



Institute for Development
of Freedom of Information

MONEYVAL assessment of Georgia on money laundering (ML) and terrorism financing (TF)



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Key Findings

According to the MONEYVAL report the evaluation mission detected shortcomings with regard to identification of some threats and vulnerabilities and subsequent understanding of some of the ML/TF risks.

The MONEYVAL report concludes that Georgia needs to conduct a further analysis of integrity in public and private sectors because the NRA analysis of Georgia carried out by the FMS is not always methodological enough.

The MONEYVAL report says that the factor of informal economy is not sufficiently analysed by the NRA and it completely ignores the ML risks associated with the presence of wealthy foreign and domestic politically exposed persons and their associates.

The MONEYVAL report states that Georgian authorities did not fully assess all forms of potential TF risk, especially trade-based TF, the volume, origin and destination of financial flows and potential for abuse of non-profit organisations (NPOs).

According to the MONEYVAL report there is no effective gate-keeper in the real estate sector to prevent its use in ML/TF, while supervision of casinos and real estate transactions are not in line with the ML/TF risks identified in the NRA.

MONEYVAL states that excluding National Agency of Public Registry (NAPR) – the only gatekeeper in the real estate sector - from the reporting obligation is a matter of a serious concern.

MONEYVAL team considers that the financial intelligence unit (FIU) enjoys operational independence but is under-resourced.

According to the MONEYVAL team major improvements are needed to improve the effective exchange of information and intelligence, and the operation between the FMS and law enforcement agencies (LEA).

MONEYVAL report reveals that potential ML cases are not sufficiently detected in Georgia and the number of convictions involving complex ML is low.

MONEYVAL team concluded that the risks presented by the high level of cash circulation in Georgia is underestimated and there is no effective gate-keeper for the real estate sector in Georgia.

The technical deficiencies for licensing requirements of casinos seriously undermine the effectiveness of preventing criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, holding a management function in, or being an operator of, a casino.

MONEYVAL report claims that the existing mechanisms to obtain information on beneficial ownership cannot be relied upon as the information provided by them is not always adequate, accurate and current.

The MONEYVAL report highlights that there is proven abuse of legal persons in Georgia, including through the use of “fictitious” companies and the authorities have not taken adequate measures to deal with the issue.

Criminal measures are not applied against legal persons when they should be and an opportunity to mitigate abuse is being missed.

Introduction

Money laundering risks in Georgia have existed and discussed by relevant international organisations as well as strategic partners. Money laundering risks of Georgia has been discussed by the US State Department for years. According to the last US State Department report¹ bank fraud and cybercrime are significant generators

¹ United States Department of State Bureau of International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report, Volume II, Money Laundering, 2020*, available on the following [link](#).

of illicit proceeds in Georgia, while social engineering schemes are also used to commit mass marketing fraud. The general economic situation in Georgia, which is far from being a developed economy, forms fruitful ground for money launderers to find front men. At the same time, the unchecked growth of the gaming industry, including internet gaming, is concerning.²

The Council of Europe's anti-money laundering body MONEYVAL³ published a report on 2 November 2020, where it calls on the Georgian authorities to better combat money laundering and financing of terrorism.⁴ The report assesses the effectiveness of Georgia's system for countering money laundering (ML) and financing of terrorism (FT) and its compliance with [Recommendations](#) issued in 2012 by the Financial Action Task Force (FATF).

The FATF recommendations cover and accordingly, MONEYVAL report assesses following areas in connection with money laundering and terrorist financing:

- ✓ risks and policies as well as domestic coordination;
- ✓ pursuing money laundering, terrorist financing and the financing of proliferation;
- ✓ preventive measures for the financial sector and other designated sectors;
- ✓ powers and responsibilities for the competent authorities (e.g., investigative, law enforcement and supervisory authorities) and other institutional measures;
- ✓ transparency and availability of beneficial ownership information of legal persons and arrangements;
- ✓ international cooperation.

The MONEYVAL report takes into account and assesses National Risk Assessment (NRA)⁵ on money laundering and terrorism financing of Georgia issued in 2019.

The MONEYVAL report concludes that Georgia has achieved a moderate level of effectiveness in implementing all areas covered by the FATF Standards, except for:

- 1. International cooperation - substantial effectiveness;**
- 2. investigation and prosecution of terrorism financing offences - substantial effectiveness;**
- 3. prevention of terrorists, terrorist organisations and financiers from raising, moving and using funds and abusing the NPO sector - low effectiveness.**

This document summarises key shortcomings identified and recommendations provided in the MONEYVAL report.

² Ibid.

³ 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 and provide relevant recommendations.

⁴ MONEYVAL, Anti-money laundering and counter-terrorist financing measures - Georgia, fifth Round Mutual Evaluation Report, available on the following [link](#).

⁵ Money Laundering and Terrorism Financing Risk Assessment of Georgia (2019), Financial Monitoring Service, available on the following [link](#).

Anti-Money laundering (AML) and counter-terrorist financing (CFT) policy and coordination

According to the MONEYVAL report even though Georgia displays a fair understanding of many of its ML and TF risks, **shortcomings were detected 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 with the highest level of understanding demonstrated by the Financial Monitoring Service (FMS), the National Bank of Georgia (NBG), the General Prosecutors Office (GPO) and the State Security Service (SSS).

The MONEYVAL report concludes that Georgia needs to conduct a further analysis of integrity in public and private sectors because the NRA analysis of Georgia carried out by the FMS is not always methodological enough and deals with integrity in the public and private sectors as a specific ML threat (predicate offence - corruption) but not as a factor which may influence the effectiveness of supervision and law enforcement in general.

The MONEYVAL report says that the factor of informal economy is not sufficiently analysed by the NRA - the Georgian authorities did not analyse features of the informal economy in conjunction with the extensive use of cash in Georgia and its influence of ML/TF environment. This area needs to be well studied as the report highlights that proceeds from predicate offences are often generated in the form of cash and widely used as a means for paying for real estate.

The NRA does not properly address the issues of geographic proximity of Georgia and its trade routes to areas where terrorist groups are active and to high risk jurisdictions, as well as, data regarding immigration. Further, **NRA ignores the ML risks associated with the presence of wealthy foreign and domestic politically exposed persons (PEPs)** and their associates notwithstanding that one bank is partially owned by a foreign PEP and a second bank fully owned by a domestic PEP.

The MONEYVAL report states that the results of **the NRA may send the wrong message to policy makers and competent authorities as well as the private sector** as it only assesses gambling and legal persons as presenting the highest ML risk (medium-high), whereas the frequent use of bank accounts, payment services provided by non-bank financial institutions, the use of real estate and cash should also be considered as important ML risks.

According to the MONEYVAL report, Georgian authorities did not fully assess all forms of potential TF risk, especially trade-based TF, the volume, origin and destination of financial flows and potential for abuse of non-profit organisations (NPOs). 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.

In the NRA report, there is a lack of analysis of ML/TF risks related to virtual asset service providers (VASPs), collective investment funds and fund managers or trust and company service providers (TCSPs). As concerns the other activities listed and applied exemptions, the authorities have not always demonstrated that there is a proven low risk of ML/TF and could not demonstrate that any of these exemptions occur in strictly limited and justified circumstances. For instance, **NRA rated the ML risk in the real estate sector as medium but real estate agents are fully exempted from the AML/CFT obligations.** This is being based on the fact that such

agents have a limited role in real estate transactions, however, at the same time, the authorities have confirmed that the exact number of real estate agents in the market is unknown because they are not registered. No quantitative and qualitative data was provided to support the exemption of real estate sector from the AML/CFT obligations, so the conclusion is that **there is no effective gate-keeper in the real estate sector to prevent its use in ML/TF.**

Georgia has no sectorial AML/CFT policies in respect of leasing company and designated non-financial businesses and professions (DNFBP) supervisors. **Accordingly, supervision of casinos and real estate transactions are not in line with the ML/TF risks identified in the NRA.** In particular, the Ministry of Finance has not done much to prevent criminals from owning or controlling casinos (assessed as presenting a medium-high ML risk).

The MONEYVAL report further mentions that not all activities of competent authorities in Georgia are fully in line with the risks identified in the NRA, their perception of risks varies and so does their focus and prioritisation of activities.

In response to the challenges and shortcomings detected in the policy and coordination area, MONEYVAL has issued following recommendations for the Georgian authorities:

- 1) *Georgia should take measures to ensure a better and more equal level of understanding of its identified ML/TF risks across all competent authorities.*
- 2) *Georgia should continue improving its understanding of ML/TF risks and its future risk assessments by conducting further analysis and assessment of:*
 - *the main proceeds-generating predicate offences based on comprehensive data (including intelligence from all LEAs, from MLA and direct international cooperation) and identified typologies, extending focus to include ML threats presented by trade-based ML (including in free industrial zones of Georgia);*
 - *the vulnerabilities and residual ML risks in the real estate sector and extensive use of cash;*
 - *ML/TF implications of potential contextual vulnerabilities (integrity levels in the public and private sectors; informal/cash economy and undocumented wealth; geographical, economic and demographic factors; and presence of PEPs and their associates (some of which may be high wealth individuals as in other jurisdictions);*
 - *TF risks, including the volume, origin and destination of financial flows, trade-based TF and abuse of NPOs.*
- 3) *Georgia should rapidly review its decision not to apply the FATF Recommendations to certain sectors, and when considers application of exemptions, should ensure that these occur in strictly limited and justified circumstances, where there is a proven low ML/TF risk.*
- 4) *Georgia should establish the AML/CFT Standing Interagency Commission in line with the new AML/CFT Law. It should meet routinely and further strengthen the cooperation and coordination between competent authorities on ML and TF matters.*

- 5) *Georgia should develop a national AML/CFT strategy and more comprehensive action plan to address ML/TF risks identified in the NRA, in addition to the priority areas so far identified.*
- 6) *Georgia should improve alignment between: (i) the objectives and activities of competent authorities; and (ii) evolving national AML/CFT policies and ML/TF risks.*
- 7) *Georgia should develop formal arrangements for better PF coordination between the AML/CFT Standing Interagency Commission and other relevant actors.*
- 8) *Georgia should comprehensively assess the risk of TF abuse of the NPOs, develop and implement a risk-based approach to monitor the NPO sector.*
- 9) *Georgia should reach out to NPOs and the donor community about TF threats and vulnerabilities within the sector.*

AML and CFT legal system and operational issues

When assessing the legal system and operational issues of AML and CFT in Georgia, the MONEYVAL report claims that most **law enforcement agencies (LEAs) in Georgia rarely use financial intelligence to conduct an in-depth and sophisticated analysis to investigate complex ML cases.**

According to the report, there is no formal procedure in Georgia to follow, nor enough sophisticated analytical tools available for data mining and analysis of financial intelligence. Accordingly, **Financial Monitoring Service (FMS) operational analysis is frequently not comprehensive enough - cases lack analytical input and need enrichment of the substance** of the suspicious transaction reports (STR). The report claims that strategic analysis conducted by the FMS is limited, while the use of information included in currency threshold reports (CTRs) and cross-border cash declarations is basic.

There is a need to increase the number of investigations launched based on FMS disseminations and to enhance the ability of the FMS in detecting more sophisticated ML cases. The same applies to TF, as currently disseminations are only related to a match regarding listed persons or a link to a high-risk country.

Due to insufficient guidance and training provided to the private sector by the FMS, the complex process for filing CTRs and exposure of bank employees to court proceedings, **number and quality of suspicious transaction reports in Georgia remains poor from sectors other than banks.** No written criteria exist within the FMS as to what would be considered a high-quality report. The sectorial regulations issued by the FMS for reporting entities do not include detailed guidance on STR requirements.

According to the NRA report the ML risk in the real estate market in Georgia is at a medium level and the real estate is used in ML-related criminal cases rather frequently. Considering this, the MONEYVAL states that **excluding National Agency of Public Registry (NAPR) – the only gatekeeper in the real estate sector - from the reporting obligation is a matter of a serious concern.** On a general note, the MONEYVAL team considers that exemptions applied on reporting obligation for real estate agents, TCSPs, collective investment funds and fund managers, accountants and VASPs will deprive Georgia of an important source of information with a potential negative impact on the ability to effectively detect and pursue ML, related predicate offences and TF.

MONEYVAL team considers **that the financial intelligence unit (FIU) enjoys operational independence but is under-resourced with only 31 employees**. There is no separate strategic analysis department at the FMS, and only limited strategic analysis has been performed - very limited in scope, which is insufficient to support the work of other competent authorities. No strategic analysis has been conducted by FMS in cooperation with other competent authorities. Thus the MONEYVAL report concludes that FMS needs a significant increase in manpower, budget and IT tools to carry out in-depth analysis of complex ML cases; to generally carry out better and more comprehensive strategic analysis; to adequately respond to the expanding gambling sector; etc.

According to the MONEYVAL team **major improvements are needed to improve the effective exchange of information and intelligence, and the operation between the FMS and law enforcement agencies (LEA)**. The decreasing success rate of financial intelligence turning into investigations based on STRs, questions the quality of the STRs and of their analysis. FMS operational analysis is usually conducted efficiently but frequently not comprehensive enough.

MONEYVAL report reveals that potential ML cases are not sufficiently detected in Georgia. The total number of ML investigations is modest compared to predicate criminality, the number of cases against banking sector employees is lower than would be expected bearing in mind that the sector features in the majority of ML cases and there have been examples of bank employees being in breach of AML/CFT requirements in Georgia. The report also says there is a lack of proactivity by some of the LEAs in looking for potential ML cases.

MONEYVAL team considers that **the number of convictions involving complex ML is low in Georgia**. 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.

In response to the challenges and shortcomings detected in the legal system and operation area, MONEYVAL has issued following recommendations for the Georgian authorities:

- 1) *Georgia should continue improving the quality of parallel financial investigations and increase the use and deepen analysis of financial intelligence to identify ML.*
- 2) *The FMS and the LEAs should develop a mechanism to ensure that timely feedback is given to the FMS about the quality and use of financial intelligence that it provides to LEAs.*
- 3) *The FMS should improve its operational analysis of information to identify suspicious activities and typologies; develop formal procedure for conducting operational analysis of financial intelligence and its prioritization; develop strategic analysis to support the operational needs of LEAs and enhance its technical capacities.*
- 4) *Georgia should introduce guidelines to ensure coordination amongst obliged entities, the FMS and the LEAs.*
- 5) *Prosecutors should review their criteria and practices for taking cases forward in order to improve the range of cases that are prosecuted, especially cases involving difficult or complex factors.*

AML and CFT preventive measures

When assessing the preventive measures against AML and CFT in Georgia, the MONEYVAL report indicated that **the risks presented by the high level of cash circulation in Georgia is underestimated**. In many cases, large sums of cash can be withdrawn from or paid into bank accounts for customers without the application of additional measures.

According to the report, generally, financial institutions in Georgia apply customer due diligence (CDD) requirements and refuse business when CDD is incomplete. However, **smaller financial institutions do not fully apply a risk-based approach** and tend to find out the identity of beneficial owners using mainly information held in the NAPR register. In addition to that, **the evaluation team was unsatisfied by the way that NAPR was applying the CDD measures**.

The report mentions cases when compliance officers who reported their suspicions on ML, have been called before the court to explain the basis for their reporting of suspicion. The evaluation team considered that this approach may discourage reporting.

The report further mentions that **there is no effective gate-keeper for the real estate sector in Georgia**. Real estate agents are not covered by the AML/CFT Law and, instead, NAPR is the obliged entity in the field of real estate purchase and sale. The evaluation team considered it as a risk that real estate contracts and related transactions can be concluded in cash outside the regulated financial sector.

In response to the challenges and shortcomings detected in the preventive measures, MONEYVAL has issued following recommendations for the Georgian authorities:

- 1) *Georgia should take appropriate measures (such as setting cash thresholds, greater use of gatekeepers and publication of ML/FT guidance) to address the ML/FT risks associated with high level cash turnover in the economy, in particular:*
 - a. *extensive deposits into, and withdrawals of cash from, bank accounts;*
 - b. *use of currency exchange offices by trading companies to purchase goods in foreign currency;*
and
 - c. *use of cash in real estate transactions.*
- 2) *Supervisors and the FMS should broaden their training programmes to raise awareness of specific risks facing each FI, organisation specific risks which are not referred in the NRA, risks associated with VASPs, as well as requirements and obligations under the recently adopted AML/CFT Law.*

AML and CFT supervision

The MONEYVAL report reveals that whilst the Ministry of Finance (MoF) is assigned as a supervisor of leasing companies, casinos and dealers in precious metals and stones (DPMS), it does not undertake any supervision of AML/CFT obligations in practice. MoF 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. The country does not have any licensing or registration requirements for leasing companies or DPMS. **The technical deficiencies for licensing requirements of casinos seriously undermine the effectiveness of preventing criminals or their associates from holding, or being the beneficial owner of, a significant or controlling**

interest, holding a management function in, or being an operator of, a casino. This is particularly serious given the importance of this sector in Georgia (as this is the second most material after the banking sector).

The level of supervision of certified accountants, law firms, Individual lawyers, notaries and auditors sectors is uneven. Certified accountants are not supervised. Service for Accounting, Reporting and Auditing Supervision (SARAS) and the Ministry of Justice (MoJ) include, to a limited extent, AML/CFT aspects in their general supervision of auditors and notaries, however, no AML/CFT specific inspections have taken place and ML/TF risks are not considered independently of other risks. Auditors undertake relevant activities under FATF Recommendations only to a limited extent. The Bar Association limits its investigation of individual lawyers to cases where it receives a complaint or is in receipt of negative information and does not appear to directly supervise law firms. **The overall approach to supervised entities by the SARAS, MoJ and the Bar Association is seriously hindered by their limited understanding of ML/TF risks in their respective sectors and absence of a clear supervisory framework for AML/CFT.**

In response to the challenges and shortcomings detected in the supervision area, MONEYVAL has issued following recommendations for the Georgian authorities:

- 1) The MoF should put in place a comprehensive framework for licensing, fit and proper checks (criminality) and AML/CFT risk-based supervision with regard to all entities subject to its supervision, in particular casinos.
- 2) Georgia should rapidly review its decision not to apply the FATF Recommendations to some sectors. TCSPs, real estate agents, all accountants and VASPs should be subject to supervision for compliance with AML/CFT requirements. In particular, an effective framework should be put in place for the real estate sector and the creation and management of legal persons.
- 3) The Bar Association, MoJ and SARAS should review their fit and proper checks to ensure criminals are fully prevented from acting as notaries, accountants or owners or controllers of law or audit/accounting firms.
- 4) The 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 RBA to supervision which should be AML/CFT risk-oriented.
- 5) Georgia should review powers given to all supervisors (except for the NBG) in order to ensure that there is a range of proportionate and dissuasive sanctions in place to deal with failure to comply with AML/CFT requirements.
- 6) Respective supervisors should put in place systematic and comprehensive training of leasing companies and DNFBPs. Their overall outreach with regard to these sectors should be enhanced.

AML and CFT legal persons and arrangements

The MONEYVAL report indicates that the NRA does not systematically consider a number of important matters, including the extent to which TCSPs administer legal persons in Georgia, and **the authorities have not demonstrated effective identification and analysis of threats and vulnerabilities in order to support the country's understanding of ML/TF risk.** It is, however, universally understood by competent authorities and obliged entities that the use of fictitious LLCs in criminal schemes constitutes a significant ML risk.

Information on beneficial ownership of legal persons established in Georgia may be obtained: (i) through a public registry - NAPR (which records direct legal shareholders); (ii) through obliged entities (banks and registrars) (which are subject to CDD and record-keeping requirements); and (iii) directly from the legal person (which records direct legal shareholders and not BO information). However, the evaluation team concluded that **the existing mechanisms to obtain information on beneficial ownership cannot be relied upon as the information provided by them is not always adequate, accurate and current.**

The MONEYVAL report highlights that **here is prove abuse of legal persons in Georgia, including through the use of “fictitious” companies and the authorities have not taken adequate measures to deal with the issue.** The NRA report includes an assessment of risk connected to the possible misuse of legal persons. However, the analysis contained therein is rather basic. Despite the frequent involvement of legal persons in ML schemes in Georgia, only four legal persons have been convicted to date for ML and other proceeds generating crimes, and convictions of legal persons overall are very scarce. Accordingly, the evaluation team concluded that **criminal measures are not applied against legal persons when they should be and an opportunity to mitigate abuse is being missed.**

In response to the challenges and shortcomings detected in the legal persons and arrangements area, MONEYVAL has issued following recommendations for the Georgian authorities:

- 1) *Georgia should extend efforts to comprehensively identify, assess and understand the risks connected with legal persons (including fictitious companies) and legal arrangements, including methodological issues that have been identified. It should also assess the extent to which legal arrangements are administered or managed in the country.*
- 2) *Georgia should address vulnerabilities presented by fictitious companies established in the country which do not hold bank accounts there.*
- 3) *Georgia should consider the use and types of TCSPs operating in Georgia and their involvement in company formation and management with a view to subjecting them to AML/CFT obligations in line with FATF Standards.*
- 4) *Georgia should implement effective measures to regulate nominee relationships for LLCs.*
- 5) *Georgia should review the system and implement measures to ensure that adequate, accurate and current BO information will always be available to the competent authorities on a timely basis, focusing in particular on companies that do not bank in Georgia. Measures that might be considered include setting up a centralised systematised database of BO information.*
- 6) *Georgia should test whether unregistered changes of ownership and directors of legal persons may be considered valid and enforceable and apply any necessary preventive measures.*

Conclusion

The analysis of the MONEYVAL report provides a basis for emphasizing once again the need of strengthening of the fight against high-level corruption through the establishment of an independent anticorruption agency, as the money laundering risks covered in the report pose a threat of high-level corruption crimes. It is also important to ensure a high level of transparency regarding the beneficial owners, which IDFI has been talking about for years and which is also mentioned in the MONEYVAL report. It is important to conduct an integrity

analysis in public and private sectors and develop integrity strategies, which IDFI, with the support of USAID GGI, has already implemented in several municipalities. At the same time, special attention should be paid to the issues of informal economy, large cash flow, legal entities and real estate oversight in the country. IDFI calls on the authorities to spare no effort to implement the recommendations of MONEYVAL and the FATF.