

## BGI Law Brief

December 2022

### Parliament adopts the Law on Mortgage Covered Bonds

On 29 November 2022, the Parliament adopted a Law on Covered Bonds (the “**Law**”). The purpose of the Law is facilitating the development of the covered bond market in Georgia by creating a framework which will secure access of commercial banks to diversified sources of finance. The Law confers on the National Bank (“**NBG**”) supervisory tasks in relation to covered bonds. Prior to implementing a covered bond program and issuance of the covered bonds, commercial banks shall obtain authorization from the NBG.

The covered bonds must be secured by a pool of eligible assets which may include mortgage loans, claims arising out of derivatives and additional assets such as deposits and debt securities issued by the government, international financial institutions and other eligible issuers.

The Law provides for a double-recourse protection to bondholders. In the event of default of an issuer the bondholder will have a preferential claim against the designated assets and an unsecured claim against the issuer's remaining assets. This Law will fully enter into force in mid-March, 2023, preceded by adoption of other related normative acts.

### Amendment to the Law on Commercial Bank Activities

Under 30 November 2022 amendments to the Law on Commercial Bank Activities, if a commercial bank is a reporting financial institution defined under the Common Reporting Standard Multilateral Competent Authority Agreement (within the framework of the 1988 Convention on Mutual Administrative Assistance in Tax Matters), or under the agreement on automatic exchange of information on financial reports between Georgia and the relevant jurisdiction, it is obligated to carry out the appropriate procedures specified in the said agreement in accordance with the

“common reporting standard”. Additionally, the amendment grants commercial banks the right to refuse to open an account without any justification. Also, commercial banks have the right to refuse to open an account or to close an existing account, if the person in question refuses to provide information in accordance with the requirements set for the commercial bank under the above instruments. Similar amendments have been adopted to the Law on Securities Market (with respect to the brokerage companies), the Law on Non-Bank Depository Institutions - Credit Unions, the Law on Microfinance Organizations, the Law of Insurance, the Law on Investment Funds and the Administrative Procedure Code. These amendments will enter into force on 1 January 2023.

### Amendment to the Law on Medicine and Pharmaceutical Activities

On 1 December 2022, the Parliament adopted amendments to the Law on Medicine and Pharmaceutical Activities. The amendments, *inter alia*, introduce the authority of the government of Georgia (“**GoG**”) to approve the methodology, rules and conditions for the state regulation of the price of the relevant pharmaceutical product. A violation of the GoG-established maximum selling prices of pharmaceutical products shall result in respective fines established under the amendment. Additionally, it introduces fines for the manufacturing of pharmaceutical products without the national GMP (Good Manufacturing Practice) certificate and for the distribution of the same without the national GDP (Good Distribution Practice) certificate. These requirements are effective from 13 December 2022. Corresponding amendments have been made to the Tax Code and the Law on Enforcement Proceedings.

On 26 December 2022, the GoG adopted Resolution N593 on the Approval of Methodology, Rules and Conditions for State Regulation of the Prices of Pharmaceutical Products. According to this Resolution, the maximum selling prices of pharmaceutical products in Georgia shall be

established on the basis of prices in the Republic of Latvia, Montenegro, Republic of Bulgaria and the Republic of North Macedonia.

### **National Bank Introduces Liability for the Non-Compliance with the Sanction Regimes Imposed by the UN Security Council and the National Bank**

On 1 December 2022, the President of the NBG issued Order N171/04 on the Amendment of the Rule for Determining and Imposing Monetary Fines Against Commercial Banks and Their Administrators. Under the amendment, in case of detection of operations (transactions) involving a person sanctioned under the UN Security Council resolution or by violating and/or bypassing the requirements stipulated under the sanctions' regimes required by the NBG in written instructions, commercial banks shall be subject to a fine in the amount of GEL 10,000 (ten thousand) for each case of such violation.

Similar amendments have been introduced with respect to the payment service providers, microfinance organizations, loan issuing entities and currency exchange points. These amendments entered into force from 2 December 2022.

### **New Regulation with Respect to the Renewable Energy Sources**

On 7 December 2022, the GoG adopted Resolution N556 on the Approval of Support Scheme for the Generation and Consumption of Energy from Renewable Sources and the Rules for the Capacity Auction ("**Resolution N556**"). This resolution was adopted in accordance with Article 11 of the Law on Promoting Generation and Consumption of Energy from Renewable Sources. It shall eventually substitute the existing GoG Resolution N403, which remains applicable to the existing projects. Resolution N556 is more comprehensive and regulates various topics, such as terms of payment under the contract for difference, announcement of the auction, consideration of applications and decision-making, confidentiality, responsibility of the person implementing the project, etc. Under Resolution N556, the maximum period from the signing of an agreement on the technical and economic feasibility of the power plant, to the commissioning of the power plants should not exceed: a) 5 (five) years for

hydroelectric plants; b) 4 (four) years for wind power plants; c) 3 (three) years for solar power plants; d) 5 (five) years for other renewable energy power plants. The Resolution N556 entered into force from 8 December 2022.

### **Constitutional Court Case Won Against the Ministry of Education and Science**

On 23 December 2022, the Constitutional Court issued its decision on the case of Archil Mordebadze and Amalia Badaliani vs the Ministry of Education and Science. The case concerned Article 20.5 of the Regulation for Holding Unified National Exams, which blanketly excluded the possibility of conducting an additional exam session, regardless of the reason for not appearing for the exam. The Constitutional Court satisfied the claim and found this provision to be against the 4-th sentence of Article 27.2 of the Constitution, which establishes that citizens have the right to receive professional and higher education with state financing in accordance with the law. The challenged article shall be void from 1 April 2023.

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