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BGI Law Brief

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The National Bank of Georgia Adopts New Regulatory Framework for Payment Service Providers.

On 1 May 2023, the President of the National Bank (the **"NBG"**) issued the Order N77/04 approving the new Rules on Registration and Regulation of Payment Service Providers (the "**Order N77/04**").

All payment service providers ("**PSPs**") are required to undergo a registration with the NBG prior to offering payment services in the territory of Georgia. The Order N77/04 has updated the registration requirements for PSPs and established more detailed procedures for a fit and proper assessment and approval of PSP administrators and beneficial owners.

Acquisition of a significant stake (10% or more) in a PSP either directly or indirectly is a prescribed transaction and the NBG must be notified at least 30 days before the proposed acquisition. After reviewing the application (including origin of the funds and the compliance of the buyer with the relevant fit and proper requirements) the NBG may either approve or disapprove the proposed acquisition. The shareholders are also required to report to the regulator any increase or decrease in their holdings if, as a result of the proposed transaction, their holdings are expected to reach, exceed, or fall below 20%, 30% or 50%.

The new regulation defines the status of a 'significant provider' which shall be subject to more stringent regulatory requirements. This status will be assigned to a PSPs if: (i) the average monthly volume of its payment operations during the last 12 months exceeded GEL 9,000,000; or (ii) the average daily balance of electronic money issued by the PSP during the last 6 months exceeded GEL 1,500,000. The NBG has a discretion to assign the status of a significant provider to other PSPs irrespective of volume of their operations.

The Order N77/04 is effective as of 2 May 2023, excluding the provisions concerning the status of significant providers which are scheduled to come into force on 1 January 2024.

Another significant development is an adoption of a capital adequacy framework for significant providers under the Order N79/04 on Approval of the Rules on Capital Adequacy Requirements of PSPs (the "**Order N79/04**").

The minimum supervisory capital requirements will range between GEL 50,000 to GEL 350,000 depending on the scope of payment services offered by a PSP.

The Order N79/04 becomes effective on 1 January 2024.

NBG Adopts Open Banking Regulation

On 3 May 2023, the NBG adopted the Regulation on Open Banking (the "**Regulation N80/04**"). The new regulation defines mandatory requirements that shall be satisfied by brokerage companies, microfinance organizations, lending entities, PSPs, and currency exchange points willing to engage in open banking, allowing immediate electronic exchange of user information between these financial institutions **subject to user's consent** by applying an open banking standard to offer the payment initiation and/or account information services to users.

The preconditions for participating in the open banking include, *inter alia*, the proper information security management systems and policies which the relevant institutions are required to implement in form satisfactory to the NBG. The financial institutions (excluding PSPs with adequate supervisory capital) would also be required to get professional liability insurance or obtain a bank guarantee to secure the risks arising from open banking activities.

Financial institutions willing to engage in open banking shall apply to the NBG, providing the latter with the documentation required under the Order N80/04. The NBG shall issue its decision within 60 days after receiving the conforming application. Furthermore, the NBG shall maintain a registry of financial institutions eligible to be engaged in open banking.

The Order N80/04 is effective as of 4 May 2023.

NBG Adopts the Minimum Requirements for Own Funds and Eligible Liabilities

On 31 May 2023, the NBG adopted the Order N90/04 (the "**Order N90/04**") on the Establishment of the Minimum Requirements for Own Funds and Eligible Liabilities (the "**MREL**"). The MREL was established for domestic systematically important banks to facilitate their effective resolution. The MREL is a percentage derived from the ratio of eligible liabilities and capital instruments to the regulatory capital and total liabilities. The following rates of the MREL shall apply:

a) 10% as of 1 January 2024;
b) 15% as of 31 December 2025;
c) 20% as of 31 December 2027.

The Order N90/04 is effective from 31 May 2023.

Amendment to the Administrative Offences' Code

On 2 May 2023, the Parliament adopted amendments to the Administrative Offences' Code, introducing, *inter alia*, the new Article 166^2 on vandalism. Under the amendments, any act of vandalism, including deliberately damaging public transport, damaging or destroying any equipment in public transport and other objects of public use such as road signs, traffic lights, outdoor surveillance cameras and other infrastructure/equipment installed in public areas, shall be an administrative offense and shall result in a fine in the amount of GEL 300. Repeated offence shall result in a fine in the amount of GEL 500 or administrative detention for up to 5 days.

These amendments was effective as of 31 May 2023.

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