

BGI Law Brief

August-September 2022

The Parliament of Georgia to Review the Proposed New AML Requirements and Legislative Framework Governing Virtual Asset Service Providers

Georgia is moving to implement the Financial Action Task Force recommendations in relation to the oversight of virtual asset service providers (VASPs). The package of bills initiated by the Ministry of Economy and Sustainable Development of Georgia and the National Bank of Georgia ("NBG") envisage the introduction of the legal framework for regulation and supervision of VASPs. Once finalized and brought into force, the proposed amendments will create a new regulatory framework, registration regime and AML requirements for entities that fall within the definition of VASPs. The activities relating to virtual assets that trigger registration include inter alia exchange between virtual assets and fiat currencies, exchange between one or more forms of virtual assets, transfer of virtual assets, safe-keeping and administration of virtual assets, administration of virtual asset trading platforms, and provision of financial services related to an issuer's offer and/or sale of a virtual assets. Notably, virtual assets falling within the scope of the regulatory framework include those virtual assets which are interchangeable, while digital assets that are unique, rather than interchangeable, and that are in practice used as collectibles (such as gaming tokens and NFTs) are not considered virtual assets for the purposes of the regulation.

Parliament Introduces a Conditional Licensing Regime for Commercial Banks

On 9 September 2022, the Parliament of Georgia adopted legislative package, including amendments to the Law on Licenses and Permits, the Law on Activity of Commercial Banks and the Organic Law on National Bank of Georgia, authorizing the NBG to issue a conditional license to commercial banks. Entities qualifying for a conditional license will temporarily benefit from lower minimum capital requirement thresholds.

In case of failure to comply with the conditions of the license, conditional license will be revoked. This amendment aims to promote the stability and development of the financial sector, as well as to increase the use of essentially new and innovative financial technologies and the consumer access to financial services in the local market based on the interests of the local banking sector.

The National Bank of Georgia to Review Disputes Involving Payment Service Providers

Legislative amendments passed on 9 September 2022 envisage establishment of a commission under the auspices of the NBG for reviewing disputes concerning payment services (the "**Commission**"). The Commission shall initiate the dispute review involving payment service providers based on complaints lodged by the consumers. The proceedings are free of charge and the decisions of the Commission shall be enforceable under the Law on Enforcement Proceedings starting from 1 August 2023.

Amendments to the Corporate Management Code of the Commercial Banks

On 24 August 2022, the President of the NBG introduced amendments to the Corporate Management Code of the Commercial Banks concerning the gender representation quotas in the banks. Under the amendment, local banks are required to ensure at least 33% female representation on supervisory boards by no later than 1 June 2023, and to reach the 40% quota by no later than 1 June 2025.

The amendment also recommends at least 33% female representation on the board of directors of local commercial banks.

National Bank of Georgia Changes the Maximum Term of Consumer Loans

On 4 August 2022, the President of the NBG amended the Regulation on Issuance of Credits to Natural Persons, reducing the maximum term of consumer loans from 4 years to 3 years starting from 16 August 2022.

National Bank of Georgia Introduces the New Taxonomy of Loans

On 3 August 2022, the President of NBG issued Order N93/04 on Approval of the Rules on Classifying and Reporting of Loans according to the Taxonomy of Sustainable Financing (the “Rules”), which comes into force on 1 January 2023. The Rules establish the principles of the sustainable finance and facilitate the development of a classification system identifying economic activities that serve environmental, social and/or sustainable development goals.

Sustainable development taxonomy introduced by the NBG comprises of:

- a) Green Taxonomy – a classification system establishing a list of environmentally sustainable economic activities; and
- b) Social Taxonomy – a classification system establishing a list of economic activities which contribute to social goals.

The loans can be classified under the green, social or sustainability labels only if they fall under the respective categories of the ESG financing.

The Rules also introduced certain reporting obligations for local banks in respect of loans covered by the Rules.

In case of violation of the requirements of the above Rules, including the failure to submit the monthly report of Green Loans to the NBG in the prescribed form (including the submission of inaccurate, incorrect information) or late submission, the banks will be fined starting from 1 January 2023.

Government of Georgia Adopts Mandatory Technical Regulation under the Labor Safety Law

On 16 September 2022, the Government of Georgia (“GoG”) issued a Resolution N457 on Approval of Technical Regulation - Minimum Requirements for Placement of Signs Related to Safety and/or Health Protection at the Workspace. Under the technical regulation, where it is not possible to avoid hazards or, based on the risk assessment, to reduce them to an acceptable level, all employers are required to provide the relevant signage warning employees about the occupational hazard.

Amendment to the Labor Safety Regulation

On 9 September 2022, the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia issued its Order No. 01-82/N regarding the amendment of the Order No. 01-11/N dated 12 September 2018 on Approval of the Rule and Form of Registration of Accidents and Occupational Diseases at the Workplace, Investigation Procedures and Reporting procedures. Under the amendment, an accident at the workplace is not subject to registration, investigation and reporting by the supervisory body, if: a) It is not caused by industrial reasons and injuries; b) It is caused due to, or in the process of, the employee(s) committing a criminal offense; c) It is caused by an action taken for personal purposes and there was no employer's permission for the said action; d) It represents a minor accident (injury without loss of working capacity or with loss of working capacity for no more than 3 days) and there is no suspicion that the accident is related to systemic violations at the workplace.

In the above cases, burden of proof rests upon the employer. Further, the employer is obligated to record, investigate and assess the accidents listed above. In case the supervisory body reasonably suspects that the accident is caused by systemic violations, it will carry out the respective investigation of the accident.

Contacts to COVID-19 Cases are No Longer Subject to Mandatory Isolation

On 27 September 2022, the GoG amended the Rules of Isolation and Quarantine dated 23 May 2020. Under the amendment, persons having had a contact with a COVID-19 infected person are no longer required to self-isolate. However, it is recommended that such persons should use a mask for the next 10 calendar days in case of the close contact to COVID-19 cases and avoid places where it is not possible to use a mask.

The New Digital Service of Identity Verification and Execution of Transactions

On 23 August 2022, the Minister of Justice of Georgia issued the Resolution N860 on the amendment of its Resolution N487 on the Approval of the Instruction on Public Register. Under the amendment, the National Agency of Public Register (“NAPR”) is authorized to verify the identity of the stakeholders and other persons participating in the administrative proceedings (witness, expert, etc.) via an electronic platform for the remote identification and verification, where parties involved are either citizens or permanent residents of Georgia.

This Law Brief is for general information purposes only. It does not constitute and is not intended to be relied upon as legal advice. BGI shall not be responsible for any loss in the event this update is relied upon without seeking our professional advice first.

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