 26 April 2023.

(e) The obliged entities are prohibited from establishing or continuing a business relationship or concluding/carrying out an occasional transaction if there are reasonable grounds to suspect that a customer or any other party to a transaction is one of the persons referred to in c. 6.5(b), and required to submit to FMS a report on suspicious transaction or an attempt to prepare, conclude or carry out a suspicious transaction (AML/CFT Law, Art. 10(7), Art. 25(1)). This, however, does not amount to reporting to the FMS any assets frozen.

Respectively, "banking institutions" shall notify the Debtors' Registry about the accounts and its' balance and shall freeze these (Law on Enforcement Proceedings, Art. 19.2(3)) (see. c.6.5(a)). Limitation under the Law on Enforcement Proceedings (Art. 2.1) as explained under c. 6.5(a) apply.

(f) The Administrative Procedures Code (APC) specified that, upon reviewing the motion of the Commission, the judge shall take into account the rights of "bona fide" third parties to the property subject to freezing (Art. 21.32, Para. 3). This provision of the APC is repealed from March 2021 with the view to adopt amendments to AML/CFT Law vesting the Commission with the powers to protect the rights of "bona fide" third parties. Amendments to the AML/CFT Law are yet to be adopted.

30. **Criterion 6.6** – Georgia has publicly known procedures to submit de-listing requests to UNSC Committees 1267/1989 and 1988 and UNSCR 1373.

(a) The Commission is the competent authority of Georgia for submitting requests for removal of persons designated pursuant to UN Sanctions Regimes (AML/CFT Law, Art. 43(4); Commission Statute, Art. 8)). The Commission shall, at appropriate times, but at least once a year or upon a grounded request of an interested party, examine if sufficient grounds for listing of persons still exist. If not, the Commission shall take necessary measures to immediately submit the proposal to the respective UNSC Committee (AML/CFT Law, Art. 43(3, 5)).

(b) The Commission is the competent authority of Georgia for taking a decision on de-listing of persons and unfreezing of assets under the UNSCR 1373. The Commission shall, at appropriate times, but at least once a year or upon a grounded request of an interested party, examine if the grounds for listing still exist. If not, Commission shall take a decision for lifting the freezing order (AML/CFT Law, Art. 42 (1-3)).

(c) An interested party listed under the 1373 UNSCR regime can submit a request for de-listing to the Commission (AML/CFT Law, Art. 42 (1)). An interested party also has the right to appeal the decision of the Commission either to Commission or to the court (Commission Statute, Art. 8).

(d) & (e) The Commission shall ensure that interested parties are informed about a UN mechanisms for examining petitions on removing a relevant person from the list of sanctioned persons in line with the procedures adopted by the UNSCR 1267/1989 and 1988 Committees, including those of the Focal Point mechanism established under UNSCR 1730, and Office of the Ombudsperson, pursuant to UNSCRs 1904, 1989, and 2083 (AML/CFT Law, Art, 43(6)).

(f) At a request of an interested party Commission verifies whether the person is a designated entity and if not, takes a decision on the release of the frozen assets (Commission Statute, Art. 8(4)).

(g) The deficiencies described in the analysis of c.6.5 (d) with regard to the mechanisms for communicating designations to obliged entities apply in respect of compliance with this criterion. There is no guidance provided to covered FIs and other persons or entities, including DNFBPs that may be holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action.

31. **Criterion 6.7** – The AML-CFT Law (Article 42 (3)) provides for mechanisms through which the Commission, upon due notification of, and no-objection from the respective UN Committee, may partially lift the freezing order on assets frozen under UNSCRs, if that is necessary to cover a person's basic expenses, including payments for foodstuffs, rent, mortgage, medicines and other medical treatment, taxes and public utility charges, legal aid and maintenance of frozen assets.

32. The AML Law (Article 42 (4)) provides for mechanisms through which the Commission, upon due notification of, and approval from the respective UN Committee, may partially lift the freezing order on assets frozen under UNSCRs, for the extraordinary expenses.

33. The Commission is vested with the rights to take decision on the partial removal of order on freezing of assets and for access to funds or other assets frozen pursuant to UNSCR 1373 (Commission Statute Art.9(6)).

Weighting and conclusion

34. Georgia has made a serious effort to improve compliance with the relevant UN instruments on freezing of terrorist assets. There are, however, still some moderate shortcomings in the system, the ones weighted more heavily related implementation of TFS under UNSCR 1373, requirements for natural and legal persons to freeze the assets of persons designated by the UN and domestically, protection of "bona fide" third parties and communication of designations without delay. **R.6 remains rated partially compliant.**

Recommendation 7 – Targeted financial sanctions related to proliferation

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (no upgrade requested)
FUR2	[2023]	[PC] (upgrade requested, maintained at PC)

35. These requirements were added to the FATF Recommendations when they were revised in 2012 and, therefore, were not assessed under the 4th round mutual evaluation of Georgia in 2012. Until October 2019 there was no explicit legislative basis secured for implementation of the proliferation financing (PF)-related UNSCRs. The amended AML/CFT Law clarified the mandate of the Commission and requirements for the obliged entities with respect to implementation of the PF-related UNSCRs.

36. Georgia was rated PC in the 5th round of evaluations. Since then, Georgia introduced amendments to the AML/CFT Law (adopted on 16 May 2023) in order to enhance the compliance with R.7.

37. **Criterion 7.1** – Georgia implements the TFS without delay. The UN Resolutions on prevention, detection and suppression of financing of terrorism adopted under the Chapter VII of the Charter of the United Nations are binding in Georgia. These are enforced from the moment of publication of those (inclusions, removals and amendments to information on designated persons and entities) on the official website of the UN Sanctions Committee (AML/CFT Law, Art.41(1)). (see c.6.4).

38. **Criterion 7.2** – Georgia identified the Committee as competent authority responsible for implementing and enforcing the TFS.

(a) The regulatory framework and the identified deficiencies as described under c.6.5(a) apply.

(b) The regulatory framework and the identified deficiencies as described under c.6.5(b) apply.

(c) The regulatory framework and the identified deficiencies as described under c.6.5(c) apply.

(d) The regulatory framework as described under c.6.5(d) applies. Obliged entities are provided with a UNSCR Implementation Guideline adopted by Commission on 26 April 2023.

(e) The regulatory framework and deficiencies as described under c.6.5(e) apply.

(f) The APC specified that, upon reviewing the motion of the Commission, the judge shall take into account the rights of "bona fide" third parties to the property subject to freezing (Art. 21.32, Para. 3). This provision of the APC is repealed from March 2021 with the view to adopt amendments to AML/CFT Law vesting the Commission with the powers to protect the rights of "bona fide" third parties. Amendments to the AML/CFT Law are yet to be adopted.

39. **Criterion 7.3** – As proliferation of mass destruction falls under the scope of the AML/CFT Law adopted in 2019, the regime of monitoring/sanctions applied to the compliance of AML/CFT obligations (Chapter IX) is also applied to obligations related to proliferation. Specific sanctions for breaching the obligations on prohibition from establishing or continuing a business relationship or concluding/carrying out an occasional transaction and reporting are set in the respective sectorial legal acts as follows: for banks - Order 242/01 of the President of NBG Art 2.1; for Microfinance Organisations (MFOs) – Order 25/04 of the President of NBG, Art. 2.2; for PSPs - Order 87/04 of the President of NBG, Art. 2; for Currency Exchange bureaus - Order 25/04 of the President of NBG, Art. 5; Securities Market Participants - (brokers and securities registrars) - Order N35/04 of February 14, 2012 of the Governor of NBG, Art. 5; for Non-Bank Depository Credit Unions (Credit Unions) - Order N257 of the President of NBG, Art. 6.; for the Investment funds - Order N70/04, 2022 of the President of NBG, Art. 2 ; for the Lending entities –Order N218/04, 2018 (changes introduced on 22.12.2020) of the President of NBG Art. 2. No information is provided on specific sanctions applied to covered DNFBPs, and sanctions envisaged for failure to comply with the Law on Enforcement Proceedings.

40. In addition, the Criminal Code (CC) Art. 377 criminalises "Unlawful acts related to inventoried or seized property or property subject to forfeiture"**.**

41. **Criterion 7.4** – Georgia has publicly known procedures to submit de-listing requests to respective UNSC Committees dealing with the PF-related designations.

(a) The Commission shall ensure that interested parties are informed about a UN mechanism for examining petitions on removing a relevant person from the list of sanctioned persons (AML/CFT Law, Art, 43(6)).

(b) The APC specified that, upon reviewing the motion of the Commission, the judge shall take into account the rights of "bona fide" third parties to the property subject to freezing (Art. 21.32, Para. 3). This provision of the APC is repealed from March 2021 with the view to adopt amendments to AML/CFT Law vesting the Commission with the powers to protect the rights of "bona fide" third parties. Amendments to the AML/CFT Law are yet to be adopted.

(c) Pursuant to AML/CFT Law (Article 42 (3-4)) the Commission ensures access to funds or other assets in line with exceptions provided under the UNSCRs 1718 and 2231.

(d) The deficiencies described in the analysis of c.7.2 (d) with regard to the mechanisms for communicating designations to obliged entities apply in respect of compliance with this criterion. There is no guidance provided to covered FIs and other persons or entities, including DNFBPs that may be holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action.

42. **Criterion 7.5** –

(a) An overall prohibition set for the obliged entities from continuing a business relationship or concluding/carrying out an occasional transaction if a customer or any other party to a transaction is one of the persons referred to in c.7.2(b) suggests that any type of additions to such accounts are prohibited too (AML/CFT Law, Art. 10(7)). Hence, Georgia does not permit any form of additions to the frozen accounts.

(b) According to article 42 (5) of the AML/CFT Law, based on grounded motion of an interested party and in compliance with the requirements and conditions of the relevant UNSCRs on non-proliferation, the Commission is authorised to lift the sanctions on funds and assets of designated person or entity, which are necessary to make payments due under a contract entered into prior to the listing of such person or entity.

Weighting and conclusion

43. Georgia has made a serious effort to improve compliance with the relevant UN instruments on freezing of terrorist assets. There are, however, still some moderate shortcomings in the system, the ones weighted more heavily related to communication of TFS and amendments therein without delay, requirements for natural and legal persons to freeze the assets of persons designated by the UN, lack of information on sanctions to be applied to DNFBPs for failing to comply with the requirements and sanctions envisaged for failure to comply with the Law on Enforcement Proceedings, and no permission for additions to the accounts. **R.7 remains rated partially compliant.**

Recommendation 12 – Politically exposed persons

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (no upgrade requested)
FUR2	[2023]	[↑C] (upgrade requested)

44. In the 4th round MER of 2012, Georgia was rated LC on R.6. The definition of close business relationship with PEPs did not cover legal arrangements. Since then, there have been a number of changes to the AML/CFT Law, including most recently on 30 October 2019.

45. Both foreign and domestic PEPs are defined as a natural person who has been entrusted with prominent public or political functions. They are: heads of State or of government, members of government (ministers) and deputies, and heads of government institutions; members of legislative bodies; heads and members of governing bodies of political parties; members of supreme courts, constitutional courts and other high-level judicial bodies, the decisions of which are not subject to further appeal save in exceptional circumstances; general auditors and deputies, and members of the courts of auditors; members of boards of central (national) banks; ambassadors and chargés d'affaires; high ranking officers in defence (armed) forces; heads and members of governing bodies of State-owned enterprises; and heads, deputies and members of governing bodies of international organisations (AML/CFT Law, Art. 21(1)).

46. Georgia was rated PC in the 5th round of evaluations. Since then, Georgia introduced amendments to the AML/CFT Law (adopted on 16 May 2023) in order to enhance the compliance with R.12.

47. **Criterion 12.1** –

(a) Covered FIs are required to identify, through an appropriate risk management system, whether the customer or the beneficial owner (BO) is a PEP (AML/CFT Law, Art. 21(4)).

(b) Covered FIs are required to obtain approval from senior management on establishing or continuing the business relationship with the customer (AML/CFT Law, Art. 21(3)(a)).

(c) Covered FIs are required to take reasonable measures to establish the source of wealth and the source of funds of the customer and the BO (AML/CFT Law, Art. 21(3)(b)).

(d) Covered FIs are required to conduct enhanced monitoring of the business relationship with a PEP (AML/CFT Law, Art. 21(3)(c)).

48. Where a person is no longer entrusted with a prominent public or political function, then "effective measures" should be taken to manage risk (AML/CFT Law, Art. 21(4)).

49. **Criterion 12.2** (a) & (b) – The same provisions that apply to foreign PEPs also apply to domestic PEPs and persons entrusted with a prominent function by an international organisation.

50. **Criterion 12.3** – PEP requirements apply also to family members of PEPs and persons having "close business relations" with PEPs (AML/CFT Law, Art. 21(5)). Family member is defined as being the spouse, sibling, parent, children (including stepchildren) and their spouses (AML/CFT Law, Art. 21(5) and FMS Regulation for Banks, Art. 2) including persons that are family members through other forms of partnership than marriage. A close business relationship includes a natural person who has joint beneficial ownership of a legal person or legal arrangement, or who is the BO of a legal person or legal arrangement set up for the benefit of the PEP (AML/CFT Law, Art. 21(5)) and includes persons that are closely connected to a PEP socially or politically.

51. **Criterion 12.4** – Covered FIs are required to take reasonable measures to determine whether the beneficiaries and/or, where required, the BO of the beneficiary, are PEPs. Such measures must take place no later than the time of pay out. Where higher ML/TF risks are identified, then there is a requirement to inform senior management, conduct enhanced ongoing monitoring of the whole business relationship and to consider making a STR (AML/CFT Law, Art. 21(6)).

Weighting and conclusion

52. **R.12 is rated compliant.**

Recommendation 15 – New technologies

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (no upgrade requested)
FUR2	[2023]	[PC] (upgrade requested, maintained at PC)

53. In the 4th round MER of 2012, Georgia was rated PC on R.8, as electronic payment system was not covered by the AML/CFT Law, including pay box and electronic money institutions.

54. Amended R.15 focusses on assessing risks related to the use of new technologies, in general, and imposes a comprehensive set of requirements in relation to VASPs. The FATF revised R.15 in October 2018 and its interpretative note in June 2019 to require countries to apply preventative and other measures to virtual assets (VAs) and VASPs. In October 2019 (just before the on-site visit), the FATF agreed on the corresponding revisions to its assessment Methodology and began assessing countries for compliance with these requirements immediately.

55. Georgia was rated PC in the 5th round of evaluations. Since then, Georgia introduced amendments to the AML/CFT Law (adopted on 16 May 2023) and introduced a regulatory framework for the VASP sector.

56. **Criterion 15.1** – There is explicit requirement to identify and assesses ML/TF risks that may arise from developing technologies (AML/CFT Law, Art.8, para.3).

57. The NRA 2019 includes a chapter on risk presented by new products, services and delivery channels but the country has not fully identified and assessed the ML/TF risks of technology. However, the NBG is continuously identifying and analysing risks related to technology developed or used by covered FIs, including e-commerce, electronic wallets and provision of custodian services for VAs. The draft NRA contains more comprehensive analysis.

58. **Criterion 15.2** –

(a) Covered FIs are required to undertake risk assessments prior to making changes (AML/CFT Law, Art.8(3)).

(b) Covered FIs are required to implement effective measures for managing and mitigating identified ML and TF risks (AML/CFT Law, Art. 8(5)).

59. **Criterion 15.3** –

(a) The draft NRA 2023 contain a general assessment of ML/TF risks emerging from VA activities and the activities or operations of VASPs in Georgia. Sectoral risk assessment conducted by the NBG supplements the findings by concluding that the risks in the sector are high and identifying as a main risk the lack of regulatory framework and supervision, and impediments to implementation of a "travel tule". This risk assessment does not reflect on the current risks pertinent to the not yet registered, but long-term operating market.

(b) Georgia introduced the regulatory framework for VAs and VASP activities, requirements for registration and operation of the VASP, the supervisory powers and standards. This is in line with the country's understanding of the main risk in the sector. This measure aims at mitigating and preventing ML/TF. Nevertheless, the current scope of the risk assessment has an impact here.

(c) VASPs are designated as obliged entity and are required to take appropriate steps to identify, assess, manage, and mitigate their ML/TF risks (AML/CFT Law, Art.3(a.n.), Art. 8, Art-s 18-23, Art.29; Organic Law on NBG, Art. 2(z^{18}-z^{21})). See also c.1.10 and 1.11.

60. **Criterion 15.4** –

(a) In Georgia the VASP shall be registered with the NBG (Organic Law on the NBG, Art.52.5). A VASP can only be a legal entity (Limited Liability Company or Joint Stock Company) established and registered per Georgian legislation, and it is entitled to carry out virtual asset services in Georgia.

(b) The NBG takes the necessary legal or regulatory measures to prevent criminals and their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, a VASP (Organic Law on NBG, Art.48(4), and Rule for the VASP registration at the NBG, cancellation of registration, and regulation (Rule on VASPs), Art.3).

61. **Criterion 15.5** – In Georgia, there is a prohibition for operating as a VASP without appropriate registration with the NBG (Organic Law on NBG, Article 52^5 (3)). In addition, carrying out illegal entrepreneurial activities (including VA services) without registration, is punished under CC (Art 192). Whilst there is no concrete sanction prescribed for application and no procedure set, when unauthorised provision of VASP services is identified, the NBG issues a warning, requests the termination of the service, and reports the information to LEAs. The NBG's mandate does not extend any further with respect to unauthorised business.

62. **Criterion 15.6** –

(a) Supervision of VASPs shall be performed on a risk-sensitive basis. The nature and frequency of inspections shall be determined based in the nature and size of business of the obliged entity, and associated ML/TF risks (AML/CFT Law, Art. 38(2)). For the purposes of preventing and combatting ML/TF, the NBG shall supervise the activities of an entity subject to supervision applying the risk-based approach (Organic Law on the NBG, Art.48($4.^2$)).

(b) The NBG is the designated entity for supervision of VASPs (AML/CFT law, Art.4(c)). The NBG shall ensure that provisions of the AML/CFT Law and relevant regulations are implemented by VASPs through off-site and/or onsite inspections (AML/CFT Law, Art. 38(1)). To perform supervision the NBG is authorised to issue appropriate decrees and orders, implement relevant measures, give written instructions, set additional requirements and limitations, apply supervisory measures and/or sanctions (Organic Law on the NBG, Art.48(3)). For the purposes of inspection or determining ML/TF risk, supervisors are authorised to request and obtain required information (documents) (including confidential information) from obliged parties (AML/CFT Law, Art. 38(3), Organic Law on NBG, Art. 48(5)). The NBG is empowered to impose a range of disciplinary and financial sanctions, including the power to withdraw, restrict or suspend the VASP's license or registration (Organic Law on the NBG, Art.48(4.1), Art.$52.^5$ and Rule on VASPs, Art, 6).

63. **Criterion 15.7** – The NBG, in order to ensure registration of the VASPs and further application of the legislative framework, established a website with the basic information on the regulatory framework and a feedback system for responding the queries of the new population of obliged entities. In addition, the NBG had developed some guidelines for the supervised entities on application of electronic identification and verification of customers, identification and verification of the ownership and control structure and BO of the customer. No guideline is designed to take into consideration the specific features of services provided by the VASPs when implementing the AML/CFT requirements, including for detecting and reporting suspicious transactions.

64. **Criterion 15.8** (a) & (b) – The NBG is authorised to terminate or restrict specific types of activities/operations of the VASPs and the representative of the financial sector that in accordance with the legislation regulating activities is entitled to implement VASP services (including the types of VAs), as well as a business relationship with other VASPs that pose increased risks related to ML/TF and/or the risk of the evasion of international financial sanctions, hinder the traceability and/or supervision of the carried out transactions. The NBG is authorised to impose sanctions (including monetary fines) on the VASPs and the administrator thereof for violation of AML/CFT

legislation and the legal acts of the NBG in accordance with the procedure determined by the NBG. An administrator is defined as a member of the supervisory board, a member of the board of directors and a person who is authorised independently or with one or several other persons to take up responsibilities on behalf of the covered FI (senior management) (Organic Law on the NBG Article 2 (z[13]). Nevertheless, there is no legislative act that would specify the application of specific sanctions, including fines for specific breaches of the AML/CFT Law, as it is done for other entities under the NBG supervision. In case of a violation of AML/CFT legislation, the NBG is empowered to suspend an administrator's executive powers, require their dismissal and impose monetary penalties thereon (Organic Law on NBG, Art. 48(4[1]c)).

65. **Criterion 15.9 –** VASPs are subject to AML/CFT requirements. Respectively, deficiencies in Rec-s.10 and 14-20 as per the MER apply to VASPs.

(a) The occasional transactions designated threshold above which VASPs are required to conduct customer due diligence (CDD) is USD/EUR 1,000(AML/CFT Law, Art.11(b)).

(b) (i)-(iii) – A VASP shall ensure that the transfer and/or receipt of convertible virtual asset is accompanied by data as prescribed by the rule of the supervisory authority (AML/CFT Law, Art. 17.[1]). Authorities advised that as per transitional provisions, the NBG shall define the information accompanying the transfer of virtual assets before 1 January 2024.

(c) No information is provided on the obligations to be applies to FIs when sending or receiving virtual asset transfers on behalf of a customer. Authorities advised that as per transitional provisions, the NBG shall define the information accompanying the transfer of virtual assets before 1 January 2024.

66. **Criterion 15.10** – As a reporting entity, regulations for implementation of the UN TFS sanctions apply to VASPs equally. The regulatory framework and deficiencies as described in c. 6.5(d), 6.5(e), 6.6(g), 7.2(d), 7.2(e), 7.3 and 7.4(d) equally apply here.

67. **Criterion 15.11** – Competent authorities can exchange information with their foreign counterparts as set out under R.37 to R.40 (subject to limitations on the availability of information), therefore deficiencies under R.37, R.38 and R.40 also apply.

Weighting and conclusion

68. Georgia had taken serious steps for ensuring its compliance with R.15. This includes measures to comply with the requirements related to application of new technologies, and regulation of the VASP activities. There, are nevertheless, some shortcomings that remain among which are application of sanctions and adequacy of those, setting requirement for VA transfers, common deficiencies with implementation of preventative measures, TFS and international co-operation. **R.15 remains rated partially compliant.**

Recommendation 22 – DNFBPs: Customer due diligence

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (upgrade requested)
FUR2	[2023]	[PC] (upgrade requested, maintained at PC)

69. In the 4th round MER of 2012, Georgia was rated NC on R.12. The assessors identified a wide range of deficiencies regarding CDD measures in place for different types of DNFBPs.

70. Georgia was rated PC in the 5th round of evaluations. Since then, Georgia introduced amendments to the AML/CFT Law (adopted on 16 May 2023). The following are now designated as obliged entities: (i) organisers of lotteries, gambling or other commercial games (AML/CFT Law, Art. 3(1)(b.b)); (ii) dealers in precious metals and stones (DPMS) (AML/CFT Law, Art. 3(1)(b.f)); (iii) lawyers that are natural persons rendering professional services independently, law firms and notaries – all when carrying out activities listed under c.22.1(d) (AML/CFT Law, Art. 3(1)(b.a and b.c)); and (iv) certified accountants that are natural persons rendering services independently, certified accountants, accounting firms, auditors that are natural persons rendering professional services independently and audit firms, except when providing legal advice or representing a client in proceedings (AML/CFT Law, Art. 3(1)(b.d and b.e) and (3)). Hereafter (and in R.23) they are referred to as covered DNFBPs.

71. **Criterion 22.1**–

(a) Organisers of lotteries, gambling or other commercial games are required to undertake CDD when: (i) accepting funds or paying winnings above GEL 5,000 or equivalent in foreign currency (EUR 1,700) whether carried out in a single transaction of several linked transactions; or (ii) establishing a business relationship for games organised by electronic means (AML/CFT Law, Art. 11(3)). Casinos are required to set up an electronic data-processing system to detect linked, unusual and suspicious transactions (AML/CFT Law, Art. 27(6)). In order to do so, they must be able to link CDD information for a customer to transactions carried out in a casino*, but* this requirement is not clearly set out in legislation. For online casinos, this shortcoming is partly mitigated by the requirement of Art.7(3/1) of the Gambling Law entrusting the Revenue Service with the implementation of an electronic control system through which adherence to licensing conditions is monitored, including the provision of players' account transactions as stipulated by Art.21 (a.a) of Order N243.

(b) Real estate agents are not designated as obliged entities. Consequently, there are no CDD requirements.

(c) DPMS are required to undertake CDD measures if they carry out a cash transaction above GEL 30,000 or its equivalent in foreign currency (EUR 10,000) whether carried out in a single transaction or in several linked transactions (AML/CFT Law, Art. 11(2)).

(d) Lawyers, law firms, notaries, certified accountants providing professional services, and accounting firms, accountants, auditors and audit firms that are obliged entities are required to undertake CDD measures in line with c.10.2.

(e) TCSPs are not designated as obliged entities. Consequently, there are no CDD requirements.

72. Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.10 (except reference to collective investment schemes and fund managers) are equally applicable to covered DNFBPs, including those applicable to insurance companies and leasing companies. Regulation "On Approval of the Procedure of Identification and Verification of a Customer by Obliged Entity", of June 5, 2020, from the Head of the Financial Monitoring Service, partly mitigates the shortcomings in relation to conduct EDD in higher-risk situations (c.10.17), although its scope is limited to the context of identification and verification of the identity rather than all CDD measures.

73. **Criterion 22.2** – Requirements described in the AML/CFT Law for covered FIs under R.11 are equally applicable to covered DNFBPs.

74. **Criterion 22.3** – Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.12 are equally applicable to covered DNFBPs.

75. **Criterion 22.4** – Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.15 are equally applicable to covered DNFBPs.

76. **Criterion 22.5** – Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.17 are equally applicable to covered DNFBPs. Where R.17 highlights shortcomings applicable to insurance companies and leasing companies, these apply also to DNFBPs. However, the effect of the gap in the application of CDD requirements to some DNFBPs is not considered to be relevant to the rating of this sub-criterion since its effect is to prevent the application of a concession (reliance on someone else to do something) rather than to stop something from being done.

Weighting and conclusion

77. There are no AML/CFT requirements for real estate agents and TCSPs, which is considered to be a moderate shortcoming. This cascades through R.22. In addition, there is not an explicit requirement for casinos to ensure that they are able to link CDD information for a particular customer to the transactions that the customer conducts in the casino. There are also shortcomings in the AML/CFT Law under R.10 and R.17 (described above). **R.22 remains rated partially compliant.**

Recommendation 23 – DNFBPs: Other measures

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (no upgrade requested)
FUR2	[2023]	[PC] (upgrade requested, maintained at PC)

78. In the 4th round MER of 2012, Georgia was rated PC on R.16. The main deficiency was that ML and TF suspicious transaction reporting and the implementation of internal controls did not apply to lawyers, real estate agents, and TCSPs.

79. Georgia was rated PC in the 5th round of evaluations. Since then, Georgia introduced amendments to the AML/CFT Law (adopted on 16 May 2023) to widen the scope of obliged entities. R.22 lists DNFBPs that are covered DNFBPs.

80. **Criterion 23.1** – Except for lawyers (see below), requirements and shortcomings described in the AML/CFT Law for covered FIs under R.20 are equally applicable to covered DNFBPs.

(a) A lawyer shall submit a report to the extent that this does not contradict the principle of professional secrecy as defined by the Law of Georgia on Lawyers (AML/CFT Law, Art. 25(7)). The effect of this is that lawyers must not disclose information obtained in the course of carrying out legal activities without their client's consent (which would constitute tipping-off), and breach of professional secrecy by a lawyer shall entail liability (Law on Lawyers, Art. 7). Accordingly, lawyers do not have a basis for making suspicious transaction report (STR), unless agreed in advance through a contract with the client. A lawyer may disclose confidential information only: (i) with the client's consent; (ii) where the use of such information in the representation or defence process is necessary in the interests of the client and if its disclosure does not preclude the client from seeking counsel; and (iii) if necessary in order to defend himself or herself against an allegation or claim or in the event of a legal dispute (Law on Lawyers, Art. 7). This principle applies to any activity conducted by a lawyer, and not just to information obtained in the course of ascertaining the legal position of a client or in defending or representing a client in proceedings (which is normally covered by professional secrecy provisions) (AML/CFT Law, Art. 2).

(b) DPMS are required to report suspicious transactions when they carry out a cash transaction above GEL 30,000 or its equivalent in foreign currency (EUR 10,000), although shortcomings under R.20 also apply.

(c) TCSPs are not designated as obliged entities. Consequently, there are no requirements set for them.

81. **Criterion 23.2** – Requirements and shortcomings described in the AML/CFT Law for covered FIs under c.18.1 to c.18.3 are equally applicable to covered DNFBPs.

82. **Criterion 23.3** – Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.19 are equally applicable to covered DNFBPs. Where R.17 highlights shortcomings applicable to insurance companies and leasing companies, these apply also to DNFBPs.

83. There is a requirement for casinos to monitor any transaction (operation), regardless of its amount, implemented by a person operating or registered in a "watch" or suspicious zone (FMS Regulation for Casinos). Lawyers, notaries, accountants and auditors are required to take geographical/country risk into account (AML/CFT Law, Art. 19).

84. Every update to the list of watch zone countries is communicated through the NBG website.

85. **Criterion 23.4** – Requirements described in the AML/CFT Law for covered FIs under R.21 are equally applicable to those DNFBPs that are required to report. The effect of the gap in the application of tipping off and confidentiality provisions to some DNFBPs is not considered to be

relevant to the rating of this sub-criterion since its effect is to remove safeguards surrounding STRs that will not have been made.

Weighting and conclusion

86. There are no AML/CFT requirements for real estate agents and TCSPs, which is considered to be a moderate shortcoming. This cascades through R.23. The principle of professional secrecy applies to any activity conducted by a lawyer, which is not in line with the standard, and the effect of these provisions is that a lawyer cannot make a STR unless agreed through contract in advance with their client. There are also shortcomings in the AML/CFT Law under R.20, R.18, and R.19. **R.23 remains rated partially compliant**.

Recommendation 28 – Regulation and supervision of DNFBPs

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (upgrade requested)
FUR2	[2023]	[PC] (upgrade requested, maintained at PC)

87. In the 4th round MER of 2012, Georgia was rated NC on R.24. There was: no supervision of casinos, accountants, and DPMS; no effective, proportionate and dissuasive sanctions for casinos, DPMS, and accountants; no effective, proportionate or dissuasive sanctioning regime for notaries; no mechanism to prevent criminals and their associates owning or controlling a casino; and absence of supervisory powers for the accounting sector supervisor.

88. The following are not designated as obliged persons: (i) real estate agents; and (ii) TCSPs. These are considered moderate shortcomings.

89. Georgia was rated PC in the 5th round of evaluations. Since then, Georgia had introduced amendments to the AML/CFT Law (adopted on 16 May 2023), and the Law on Accounting, Reporting and Audit (adopted on 1 December 2022), enhancing compliance of the country with the FATF Standards.

90. **Criterion 28.1** –

(a) Casinos are required to be licenced and it is prohibited to provide such services without a licence (Law on Organising Lotteries, Games of Chance and Other Prize Games, Art. 5(1)). Licenses are issued by the Revenue Service of the Ministry of Finance (MoF) (Law on Organising Lotteries, Games of Chance and Other Prize Games, Art. 7).

(b) A licence may not be issued where founders, partners, managers and representatives of a casino have been convicted for a serious, economic or financial crime (Art.19(1.1) Law on Games of Chance and Other Prize Games). There is also a general prohibition on founders, partners, managers and representatives of a casino having been convicted for a serious, economic or financial crime (Art.19(1.2) Law on Organising Lotteries, Games of Chance and Other Prize Games). Art.11.10 of the Gambling Law excludes 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 authorised to manage and represent the casino that have been convicted of serious intentional economic crimes. Provisions do not extend to associates of criminals holding significant or controlling interests, holding a management function, or being an operator.

The procedure for obtaining a licence for a casino is also regulated by the Law on Licenses and Permits. This law requires, amongst other things, that the application should be accompanied by an extract from the NAPR register (which includes names of directors and, in the case of a Limited Liability Company, registered shareholders – but see shortcomings identified at c.24.5). Should any information provided at the time of application subsequently change, details should be provided to the licensing authority within 7 days (Law on Licenses and Permits, Art.25(15)). The licencing authority is also required to monitor whether licencing conditions are met on an ongoing basis (Law on Licenses and Permits, Art. 33), hence also the lack of conviction for a crime.

(c) The competent authority for supervising casinos is the MoF (AML/CFT Law, Art. 4) which is responsible for monitoring compliance of casinos with the requirements of the AML/CFT Law (AML/CFT Law, Art. 38)).

91. **Criterion 28.2** – The supervisor for DPMS is the MoF (AML/CFT Law, Art. 4).

92. Lawyers are supervised by the Bar Association, notaries by the Ministry of Justice (MoJ), and auditors, audit firms, certified accountants, accountants providing professional services, and accounting firms by the Service for Accounting, Reporting and Auditing Supervision (SARAS), a state agency subordinate to the MoF (AML/CFT Law, Art. 4(a)).

93. Real estate agents and TCSPs are not designated as obliged entities and, therefore, there is no supervisor.

94. **Criterion 28.3** – Designated supervisory authorities are required to monitor compliance by DNFBPs with their AML/CFT obligations through off-site and on-site inspections (AML/CFT Law, Art. 38(1)). This excludes real estate agents and TCSPs.

95. **Criterion 28.4** –

(a) For the purposes of inspection or determining ML/TF risk, supervisors are authorised to request and obtain required information (documents) (including confidential information) from obliged entities (those include also accountants providing professional services, and accounting firms) (AML/CFT Law, Art. 38(3)). In addition, SARAS has the power to monitor compliance with AML/CFT requirements by certified accountants, accountants providing professional services, and accounting firms, auditors and audit firms (Law on Accounting, Reporting and Auditing, Art. 24(1)). The MoJ has the power to monitor compliance of notaries (Law on Notaries, Art. 10(1)).

(b) A person cannot be a notary (which operate as sole practitioners) where they have been convicted for an intentional crime or prosecuted for committing an intentional crime (Law on Notaries, Art. 14 and 18). An auditor cannot be registered by SARAS if they have a conviction for ML, TF, other economic crimes, and other "heavy or aggravated crimes" (Law on Accounting, Reporting and Auditing, Art.13(4)). In order to be registered by SARAS as an audit firm, more than 50% of the voting rights in the firm should be held by an auditor, audit firm listed in the registry, and/or an audit firm registered in the EU and/or Organisation for Economic Co-operation and Development (OECD) country, and/or individual member(s) of an International Federation of Accountants (IFAC) member organisation in the EU and/or OECD member country. Also, most members in the management body should be auditors (Law on Accounting, Reporting and Auditing, Art.13(5)). An auditor must notify SARAS about any change in information recorded in the registry (Law on Accounting, Reporting and Auditing, Art.13(6)).

Under Article 21.3(1)(d) of the Law on Lawyers, a court judgement on criminal matters against a lawyer is a ground for suspension of membership of the Bar Association. No other information has been provided on fit and proper measures.

No information has been provided by the MoF and SARAS respectively on fit and proper measures applied to DPMS and certified accountants.

(c) SARAS can apply sanctions to certified accountants, accountants providing professional services, and accounting firms, auditors and audit firms for breaches of AML/CFT requirements (Law on Accounting, Reporting and Auditing, Art. 24(1)). See c.35.1. Notaries can also be sanctioned for failure to comply with AML/CFT requirements. See c.35.1.

No information has been provided by the MoF and the Bar Association on sanctions that may be applied to DPMS and lawyers (other than suspension).

96. **Criterion 28.5** – Supervision of DNFNPs must be performed on a risk-sensitive basis. The supervisory authority shall determine the risk level at appropriate times and when significant changes occur in ownership or control (management) structure or activity of the obliged entity (AML/CFT Law, Art. 28(2)). The supervisory authority must also have regard to the NRA report and action plan when determining the risk level of the obliged entity (AML/CFT Law, Art. 28(4)).

(a) The nature and frequency of off-site and on-site inspections shall be determined based on the nature and size of business of the obliged entity and associated ML/TF risks (AML/CFT Law, Art. 38(2)). There is no explicit obligation to consider the diversity and numbers operating in the sector.

(b) Compliance was not demonstrated that supervision of DNFBPs takes into account internal controls, policies and procedures.

Weighting and conclusion

97. There is no regulation and supervision of real estate agents, (see R.22) and TCSPs. There are no, or insufficient, provisions in place to prevent associates of criminals from owning or controlling casinos and sanction are not always available in line with R.35 for failure to comply with AML/CFT requirements. **R.28 remains rated partially compliant.**

Recommendation 35 – Sanctions

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR1	[2022]	[PC] (upgrade requested)
FUR2	[2023]	[PC] (upgrade requested, maintained at PC)

98. In the 4th round MER of 2012, Georgia was rated LC on R.17. Fines were considered too low in nominal terms to be punitive and dissuasive for some categories of violations. Electronic money institutions were not subject to sanctions.

99. Georgia was rated PC in respect of R.35 in the 5th round of evaluations. Since then, Georgia introduced amendments to the AML/CFT Law (adopted on 16 May 2023) to widen the scope of obliged entities. The following are still not designated as obliged persons: (i) real estate agents; and (iv) TCSPs. These are considered moderate shortcomings.

100. **Criterion 35.1** – Sanctions for failing to comply with the AML/CFT Law are set out in the Organic Law on the NBG and other sectorial legislation.

101. The NBG may penalise covered FIs for violations of the AML/CFT Law as follows (Organic Law on the NBG, Art. 48(41)(b) and (c)): (i) termination or restriction on certain types of operations (the effect of which is similar to suspending business activity); (ii) prohibition on distribution of profit, accrual and payment of dividends, rise in salaries, payment of bonuses and other similar compensation; (iii) imposition of monetary penalties; and (iv) de-registration and revocation of licence. It is possible to apply several measures towards an institution/group of institutions simultaneously (NBG Order on the Supervisory Framework of the NBG on Combating ML and TF, Art. 13(5)).

102. In respect of payment service providers, the NBG can apply similar or additional sanctions for breaches of the AML/CFT Law (Law on Payment Systems and Payment Services, Art.46): (i) provide a written warning and/or request to cease and to prevent further breaches and take necessary actions to eliminate the breach in the timeframe given; (ii) impose a pecuniary fine in the amount and according to the procedure established by the NBG; (iii) terminate or restrict active operations, prohibit distribution of profit, accrual, and payment of dividends, raises in salaries, payment of bonuses and other similar compensation; and (iv) revoke the registration.

103. Other sectorial legislation has similar provisions (e.g., Law on MFOs, Art.91, Law on Securities Market, Art.551 and Law on Commercial Bank Activities, Art. 30).

104. For the investment fund sector in particular, a specific framework regulating sanctioning ("Determination, Imposition and Enforcement of Penalties for Investment Fund and Asset Management Companies") is in place since June 2022.

105. Specific details on the imposition of monetary penalties are set out in sector specific orders issued by the Governor of the NBG (Order 70/04 for banks, Order 87/04 for PSPs, Order 25/04 for MFOs and currency exchange bureaus, Order 35/04 for securities market participants and Order 257 for credit unions). Orders set out specific fines for each type of breach. In addition, should the covered FI have already been fined for the same breach in the previous reporting period, the breach is considered a systematic violation and higher thresholds would apply. The legislation does not limit the application of various types of sanctions for various violations identified during one inspection; they will depend on the severity of the violation.

106. The NBG order on penalties concerning banks differentiates between particularly severe, severe and less severe violations and applicable fines are set out for each of these. The fines range between GEL 1,000 (EUR 333) and GEL 20,000 (EUR 6,700). When a breach is considered systematic, fines of up to GEL 30,000 (EUR 10,000) are foreseen. Also, in case that a violation creates a systemic risk of misuse for ML/TF, a fine of not more than 1% of capital but not less than GEL

1,000,000 (EUR 333,333) can be applied. For other sectors (PSPs, microfinance, securities, currency exchange, credit unions) the fines range up to GEL 20,000 (EUR 6,700).

107. In addition, with regard to banks, in case of violation of any applicable legislation (including NBG instructions, decrees, rules, resolutions) and/or conducted operations prohibited by requirements and written instructions of the NBG and/or violation of established restrictions, limits, requirements and prohibitions, the bank is liable to be fined in the amount of 0.01%, 0.05% or 0.1% of supervisory capital applicable to the period when the breach took place, but not less than GEL 20,000 (EUR 6,700) (Order 242/01, Art. 2(3)).

108. The NBG is able also to publish on its website sanctions imposed on obliged entities that it supervises where they relate to a breach of AML/CFT legislation. Published information shall include the sector, type of violation, and sanction imposed. From 1 January 2021, it will also be able to publish the name of the obliged entity (NBG Order on publishing information on the official website of the NBG on the sanctions imposed on the financial sector representative for violation requirements of AML/CFT).

109. With regard to insurers, the Insurance State Supervision Service (ISSS) may apply the following administrative sanctions for violations of the AML/CFT Law (Law on Insurance, Art.211(2)): (i) send a written warning; (ii) introduce special measures or issue instructions (directives) requiring the insurer to stop and prevent any further violations, and to take measures to eliminate the violations in a given period; (iii) impose pecuniary penalties according to the procedures and in the amounts defined by (ISSS); (iv) suspend or restrict the distribution of profits, issuance of dividends and material incentives, and assumption of new obligations; (v) in exceptional cases, when interests of a policyholder and those of an insured are at risk, suspend their right to carry out specific operations or impose a compulsory administration regime; and (vi) cancel the insurance licence.

110. Monetary penalties ranging from GEL 500 (EUR 170) to GEL 2,000 (EUR 670) can be applied (ISSS Rule on Defining, Imposing and Enforcing Monetary Penalty on the Insurer approved by the decree No. 02 of 17 March 2015).

111. For obliged entities supervised by the NBG and ISSS, it is considered that there is a sufficient range of sanctions that can be applied proportionately to greater or lesser breaches of the AML/CFT Law.

112. Regarding DNFBPs, Article 29.1(u) of the Gambling Law 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 licenses and permits", which envisages fines up to GEL 7,000 (approximately EUR 2,500) and, in the case of continued non-compliance, a repeal of the license. Compliance was not demonstrated that sanctions may be applied to leasing companies, lawyers (except suspension) and DPMS for breaching legislation.

113. Notaries can be sanctioned for violations of the AML/CFT Law (Decree 69 of the MoJ on Disciplinary Responsibility of Notaries). These depend on the gravity of the violation and can be an oral warning, a written reprimand, termination of commission, or release from position. It is not clear that this range of sanctions can be applied in a proportionate way, given that there is nothing between a reprimand and exclusion from activity. Certified accountants, and the accounting firms, auditors and audit firms can also be sanctioned for violations of the AML/CFT Law (Law on Accounting, Reporting and Auditing, Art. 24(1)). Authorities advised that, while the legislation does not explicitly state so, this will also include the accountants providing professional services. SARAS has the power to impose a written warning or fine of an amount up to GEL 5,000 (EUR 1,667), and also to suspend or prohibit provision of professional services.

114. Also, the CC (Art. 202.1) provides for criminal liability for the disclosure of the fact that information was filed with the relevant authorities on a transaction subject to reporting. Disclosure shall be punished by a fine and/or with the deprivation of the right to hold an official position or to carry out an activity for up to three years. Where disclosure causes considerable damage, it shall be

punished by imprisonment for up to two years, with deprivation of the right to hold an official position or to carry out an activity for up to three years.

115. **Criterion 35.2** – In case of a violation of AML/CFT legislation, the NBG is empowered to suspend an administrator's executive powers, require their dismissal and impose monetary penalties thereon (Organic Law on NBG, Art. 48(41)(c)). An administrator is defined as a member of the supervisory board, a member of the board of directors and a person who is authorised independently or with one or several other persons to take up responsibilities on behalf of the covered FI (senior management).

116. The level of monetary sanctions applicable to administrators are also set out in the sectorial orders mentioned under c.35.1 issued by the NBG. For banks, administrators can be fined up to GEL 10,000 (EUR 3,333). For other sectors, this is GEL 5,000 (EUR 1,667).

117. The ISSS may suspend the executive authority of an insurer's administrator - member of the senior management of the insurer - and request the supervisory board/general meeting of the insurer to suspend or remove him/her from office (Law on Insurance, Art. 211(1)).

118. No information has been provided about leasing companies and DNFBPs, except notaries and lawyers (which operate as natural persons) and audit firms. In respect of audit firms, sanctions may be applied also to engagement partners. See c.35.1 above.

Weighting and conclusion

119. Sanctions are not available for breaches of the AML/CFT Law by leasing companies, lawyers (except suspension) and DPMS. Sanctions are also not available for DNFBPs not designated as obliged persons (real estate agents and TCSPs) (see R.22, R.23 and R.28). **R.35 remains rated partially compliant**.

Annex B: Summary of Technical Compliance – Deficiencies underlying the ratings

Recommendations	Rating	Factor(s) underlying the rating[6]
1. Assessing risks and applying a risk-based approach	PC (MER) PC (FUR2 2023)	• Gaps exist in considering the impact of some contextual factors (integrity levels in the public and private sectors, informal economy/prevalence of cash, presence of foreign and domestic PEPs and their associates, geographical, economic, demographic and other factors). (c.1.1) • No proper assessment is conducted of specific ML risks in e.g., real estate sector, trade-based ML (including in free industrial zones of Georgia), and use of NPOs for ML. (c.1.1) • Authorities did not fully assess all forms of potential TF risk, especially trade-based TF, the origin and destination of financial flows and. (c.1.1) • There is only a general analysis of ML/TF risks related to VASPs, collective investment funds and fund managers or TCSPs. (c.1.1) • The results of the assessment are not reasonable for all sectorial risks. (c.1.1) • Failure to meet the legislative requirement on the frequency for conducting NRA. (c.1.3) • Deficiencies in the comprehensive identification and reasonable assessment of ML/TF risks limit the ability to allocate resources based on risks and implement appropriate prevention and mitigation measures at a national level. (c.1.5) • The link between the six priority tasks identified on the basis of NRA findings and the national and sectorial risks identified in the report are not always apparent. (c.1.5) • Exemptions for real estate agents and TCSPs, are either not supported by a risk assessment or are not in line with the FATF Standards. (c.1.6(a)-(b)) • Deficiencies under R.26 and 28 have an impact on Georgia's compliance with criterion 1.9 (see below). (c.1.9) ○ c.26.4(b)-c.26.5-c.26.6. The Ministry of Finance does not undertake supervision of leasing companies based on risk. ○ c.26.5(b). The frequency and intensity of the ISSS does not appear to specifically take country risk into account. ○ c.26.5(c). It has not been explained the extent to which the frequency and intensity of the NBG's supervision of a covered FI is affected by the extent to which it applies

6. Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.

		simplified and/or enhanced CDD measures or places reliance on CDD measures already conducted by other obliged entities. ○ c.26.5(c). Information of this sub-criterion has not been provided by other supervisors, besides the NBG. ○ R.28. The following are not designated as obliged persons: (i) real estate agents; and (ii) TCSPs. ○ c.28.4(c). No information has been provided by the MoF and the Bar Association on sanctions that may be applied to DPMS and lawyers (other than suspension). ○ c.28.5(a). There is no explicit obligation to consider the diversity and numbers operating in the sectors. ○ c.28.5(b). It was not demonstrated that supervision of DNFBPs takes into account internal controls, policies and procedures.
6. Targeted financial sanctions related to terrorism & TF	PC (MER) PC (FUR2 2023)	• With respect to UNSCR 1373, no provision is available that decisions of the Commission on designating persons or entities pursuant to UNSCR 1373 are binding for all natural and legal persons within the country and shall be applied without delay. • There is no explicit requirement under the Georgian legislation for all natural and legal persons within the country to freeze, without delay and without prior notice, the funds or other assets of designated persons and entities. (c.6.5(a)) • The freezing obligation does not extend to a number of objects (e.g., financial collateral, settlement account of a systemically important payment system, assets on nominal holder accounts of securities market intermediaries, pension assets etc.). (c.6.5(a)-(b)-(c)-(e)) • The prohibition for obliged entities from establishing or continuing a business relationship or concluding/carrying out an occasional transaction is subject to an additional threshold - "reasonable grounds to suspect". (c.6.5(c)) • There is no explicit prohibition extending to the national of Georgia, including any persons and entities within its jurisdiction, to take the preventive measures set out under this criterion. (c.6.5(c)) • Georgia does not have a mechanism for communication of designations to the financial sector and the DNFBPs immediately upon taking such action. (c.6.5(d)) • Besides Art.19.2(3) of the Law on Enforcement Proceedings in relation to "banking institutions" and the Debtor's Registry, there is no explicit requirement for FIs and DNFBPs to report any assets frozen to the competent authorities. (c.6.5(e)) • No regulation is available on measures which protect the rights of *bona fide* third

		parties acting in good faith when implementing the obligations under Recommendation 6. (c.6.5.(f)) • The deficiencies described in c.6.5(d) with regard to the mechanisms for communicating designations to obliged entities apply in respect of compliance with this criterion. (c.6.6(g)) • There is no guidance provided to FIs and other persons or entities, including DNFBPs, that may be holding frozen funds or other assets, on their obligations to respect a de-listing or unfreezing action. (c.6.6(g))
7. Targeted financial sanctions related to proliferation	PC (MER) PC (FUR2 2023)	• There is no explicit requirement under the Georgian legislation for all natural and legal persons within the country to freeze, without delay and without prior notice, the funds or other assets of designated persons and entities. (c.7.2(a)) • The freezing obligation does not extend to a number of objects (e.g., financial collateral, settlement account of a systemically important payment system, assets on nominal holder accounts of securities market intermediaries, pension assets etc.). (c.7.2(a)-(b)-(c)-(e)) • The prohibition for obliged entities from establishing or continuing a business relationship or concluding/carrying out an occasional transaction is subject to an additional threshold - "reasonable grounds to suspect". (c.7.2(c)) • There is no explicit prohibition extending to the national of Georgia, including any persons and entities within its jurisdiction, to take the preventive measures set out under this criterion. (c.7.2(c)) • Georgia does not have a mechanism for communication of designations to the financial sector and the DNFBPs immediately upon taking such action. (c.7.2(d)) • Besides Art.19.2(3) of the Law on Enforcement Proceedings in relation to "banking institutions" and the Debtor's Registry, there is no explicit requirement for FIs and DNFBPs to report any assets frozen to the competent authorities. (c.7.2(e)) • No regulation is available on measures which protect the rights of *bona fide* third parties acting in good faith when implementing the obligations under Recommendation 7. (c.7.2(f)) • There are no specific sanctions to apply to covered DNFBPs, and sanctions envisaged for failure to comply with the Law on Enforcement Proceedings. (c.7.3) • The deficiencies described in the analysis of c.7.2(d) with regard to the mechanisms for communicating designations to obliged entities apply in respect of compliance with this criterion. (c.7.4(d))

		• There is no guidance provided to FIs and other persons or entities, including DNFBPs, that may be holding frozen funds or other assets, on their obligations to respect a de-listing or unfreezing action. (c.7.4(d)) • Georgia does not permit any form of additions to the frozen accounts. (c.7.5(a))
12. Politically exposed persons	PC (MER) C (FUR2 2023)	
15. New technologies	PC (MER) PC (FUR2 2023)	• The draft NRA 2023 includes a chapter on risk presented by new products, services and delivery channels. (c.15.1) • There is no comprehensive assessment of ML/TF risks emerging from VA activities and the activities or operations of VASPs in Georgia. (c.15.3(a)) • There is no concrete sanction prescribed for application and no procedure set, when unauthorised provision of VASP services is identified, (c.15.5) • Competent authorities have not prepared sector specific guidelines which will assist VASPs in applying national measures to combat ML/TF, and, in particular, in detecting and reporting suspicious transactions. (c.15.7) • There is no legislative act that would specify the application of specific sanctions, including fines for specific breaches of the AML/CFT Law, as it is done for other entities under the NBG supervision (c.15.8(a)) • Deficiencies in Rec-s.10-11 and 14-20 as per the MER apply to VASPs. (c.15.9) • In relation to the application of R.16 for virtual asset transfers, there is no requirement to ensure that: (c.15.9(b)) (i) originating VASPs obtain, and hold required and accurate originator information and required beneficiary information on virtual asset transfers, submit the above information to the beneficiary VASP or financial institution (if any) immediately and securely, and make it available on request to appropriate authorities; (ii) beneficiary VASPs obtain, and hold required originator information and required and accurate beneficiary information on virtual asset transfers, and make it available on request to appropriate authorities; (iii) other requirements of R.16 (including monitoring of the availability of information, and taking freezing action and prohibiting transactions with designated persons and entities) apply on the same basis as set out in R.16; and (iv) the same obligations apply to financial institutions when sending or receiving virtual asset transfers on behalf of a customer. • Deficiencies in in criteria 6.5(d), 6.5(e),

		6.6(g), 7.2(d), 7.2(e), 7.3 and 7.4(d) apply here. (c.15.10) • Deficiencies under R.37 to 40 apply (see below). (c.15.11) ○ c.37.8. There is no legal provision to compel the production of non-computerized records apart from search and seizure. ○ c.38.1. Certain types of predicate offenses (CC Art. 189, 189.1, 219, 229.1, 268, 270, 291, 293, 294, 296, 297, 298), if not having have less rigorous sanctions for a core offence. ○ c.38.2(b). The mechanism for the management and disposal of the seized and frozen assets in order to avoid their dissipation before their possible confiscation provided by the CPC does not extend to property seized under criminal or civil proceedings. ○ c.40.2(d). Competent authorities do not have formal prioritization processes in place.
22. DNFBPs: Customer due diligence	PC (MER) PC (FUR1 2022) PC (FUR2 2023)	• Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.10 (except reference to collective schemes and fund managers) are equally applicable to covered DNFBPs (see below) (c.22.1(a)-(d)). ○ c.10.7(b). There is no requirement to collect new information in order to support relevant ongoing monitoring. ○ c.10.9. Where a relationship is established with a trustee in respect of a foreign legal arrangement, there is no expectation to obtain a copy of the trust deed. • A requirement to link CDD information for a customer to transactions carried out in a casino is not clearly set out in the law, even if the requirement of Art.7(3/1) of the Gambling Law partly mitigates the shortcoming for online casinos. (c.22.1(a)) *(changes as per FUR1 November 2022).* • • Real estate agents (c.22.1(b)), and TCSPs (c.22.1(e)) are not designated as obliged entities, consequently there are no CDD, record-keeping (c.22.2), PEP (c.22.3) or new technologies (c.22.4) requirements for them. • Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.17 are equally applicable to covered DNFBPs (see below) (c.22.5). ○ c.17.1(c). No requirement for DNFBPs to satisfy themselves that a third party/intermediary has measures in place to comply with R.10 and R.11. ○ c.17.2. No prohibition from relying on a third party registered or operating in a high-risk jurisdiction. ○ c.17.3(c). No requirement to ensure that the group-wide AML/CFT controls are

		sufficiently adequate.
23. DNFBPs: Other measures	PC (MER) PC (FUR2 2023)	• Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.20 are equally applicable to covered DNFBPs (see below). (c.23.1) ○ c.20.1. The concept of "reasonable suspicion" is not defined. ○ c.20.1. The TF offence does not fully meet the requirement under c.5.2bis, as financing of travel and training is confined to the crossing of the Georgian border only (CC, Art. 331.1). • Real estate agents are not designated as obliged entities. Consequently, there are no requirements set for them. (c.23.1) • Lawyers do not have a basis for making STRs unless agreed in advance through a contract with the client. (c.23.1(a)) • • TCSPs are not designated as obliged entities. Consequently, there are no requirements set for them. (c.23.1(c)) • Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.18 are equally applicable to covered DNFBPs (see below). (c.23.2) • Not all FIs are required to ensure that the compliance officer shall be at a position equal to the senior hierarchy (management) level in the organisational chart. (c.18.1(a)). • It is not possible to share information with the audit function that tests the system (c.18.2(b)). • Real estate agents and TCSPs are not designated as obliged entities. Consequently, there are not requirements set for them. (c.23.2) • Requirements and shortcomings described in the AML/CFT Law for covered FIs under R.19 are equally applicable to covered DNFBPs (see below). (c.23.3) ○ c.19.1. The application of EDD to higher risk countries is linked to triggers not foreseen in the standard. ○ c.19.1. The EDD requirement does not apply in a case where a legal person operates, or is administered, in a high-risk jurisdiction. ○ c.19.2. There are no countermeasures foreseen with respect to refusing the establishment of subsidiaries, branches or representative offices. • Real estate agents and TCSPs are not designated as obliged entities. Consequently, there are not requirements set for them. (c.23.3)
28. Regulation and supervision	PC (MER)	• Prohibitions do not extend to associates of criminals holding significant or controlling

of DNFBPs	PC (FUR1 2022) PC (FUR2 2023)	interests, holding a management function, or being an operator of a casino (c.28.1(b)) *(changes as per FUR1 November 2022).* • Real estate agents and TCSPs are not designated as obliged entities and, therefore, there is no supervisor and no system for monitoring compliance with AML/CFT requirements (c.28.2) (c.28.3). • No information has been provided by the MoF and SARAS respectively on fit and proper measures applied to DPMS and certified accountants (c.28.4(b)). • No information has been provided by the MoF and the Bar Association on sanctions that may be applied to DPMS and lawyers (other than suspension) (c.28.4(c)). • There is no explicit obligation for supervisors to consider the diversity and numbers operating in a particular sector when determining the nature and frequency of inspections (c.28.5(a)). • It was not demonstrated that supervision of DNFBPs takes into account internal controls, policies and procedures (c.28.5(b)).
35. Sanctions	PC (MER) PC (FUR1 2022) PC (FUR2 2023)	• It has not been demonstrated that civil or administrative sanctions may be applied to leasing companies, lawyers (except suspension) and DPMS for breaching AML/CFT legislation (c.35.1) *(changes as per FUR 1 November 2022)*. • It has not been demonstrated that a proportionate range of sanctions can be applied to notaries (c.35.1). • Real estate agents and TCSPs are not designated as obliged entities. Consequently, there are no sanctions set that can be applied. Doubts remain whether the accountants that are not certified accountants and accounting firms can be sanctions for the breach of AML/CFT legislation. (c.35.1). • No information has been provided in relation to sanctions applicable to directors and senior management of leasing companies and DNFBPs, except notaries and lawyers (which operate as natural persons) and audit firms (c.35.2).

GLOSSARY OF ACRONYMS

AML/CFT	Anti-money laundering and combating financing of terrorism
APC	Administrative Procedures Code
BO	Beneficial owner/beneficial ownership
C	Compliant
CC	Criminal Code
CDD	Customer due diligence
DNFBPs	Designated non-financial business and professions
DPMS	Dealers in precious stones and metals
EDD	Enhanced due diligence
EU	European Union
FATF	Financial Action Task Force
FIs	Financial institutions
FMS	Financial Monitoring Service
FUR	Follow-up report
GEL	Georgian lari
ISSS	Insurance State Supervision Service
LC	Largely compliant
MER	Mutual evaluation report
MFO	Microfinance Organisation
MoF	Ministry of Finance
MoJ	Ministry of Justice
ML	Money laundering
NBG	National Bank of Georgia
NC	Non-compliant
NPO	Non-profit organisation
NRA	National risk assessment
OECD	Organisation for Economic Co-operation and Development
PC	Partially compliant
PEP	Politically exposed person
PF	Proliferation financing
PSP	Payment service provider
SARAS	Service for Accounting, Reporting and Auditing Supervision
SR	Special recommendation
STR	Suspicious transaction report
TC	Technical compliance
TCSP	Trust and service company provider
TF	Terrorist financing
TFS	Targeted financial sanctions
UN	United Nations
UNSCR	United Nations Sanctions Committee Resolutions
VA	Virtual asset
VASP	Virtual asset service provider

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Follow-up report

Anti-money laundering and counter-terrorist financing measures -

Georgia

2nd Enhanced Follow-up Report &

Technical Compliance Re-Rating

This report analyses Georgia's progress in addressing the technical compliance deficiencies identified in the September 2020 assessment of their measures to combat money laundering and terrorist financing.

The report also looks at whether Georgia has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2020 assessment.