

# Georgia

## Fifth Round Mutual Evaluation Report Executive Summary

1. This report summarizes the anti-money laundering counter financing of terrorism (AML/CFT) measures in place in Georgia as at the date of the on-site visit from 4 - 15 November 2019. It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Georgia's AML/CFT system and provides recommendations on how the system could be strengthened.

### *Key Findings*

1. In recent years, Georgia has made some significant improvements to its AML/CFT system, including developing the National Risk Assessment (NRA), addressing technical deficiencies in legislation and by-laws, taking steps to strengthen co-operation between law enforcement agencies (LEAs) and the Financial Monitoring Service (FMS), and refining mechanisms for implementation of the United Nations Security Council Resolutions (UNSCRs). Many of these improvements were introduced just ahead of the on-site visit. While these have a positive impact on technical compliance, such timing has challenged to a large extent Georgia's ability to demonstrate the effect of these improvements on the AML/CFT systems.

2. Georgia displays a fair understanding of many of its ML and TF risks. The level of risk understanding varies across the public sector, the highest being demonstrated by the FMS, the National Bank of Georgia (NBG), the General Prosecutor's Office (GPO) and the State Security Service (SSS). Shortcomings exist regarding identification and deepening analysis of some threats and vulnerabilities and subsequent understanding of some of the ML/TF risks. The NRA does not fully consider some inherent contextual factors. The overall risk assessment in the NRA may seem reasonable, but not for all the sectorial risks. This will impact the proportionate allocation of resources. Exemptions are either not supported by a risk assessment or are not in line with the NRA results, and they do not occur in strictly limited and justified circumstances. The NRA findings have not all yet been transposed into national policies and activities. Competent authorities co-operate and co-ordinate on ML/TF matters with good spirit, but not routinely and comprehensively enough, and not to the necessary degree regarding proliferation financing (PF).

3. LEAs collect financial intelligence and other relevant information from a wide range of various sources (including from obliged entities and the NBG), and use it to conduct investigations of predicate offences and detecting their proceeds, but to a lesser extent with regard to investigation of ML. Before October 2019, LEAs' access to financial intelligence held by the FMS was very limited followed by a lack of understanding by several LEAs as to the core role of the FMS and the potential

analysis it can produce and provide. Since then, powers of some LEAs were enhanced, but only regarding ML/TF and drug offences. A requirement to obtain a court order (based on probable cause) to request financial intelligence from the FMS hinders effective collaboration between the FMS and the LEAs in supporting investigation of ML-related predicate offences. The GPO Criminal Prosecution of Legalisation of Illegal Income Division (GPO AML Division) is the only LEA primarily focused on detection and investigation of ML, and the only one that prevalently uses financial intelligence for investigation of ML. Other LEAs use financial intelligence mostly to investigate proceeds generating crimes and only rarely to investigate complex ML cases. LEAs make good use of financial intelligence spontaneously disseminated by the FMS for investigation of ML/TF and associated predicate offences. Most cases that demonstrated use of FMS disseminations were related to laundering the proceeds of fraud, being in line with the risk profile of Georgia. FMS operational analysis is usually conducted efficiently but frequently not comprehensively enough. FMS conducts limited strategic analysis. Georgia has taken efforts to enhance the quality of suspicious transaction reports (STRs) in recent years, but concerns remain. Exposure of bank employees to court proceedings is a matter of concern.

4. When potential ML is detected, it is investigated effectively using a range of investigative techniques, primarily by the AML Division at the GPO. There have been some successful cases involving high asset values and complex factors. However, potential ML cases are not sufficiently detected, and the overall number of investigations is modest compared to predicate criminality. The cases that have been taken forward are in line with the country's risk profile only to some extent. There are no legal or structural impediments to taking forward ML prosecutions. The court system is efficient. Georgia has achieved convictions for all types of ML. However, there is low number of convictions involving complex ML. In addition, the proportion of convictions for legal persons is lower than would be expected given that the use of legal persons features in most of the cases. This, together with an overall conviction rate of almost 100% for ML, indicates that prosecutors may be too cautious about the cases they take forward. Georgia effectively applies other criminal justice measures in cases where ML convictions cannot be secured for justifiable reasons.

5. Once detected, TF is generally investigated and prosecuted well using a range of investigative techniques. The majority of TF investigations are triggered by STRs (mostly a match with a terrorism-related sanctions list). There is scope to raise awareness of different types of TF among the LEAs (other than SSS and supervising prosecutors at the GPO) and private sector in order to further increase the detection of potential TF that is linked to other offences. There have been 2 TF prosecutions, involving different types of TF activity resulting in multiple convictions. TF is well integrated into counter-terrorism strategies and investigations, and Georgia makes effective use of alternative measures. Sanctions applied to the persons convicted of TF are sufficiently effective, proportionate and dissuasive.

6. Georgia recognises the importance of confiscation and has the necessary regime in place to address this. Tracing and preserving assets is strongly promoted as a policy objective and measures have been taken to improve effectiveness in this area. While there are concerns about the application of provisional measures in some cases, Georgia has achieved a significant level of confiscation overall, and a wide range of criminal proceeds and instrumentalities is being confiscated, including property in third party hands. No assets outside the jurisdiction have been confiscated (although some cases are pending). The application of value-based confiscation is limited and there are concerns about the understanding of some authorities in this respect. Confiscation results reflect the risks in Georgia to some extent. Georgia's declaration system for cross-border movements of cash or

BNIs is not being enforced effectively, as the proportion of non-declared or falsely declared cash or BNIs that is confiscated (or indirectly removed from the party in breach through a fine) is very low.

7. Georgia has a new legislative framework for implementation of the TF and PF UNSCRs. This has addressed the majority of previous deficiencies related to implementation of the TF-related targeted financial sanctions (TFS) and secured the legal basis for implementing PF – related TFS. Georgia implements UN TFS on TF and PF with a significant delay, this mostly explained by the multi-step national mechanism adopted by the country, involving many national actors. Though delays are shortened as a result of the revised legislative framework, this is still not in line with the notion of implementation of UN TFS without delay – within a matter of hours. Mostly due to the private sector’s responsiveness, weaknesses in the national mechanism do not have a fundamental impact on the system. Detected false positive matches indicate the capability of the obliged entities to prevent assets from being used for TF. Once an STR is filed, it is given a high level of attention by the FMS and the SSS, the latter investigating each notification. Despite having persons convicted for terrorism (T) and TF, Georgia has not designated any within the assessment period.

8. The level of understanding of risks highlighted in the NRA and/or outlined in the AML/CFT Law and guidance notes, was generally good for financial institutions (FIs). Understanding of other ML/TF risks that are not referred to in these sources is more limited, but more sophisticated in the banking sector. FIs which are part of large European Union (EU) groups or large banking and other financial groups have put in place internal systems and controls which effectively mitigate ML/TF risks. However, the risks presented by the high level of cash circulation in Georgia is underestimated. Significant gaps were observed in the application of customer due diligence (CDD) measures by most designated non-financial businesses and professions (DNFBPs) and National Agency of Public Registry (NAPR) for the property sector. Banks account for the majority of STRs, and the number of reports in this sector (and amongst banks in the sector) seems reasonable. The types of reports made also point to active monitoring of customer activity. Other FIs meet their reporting obligations to a moderate extent. The number of reports amongst DNFBPs has been very low, including for casinos (despite a surge in reports in 2019) and it is not clear that reporting obligations are met in practice.

9. The NBG applies robust “fit and proper” entry checks for the FIs under its supervision (including broad consideration of reputation of the applicant), as well as on-going scrutiny of licencing requirements. It has a comprehensive understanding of sectorial and individual institution risks and applies a fully risk-based supervisory approach through a separate and well-resourced unit. The approach of the Insurance State Supervision Service (ISSS) is broadly similar. The Ministry of Finance (MoF) does not undertake any AML/CFT supervision of casinos in practice and technical deficiencies in licencing requirements seriously undermine their effectiveness in preventing criminals or their associates from controlling or managing a casino. The application of “fit and proper” entry checks amongst other DNFBPs is mixed, and the level of AML/CFT supervision is insufficient and uneven. The NBG’s use of its sanctioning powers appears effective, proportionate and dissuasive. The use of sanctioning powers by other supervisors, however, cannot be considered effective, proportionate and dissuasive. The NBG and ISSS have made a demonstrable difference to the level of compliance in the sectors under their supervision by, e.g., providing extensive guidance and supervisory feedback. The Ministry of Justice (MoJ) and Service for Accounting, Reporting and Auditing Supervision (SARAS) have worked with the FMS with some success to enhance awareness of risk and requirements, whilst other supervisors mainly rely on the FMS.

10. Setting up a legal person in Georgia is straightforward and all information that is necessary for registration is publicly available. Due to the ease of founding a legal person, “gate-keepers” (such as notaries, lawyers or accountants) are often not involved. Whilst the NRA report provides a description of the framework in place and highlights cases where legal persons, particularly limited liability companies (LLCs), have been abused, the authorities have not demonstrated effective identification and analysis of threats and vulnerabilities, though it is universally understood that the use of “fictitious” LLCs in criminal schemes constitutes a significant ML risk. Three mechanisms are available to obtain information on beneficial ownership (BO) of legal persons established in Georgia. In practice, these cannot be relied upon in all cases to provide adequate, accurate and current BO information.

11. Georgia has a sound legal framework for international cooperation and has mechanisms in place to conduct it. Georgia demonstrated effective cooperation in providing and seeking information, using both formal and informal channels, with a wide range of foreign jurisdictions.

### ***Risks and General Situation***

2. Georgia is not a regional or international financial centre. Georgia’s finance sector is dominated by two large commercial banks. It also has sizeable gambling and real estate activities – representing 14.7% and 11.4% of GDP respectively. The virtual asset service providers (VASPs) are operating in the country but have not been regulated yet. There is no official information on the size of the VASP sector. Cash is the main means of payment in Georgia. Most legal persons are owned by individuals and fewer than 20% have foreign ownership. Nevertheless, there has been abuse of “fictitious” (shell) companies in Georgia.

3. According to the NRA, Georgia is exposed to medium ML risks. The range of ML activities include third party ML, cash-based ML, and abuse of legal persons (involved in complex criminal schemes). The main proceeds generating predicate offences are fraud, followed by cybercrime, drug trafficking, tax evasion, organised crime, corruption and human trafficking. Whilst most of these criminal activities are committed domestically, fraud, cybercrime and drug trafficking have also a transnational character. Bank accounts and remittance services provided by microfinance organisations and payment service providers (PSPs) are the most common means used to launder criminal proceeds. These sectors nevertheless are considered by the authorities to pose medium and medium-low ML risks respectively.

4. According to its NRA (2019), TF risk in Georgia is low. The incidence of Georgian nationals fighting in Iraq and Syria has sharply reduced due to action taken by the authorities. Organisations supporting terrorist ideology have not been identified. Some convictions achieved by Georgia involve different types of TF activity, involving support provided by Georgian citizens to an international terrorist and his associates.

### ***Overall Level of Effectiveness and Technical Compliance***

5. MONEYVAL adopted its fourth-round mutual evaluation report (MER) in July 2012. Georgia was rated partially compliant with 7 core and key FATF Recommendations and partially compliant or non-compliant with 17 other Recommendations. The country began implementing important reforms immediately after adoption of the report, including the adoption of the AML/CFT Strategy and Action Plan in 2014. It has made several amendments to its legislation, including adoption of a new AML/CFT Law. Despite these efforts, Georgia is compliant or largely compliant with 27 of the 40

Recommendations. In particular, there are weaknesses in assessment and mitigation of risks (R.1), the application of TFS (R.6 and R.7), regulation of non-profit organisations (NPOs) (R.8), definition of family members and close associates of politically exposed persons (PEPs) (R.12), regulation and supervision of VASPs and DNFBPs (R.15, R.22, R.23 R.28 and R.35), misuse of legal persons and arrangements (R.24 and R.25), and FMS powers to share information with law enforcement agencies (R.29). The most serious concern to be raised during the follow-up process to the fourth round MER related to former SR.III (now R.6), which continues to be partially compliant.

6. A moderate level of effectiveness has been achieved in implementing all areas covered by the FATF Standards, except for international cooperation (substantial), investigation and prosecution of TF offences (substantial) and prevention of terrorists, terrorist organisations and financiers from raising, moving and using funds and abusing the NPO sector (low).

***Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33 & R.34)***

7. Georgia displays a fair understanding of many of its ML and TF risks. Shortcomings exist with regard to identification of some threats and vulnerabilities and subsequent understanding of some of the ML/TF risks. The level of risk understanding varies across the public sector. Highest levels of understanding were demonstrated by the FMS, the NBG, the GPO and the SSS. FIs and DNFBPs were to a large extent made aware of the relevant results of the NRA.

8. The NRA analysis does not fully take account of some inherent contextual factors that may influence the risk profile of a country (e.g. prevalence of cash, geographical, economic, and demographic factors). Whilst the methods, tools, and information used to develop, review and evaluate conclusions on risks are adequate to a large extent, the analysis of ML risks could be developed further in the following areas: e.g. use of cash in the economy, real estate sector, trade-based ML (including in free industrial zones of Georgia), legal persons and use of NPOs for ML. The assessment of TF risk in the NRA has focused on TFS and foreign terrorist fighters (FTFs). Authorities did not fully assess all forms of potential TF risk, especially trade-based TF, the origin and destination of financial flows and potential for abuse of NPOs.

9. Whilst the overall risk assessment in the NRA may seem reasonable, this cannot be said for all of the sectorial risks. Although most ML cases in the country identify the use of banks, cash or real estate, most assessments are clustered around medium to medium-low risk ratings. This will impact the proportionate allocation of resources and overlook some other areas where the risks occur in fact.

10. The NRA findings have not all yet been transposed into national policies and activities. The priority actions cover, only to some extent, areas identified as presenting the highest risk. The objectives and activities of the competent authorities are generally, but not always, consistent with evolving national AML/CFT policies and with identified ML/TF risks.

11. Exemptions from application of the AML/CFT measures applied to real estate agents, trust and company service providers (TCSPs), collective investment funds and fund managers, accountants that are not certified, accountants when providing legal advice and VASPs are either not supported by a risk assessment or are not in line with the NRA results, and they do not occur in strictly limited and justified circumstances.

12. Competent authorities co-operate and co-ordinate on ML/TF matters with good spirit, but not routinely and comprehensively enough. They do not do so to the necessary degree with regard to PF.

***Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)***

13. LEAs collect financial intelligence and other relevant information from a wide range of various sources (including from obliged entities and the NBG), and use it to conduct investigations of predicate offences and detecting their proceeds, but to a lesser extent with regard to investigation of ML. Until October 2019, LEA access to financial intelligence held by the FMS was very limited followed by a lack of understanding by several LEAs as to the core role of the FMS and the potential analysis it could produce and provide. Since then, powers of some LEAs to request information from the FMS were enhanced, but only for ML/TF and drug offences. The requirement to obtain a court order (based on probable cause) to request financial intelligence from the FMS hinders the effective collaboration between the FMS and the LEAs, including the MoF Investigation Service in supporting investigation of ML-related predicate offences.

14. LEAs make good use of financial intelligence spontaneously disseminated by the FMS, both for investigation of ML and associated predicate offences. Most cases that demonstrated use of FMS disseminations were related to laundering the proceeds of fraud, which is in line with the NRA findings. The number of investigations generated from parallel financial investigations (by sources other than STRs), is modest. The GPO AML Division is the only LEA primarily focused on detection and investigation of ML, and the only one that prevalently uses financial intelligence for investigation of ML. Other LEAs use financial intelligence mostly to investigate proceeds generating crimes and only rarely to investigate complex ML cases.

15. FMS operational analysis is usually conducted efficiently but frequently not comprehensive enough. Several cases presented entailed a data gathering exercise, with limited analytical input and enrichment of the substance of the STR, typically concerning a basic form of criminal activity. The strategic analysis conducted by the FMS is limited.

16. Georgia has taken efforts to enhance the quality of STRs in recent years, but concerns remain. A number of factors contribute potentially to this, including: (i) unsatisfactory feedback, guidance and training; (ii) the resource-intensive process imposed on obliged entities for filing CTRs; and (iii) exposure of bank employees to court proceedings. These concerns are supported by a decrease in the number of STRs used in developing disseminations to the LEAs.

17. When potential ML is detected, it is investigated effectively using a range of investigative techniques, primarily by the GPO AML Division. There have been some successful cases involving high asset values and complex factors such as cross-border criminality, organised crime and the use of legal persons. However, potential ML cases are not sufficiently detected. The total number of ML investigations is modest compared to predicate criminality, although there has been an increase in recent years. The cases that have been taken forward involve predicate offences and types of laundering that are in line with country's risk profile to some extent, there are few cases relating to banking sector employees even though that sector features in most ML cases, and few cases involving some of the predicate offences that are identified in the NRA or observed in Georgia. There are no legal or structural impediments to taking forward ML prosecutions. The court system is efficient and dissuasive sanctions are imposed. Georgia has achieved convictions for all types of ML. However, there is a low number of convictions involving complex ML. In addition, the proportion of convictions for legal persons is lower than would be expected given that the use of legal persons features in most of the cases. This, together with an overall conviction rate of almost 100% for ML, indicates that prosecutors may be too cautious about the cases they take forward. Georgia effectively

applies other criminal justice measures in cases where ML convictions cannot be secured for justifiable reasons.

18. Georgia recognises the importance of confiscation and has the necessary legal framework, structures and resources in place to address this. Tracing and preserving assets is strongly promoted as a policy objective and a number of measures have been put in place to improve effectiveness in this area. Georgia has achieved a significant level of confiscation overall and a wide range of criminal proceeds is being confiscated, including property in third party hands. No assets outside the jurisdiction have been confiscated (although some cases are pending). The application of value-based confiscation is limited and there are concerns about the understanding of some authorities in this respect. The confiscation of instrumentalities of crime is being largely achieved, although there is scope to expand the confiscation of instrumentalities to include a greater range of property.

19. Measures to preserve property are generally taken at an early stage in an investigation and a high volume of assets has been seized or frozen. However, there have been several missed opportunities due to the dissipation of suspected funds which were the subject of STRs. This is potentially due to following factors: (i) the STR is filed after funds have been sent abroad by the obliged entity; (ii) the FMS rarely exercises its power to suspend assets reported as suspicious and relies instead on prosecutors to initiate seizure proceedings; and (iii) LEAs apply emergency seizure measures at the initial stage, but not always promptly enough.

20. Georgia has a declaration system for cross-border movements of cash or BNIs. However, this system is not being enforced effectively, as the proportion of non-declared or falsely declared cash or BNIs that is confiscated (or indirectly removed from the party in breach through a fine) is very low. The confiscation results reflect the risks to Georgia to some extent but, are not fully in line with the country's risk profile as set out in the NRA.

#### ***Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)***

21. Georgia has a sound legal and institutional framework for investigating and prosecuting TF. Cases are dealt with by investigators at the SSS and the supervising prosecutors at the GPO who are adequately resourced and have high levels of expertise. There are no legal or structural impediments to taking forward TF cases. The court system is efficient. Georgia has achieved some convictions involving different types of TF activity that are in line with its risk profile, and dissuasive sanctions have been imposed.

22. The investigators at the SSS and the supervising prosecutors at the GPO have a very good awareness of different types of TF and conduct parallel financial investigations in terrorism cases and cases with a suspected terrorism link. However, there is scope to raise awareness of different types of TF among the other LEAs and the private sector in order to further increase the detection of potential TF that is linked to other offences.

23. Overall, Georgia has effective systems for identifying TF. Once detected, TF is generally investigated (role played by terrorist financiers identified) and prosecuted well using a range of investigative techniques. While until recently there were some restrictions on the ability of the SSS to obtain information from the FMS, which may have had a negative impact on the effectiveness of investigations, the extent of this is limited as alternative measures were applied appropriately.

24. Overall, TF is well integrated into counter-terrorism strategies and investigations, and Georgia makes effective use of alternative measures. However, there is scope for some moderate improvements with regard to Georgia's standing task force and the use of TF cases to support designations.

25. Georgia has a new legislative framework for implementation of the TF and PF UNSCRs. This has addressed the majority of previous deficiencies related to implementation of the TF-related TFS and secured the legal basis for implementing PF – related TFS. Notwithstanding formerly existing legislative obstacles the authorities demonstrated that indeed, in practice, PF-related UN TFS had been dealt with by the Commission in the past, and implementation was ensured through the same mechanism as set for the TF UNSCRs. Lack of legislative basis did not affect also performance of the private sector in this respect, since the PF-related UN TFS were dealt with equally to TF UNSCRs.

26. Georgia implements the TFS through a multi-step mechanism. While the time taken to accomplish each step was revised this overall did not result in action being taken “without delay”. Deficiencies exist in the immediate communication to obliged entities of amendments to the list of persons and entities designated under TF and PF TFS regimes. Overall, the deficiencies in the system are mitigated to a major extent by the private sector’s responsiveness and use of various commercial databases which are updated in a timely manner, irrespective of measures taken at a national level. Competent authorities have not provided specific guidance to ensure compliance by FIs and DNFBPs with their obligations to implement TFS. While implementation of TFS is regularly monitored by the NBS, and sanctions applied within the scope of on-site inspections, the same does not apply to other supervisors. Despite having persons convicted for terrorism and TF, Georgia has not designated any within the assessment period.

27. TF risks emanating from NPOs have not been comprehensively assessed in the NRA, targeting identification of the overarching risk environment in the sector and missing granularities – the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse. A registration and monitoring framework for NPOs and charity organisations is in place, but purely focused on tax compliance. No CFT focussed, or risk-based measures have been developed. There are numerous legislative gaps in regulation of the NPO sector, no outreach conducted, and no guidance provided.

#### ***Preventive Measures (Chapter 5 - IO4; R.9-23)***

28. The level of understanding of risks highlighted in the NRA and/or outlined in the AML/CFT Law and guidance notes, was generally good for FIs. Understanding of other ML/TF risks that are not referred to in these sources is more limited, but more sophisticated in the banking sector. Most DNFBPs, including casinos, have an insufficient understanding of ML/TF risks. Among FIs which are part of large EU groups or large banking and other financial groups, understanding of AML/CFT obligations is good. However, the approach followed by smaller FIs in determining higher risk factors appeared to be mostly confined to pre-determined criteria set out in the AML/CFT Law and guidance notes. Lawyers, NAPR and dealers in precious metals and stones (DPMS) have a limited or insufficient understanding of their AML/CFT obligations.

29. FIs which are part of large EU groups or large banking and other financial groups have put in place internal systems and controls which effectively mitigate ML/TF risks. However, the risks presented by the high level of cash circulation in Georgia is under-estimated. Other FIs have generally less robust and sophisticated mitigating measures and DNFBPs did not generally demonstrate use of an ML/TF risk mitigation framework.

30. Generally, FIs apply CDD requirements and refuse business when CDD is incomplete. Significant gaps were observed in the application of CDD measures by most DNFBPs and NAPR. Record-keeping requirements are applied by FIs and DNFBPs. FIs apply enhanced or specific measures for most higher risk cases called for in the standards. On the other hand, DNFBPs, including casinos, do not effectively apply all relevant enhanced or specific measures.

31. Banks account for the majority of STRs, and the number of reports in this sector (and amongst banks in the sector) seems reasonable. The types of reports made also point to active monitoring of customer activity. Other FIs meet their reporting obligations to a moderate extent. The level of STR reporting amongst DNFBPs has been very low, including for casinos (despite a surge in reports in 2019) and it is not clear that reporting obligations are met in practice. Internal policies and procedures and training initiatives are in place in FIs to prevent tipping-off, but there is insufficient knowledge of tipping-off provisions amongst DNFBPs.

32. Banks and some non-bank FIs have AML/CFT compliance functions which are properly structured and resourced and involve regular internal audits and training programmes. Not all DNFBPs have appointed AML/CFT compliance officers and most, including casinos, have developed only very basic internal policies and procedures, with AML/CFT expertise remaining very limited.

***Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)***

33. The NBG effectively applies robust “fit and proper” entry checks for the FIs under its supervision (including broad consideration of reputation of the applicant), as well as on-going scrutiny of licencing requirements. It has a comprehensive understanding of sectoral and individual institution risks, which it applies in the course of supervision planning, undertaking of supervision and awareness raising. The NBG’s approach to AML/CFT supervision is currently fully risk-based and carried out through a separate and well-resourced unit. The supervisory cycle that is set is adequate for the number and characteristics of the institutions and sectors supervised, though the NBG has not yet always met its on-site inspection targets.

34. The level of risk understanding and procedures regarding licensing and supervision by the ISSS are broadly similar to the NBG, though less robust. This is proportionate to the significantly lower risks in the insurance sector.

35. There are no licensing or registration requirements for leasing companies or DPMS and technical deficiencies in licensing requirements for casinos seriously undermine their effectiveness in preventing criminals or their associates from controlling or managing a casino. The MoF, as a supervisor, has a broad general understanding of ML/TF risks for the gambling sector but only a very limited understanding of ML/TF risks for leasing companies and DPMS. It does not undertake any supervision of AML/CFT obligations in practice.

36. The application of “fit and proper” entry checks amongst other DNFBPs is mixed and the level of supervision insufficient and uneven. Certified accountants are not supervised, and general supervision of auditors and notaries covers AML/CFT aspects only to a limited extent. The Bar Association limits its investigation of lawyers to cases where it receives a complaint or is in receipt of negative information. The overall approach to supervision of professionals is seriously hindered by their limited understanding of ML/TF risks.

37. The NBG’s use of its sanctioning powers appears effective, proportionate and dissuasive. The use of sanctioning powers for AML/CFT breaches by other supervisors, however, cannot be considered effective, proportionate and dissuasive.

38. The NBG has made a demonstrable difference to the level of compliance in the sectors under its supervision, and the situation with ISSS is broadly similar. Whilst the MoJ and SARAS have had some success in improving compliance, action taken by other supervisors is not sufficient.

***Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)***

39. Setting up a legal person in Georgia is straightforward and all information that is necessary for registration is publicly available. Due to the ease of founding a legal person, most register directly with the registrar of companies (NAPR), and “gate-keepers” (such as notaries, lawyers or accountants) are often not involved.

40. The NRA report provides a description of the framework in place and highlights cases where legal persons, particularly LLCs, have been abused. However, the authorities have not demonstrated effective identification and analysis of threats and vulnerabilities, though it is universally understood that the use of fictitious LLCs in criminal schemes constitutes a significant ML risk.

41. Nominee shareholdings are not prohibited for LLCs and there is no regulation of their use.

42. Three mechanisms are available to obtain information on BO of legal persons established in Georgia. In practice, these cannot be relied upon in all cases to provide adequate, accurate and current BO information. Changes of shareholdings of LLCs and JSCs (first level of legal owners) take effect only upon entry in the register (maintained by the NAPR, registrar or company) and so basic information will always be adequate, accurate and current. However, the validity of unregistered changes between involved parties is unclear.

43. Effective, proportionate and dissuasive sanctions have been applied by the NBG against banks and registrars for failing to apply CDD measures in accordance with the AML/CFT Law. Given that basic information held in the NAPR register will always be adequate, accurate and current, there is no need for sanctions to be available or applied.

***International Cooperation (Chapter 8 - IO2; R. 36-40)***

44. Georgia has a sound legal framework for international cooperation and has mechanisms in place to conduct it. Georgia demonstrated effective cooperation in providing and seeking information, using both formal and informal channels, to facilitate action against criminals and their assets with a wide range of foreign jurisdictions.

45. Georgia provides and in recent years to a greater extent constructively seeks MLA, including BO information, but more so regarding predicate offences and less concerning complex transnational ML or TF cases.

46. Competent authorities are generally proactive and spontaneously disclose financial intelligence to foreign counterparts, however not always using the direct channel between financial intelligence units when appropriate, relying on other competent authorities to do so.

47. The limited extent of domestic exchange of information between LEAs and the FMS has a negative effect on the ability of the FMS to add value, through international cooperation, to complex ML investigations.

48. The NBG proactively cooperates with foreign counterparts, being mostly focused on matters related to licensing. Whilst less cooperation is evident at an operational level, this is in line with the profile of the country’s financial system. The MoF, as a supervisor of gambling sector, does not exchange information notwithstanding that the sector has a significant foreign footprint (ownership and customers). Other supervisors can exchange information but hardly ever do so, given the profile of their sectors.

49. While shortcomings identified under IO.5 mean that BO information may not always be available in Georgia, the LEAs, NBG and FMS demonstrated that, in general, when requested they are able to provide BO information.

### *Priority Actions*

a) Georgia should take measures to ensure a better and more equal level of understanding of its identified ML/TF risks across all competent authorities, and should continue improving its understanding of ML/TF risks by conducting further analysis and assessment of: the main proceeds-generating predicate offences, extending focus to include ML threats presented by trade-based ML (including in free industrial zones of Georgia); vulnerabilities and residual ML risks in the real estate sector and linked to the extensive use of cash; ML/TF implications of potential contextual vulnerabilities; TF risks including the risk of TF abuse of NPOs; and risks connected to legal persons.

b) Georgia should rapidly review its decision not to apply the FATF Recommendations to real estate agents, TCSPs, VASPs, accountants that are not certified, accountants when providing legal advice and collective investment funds and fund managers. When considers application of exemptions, Georgia should ensure that these occur in strictly limited and justified circumstances, where there is a proven low ML/TF risk. Respective sectors should be subject to regulation and supervision for compliance with AML/CFT requirements.

c) Georgia should amend the AML/CFT Law to enable the FMS to provide - without a court order - information and analytical results to all LEAs investigating ML, associated predicate offences and TF on request. The FMS should be empowered to disseminate spontaneously information and analytical results to the MoF Investigation Service. Georgia should provide guidance to encourage LEAs to use FMS information and analytical results in the investigation of ML, associated predicate offences and TF. The FMS should improve its operational and strategic analysis of intelligence received and enhance its technical capacities for conducting this analysis.

d) Georgia should improve the effectiveness of parallel financial investigations by: increasing the use and deepening analysis of financial intelligence to identify ML (complex cases of ML); identifying and investigating complex cases of ML and TF; appointing specialist financial investigators and assigning prosecutors who are financial crime specialists to assist the LEAs; making greater use of interagency teams (especially involving tax and customs investigators); and issuing of detailed guidance by the GPO on financial investigations.

e) Georgia should conduct an examination of the process for applying provisional measures to ensure that they are applied to all ML investigations where necessary, and practices of applying emergency freezing measures, to ensure that their respective powers to freeze or seize property urgently are applied in a consistent and effective way. Use of value-based confiscation and the range of assets confiscated as instrumentalities should be widened. Non-conviction-based confiscation should be set as a policy objective. Georgia should review the new regime for cross-border declarations and take the necessary steps to ensure that there are no obstacles to confiscating non-declared or falsely declared cash or BNIs or removing it from the party in breach through a fine.

f) Georgia should ensure that amendments to lists of designated persons and entities pursuant to UNSCRs 1267/1989, 1988, and 1718 and 1737 are implemented without delay and immediately communicated to obliged entities. Georgia should urgently consider designating persons that it has

already convicted for TF in Georgia at a national level and proposing designations to the respective UNSCs.

g) Georgia should take appropriate measures to address the ML/TF risks associated with high level cash turnover in the economy, in particular: (i) extensive deposits into, and withdrawals of cash from, bank accounts; (ii) use of currency exchange offices by trading companies to purchase goods in foreign currency; and (iii) use of cash in real estate transactions. Such measures may include setting cash thresholds, greater use of gatekeepers and publication of ML/TF guidance and/or typologies.

h) Mechanisms for holding BO information for legal persons should be reviewed and measures put in place to ensure that adequate, accurate and current information will always be available on a timely basis in Georgia, focusing in particular on companies that do not bank in the country. Measures that might be considered include setting up a centralised systematised database of BO information.

i) The MoF should put in place a comprehensive framework (or significantly improve the existing one) for licensing, fit and proper checks (criminality) and AML/CFT risk-based supervision of casinos. Supervisors of leasing companies and DNFBP sectors should significantly enhance their understanding of sectorial risks. The MoF (leasing companies) and Bar Association (lawyers) should put in place risk-based AML/CFT supervision and SARAS (auditors and certified accountants) and the MoJ (notaries) should significantly enhance their risk-based approach which should be ML/TF risk-oriented.

j) Supervisors and the FMS should broaden their training programmes to raise awareness of specific risks facing each FI and DNFBP sector (including contextual factors) and organisation specific risks which are not referred to in the NRA or AML/CFT Law and guidance notes.

## Effectiveness & Technical Compliance Ratings

### Effectiveness Ratings<sup>1</sup>

<b>IO.1</b> - Risk, policy and coordination	<b>IO.2</b> - International cooperation	<b>IO.3</b> - Supervision	<b>IO.4</b> - Preventive measures	<b>IO.5</b> - Legal persons and arrangements	<b>IO.6</b> - Financial intelligence
<b>ME</b>	<b>SE</b>	<b>ME</b>	<b>ME</b>	<b>ME</b>	<b>ME</b>
<b>IO.7</b> - ML & investigation prosecution	<b>IO.8</b> - Confiscation	<b>IO.9</b> - FT & investigation prosecution	<b>IO.10</b> - FT preventive measures & financial sanctions	<b>IO.11</b> - PF financial sanctions	
<b>ME</b>	<b>ME</b>	<b>SE</b>	<b>LE</b>	<b>ME</b>	

### Technical Compliance Ratings (C – compliant, LC – largely compliant, PC – partially compliant, NC – non compliant, N/A – not applicable)<sup>2</sup>

<b>R.1</b> - assessing risk & applying risk-based approach	<b>R.2</b> - national cooperation and coordination	<b>R.3</b> - money laundering offence	<b>R.4</b> - confiscation & provisional measures	<b>R.5</b> - terrorist financing offence	<b>R.6</b> - targeted financial sanctions – terrorism & terrorist financing
<b>PC</b>	<b>LC</b>	<b>C</b>	<b>LC</b>	<b>LC</b>	<b>PC</b>
<b>R.7</b> - targeted financial sanctions - proliferation	<b>R.8</b> - non-profit organisations	<b>R.9</b> - financial institution secrecy laws	<b>R.10</b> - Customer due diligence	<b>R.11</b> - Record keeping	<b>R.12</b> - Politically exposed persons
<b>PC</b>	<b>NC</b>	<b>C</b>	<b>LC</b>	<b>LC</b>	<b>PC</b>
<b>R.13</b> - Correspondent banking	<b>R.14</b> - Money or value transfer services	<b>R.15</b> - New technologies	<b>R.16</b> - Wire transfers	<b>R.17</b> - Reliance on third parties	<b>R.18</b> - Internal controls and foreign branches and subsidiaries
<b>C</b>	<b>LC</b>	<b>PC</b>	<b>LC</b>	<b>LC</b>	<b>LC</b>
<b>R.19</b> - Higher-risk countries	<b>R.20</b> - Reporting of suspicious transactions	<b>R.21</b> - Tipping-off and confidentiality	<b>R.22</b> - DNFBPs: Customer due diligence	<b>R.23</b> - DNFBPs: Other measures	<b>R.24</b> - Transparency & BO of legal persons
<b>LC</b>	<b>LC</b>	<b>C</b>	<b>PC</b>	<b>PC</b>	<b>PC</b>
<b>R.25</b> - Transparency & BO of legal arrangements	<b>R.26</b> - Regulation and supervision of financial institutions	<b>R.27</b> - Powers of supervision	<b>R.28</b> - Regulation and supervision of DNFBPs	<b>R.29</b> - Financial intelligence units	<b>R.30</b> - Responsibilities of law enforcement and investigative authorities
<b>PC</b>	<b>LC</b>	<b>LC</b>	<b>PC</b>	<b>PC</b>	<b>C</b>
<b>R.31</b> - Powers of law enforcement and investigative authorities	<b>R.32</b> - Cash couriers	<b>R.33</b> - Statistics	<b>R.34</b> - Guidance and feedback	<b>R.35</b> - Sanctions	<b>R.36</b> - International instruments
<b>LC</b>	<b>LC</b>	<b>LC</b>	<b>LC</b>	<b>PC</b>	<b>LC</b>
<b>R.37</b> - Mutual legal assistance	<b>R.38</b> - Mutual legal assistance: freezing and confiscation	<b>R.39</b> - Extradition	<b>R.40</b> - Other forms of international cooperation		
<b>LC</b>	<b>LC</b>	<b>C</b>	<b>LC</b>		

<sup>1</sup> Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

<sup>2</sup> Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

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