

**THE LAW OF GEORGIA ON FACILITATING THE PREVENTION
OF ILLICIT INCOME LEGALISATION 6.6.03
WHICH WAS BROUGHT INTO EFFECT 1 JANUARY 2004
(THE PREVENTIVE LAW).**

Article 1. Purpose and Scope of the Law

1. The purpose of this Law shall be to create legal mechanisms against legalization of illicit income and financing acts of terrorism, and to protect legal rights and interests of public and state.
2. This Law shall regulate the relationship between the authorized bodies and other relevant entities under this Law related to facilitating the detection and prevention of illicit income legalization in Georgia as well as the relationship between Georgian authorized organs, on the one hand, and ones of other countries and international organizations, on the other hand.
3. This Law shall apply to Georgian resident and non-resident entities, as well as their representatives, missions and branches provided that transactions concluded and executed by them are subject to monitoring.

Article 2. Definition of Terms

As used in this Law, the following terms shall have the following meanings:

- a) Illicit income – monetary funds, other property, or property rights, possessed or owned by an entity, that are acquired through crime (including arms trade, drug crimes, trafficking, terrorism) as considered under the Criminal Code of Georgia, except for the crimes committed in tax and customs spheres;
- b) Property – property as considered under the Civil Code of Georgia;
- c) Legalization of illicit income – deliberate legalization of illicit income (acquisition, utilization, transfer or other action), as well as hiding or concealing its true origin, proprietor or owner, or/and property rights or attempt to commit such crime;
- d) Monitoring – identification of an entity that is party to a transaction and is subject to monitoring by the entities considered under this Law, and registration and systemization of information on the transaction and submission of such information to the Financial Monitoring Service of Georgia, pursuant to the procedures defined under this Law and other regulations adopted (issued) in compliance with this Law;
- e) Non-cooperative area – a country or a part of the territory thereof, identified as such by the Financial Monitoring Service of Georgia on the basis of the information provided by a competent international organization;
- f) Competent international organizations - Council of Europe, FATF, and other organizations recognized as such by International Community.

- g) Supervisory body – a supervisory body as defined under Article 4 of this Law, which, within its authority, supervises activities of relevant monitoring entities;
- h) Suspicious transaction – a transaction supported with a grounded supposition that it had been made or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person’s identification or the origin of the relevant amount cannot be ascertained), or the person involved in the transaction is likely to be connected with a terrorist or a terrorism-supporting persons;
- i) Law-enforcement bodies –investigative agencies considered under the Criminal Proceedings Code of Georgia;
- j) Non-resident person - a person who is not a resident under the Tax Code of Georgia;
- k) Identification of a person – determining the identity of an individual by means of identity documents having legal power, or/and determining the legal bases and organizational structure of a legal entity and its representational authority by means of the registration- and establishment-confirming documents;
- l) Financial Monitoring Service of Georgia – a legal entity of public law established pursuant to this Law, which exercises its authorities granted by this Law and other relevant legislation;
- m) Monitoring entity – an entity as determined under Article 3 of this Law, which, for the purpose of facilitating the prevention of legalization of illicit income is required to undertake actions prescribed by the legislation;
- n) Founder of non-state pension scheme – a legal entity defined under the Law of Georgia “on Non-State Pension Insurance and Security”.

Article 3. Monitoring Entities

Monitoring entities shall include:

- a) Commercial banks, currency exchange Bureaux and non-bank depository institutions;
- b) Broker companies and securities' registrars;
- c) Insurance companies and non-state pension scheme founders;
- d) Entities, organizing lotteries and other commercial games;
- e) Entities engaged in activities related to precious metals, precious stones and products thereof, as well as antiquities;
- f) Customs authorities;
- g) Entities engaged in extension of grants and charity assistance;
- h) Notaries;
- i) Postal organizations.

Article 4. Supervisory Bodies

The supervisory bodies shall include:

- a) National Bank of Georgia – for commercial banks, currency exchange Bureaux and non-bank depository institutions;
- b) National Securities Commission of Georgia – for broker companies and securities' registrars;
- c) State Insurance Supervision Service of Georgia – for insurance companies and non-state pension scheme founders;
- d) The Ministry of Finance of Georgia – for entities organizing lotteries and other commercial games; entities engaged in activities related to precious metals, precious stones and products thereof, as well as antiques; customs authorities and entities engaged in extension of grants and charity assistance;
- e) The Ministry of Justice of Georgia – for notaries.
- f) Ministry of Transport and Communications of Georgia- for postal organizations.

Article 5. Transactions Subject to Monitoring

1. For purposes of this Law, transaction subject to monitoring, shall be a transaction or the series of interrelated transactions aimed at partition of the transaction, if the price for the transaction or the series of interrelated transactions, to be undertaken by the entity exceeds GEL 20 000 in case of cash payment or GEL 40 000 in case of non-cash settlement, and if, at the same time, the transaction, in its nature, evokes a suspicion and is one of those listed in this article.
2. Subject to monitoring by commercial banks, currency exchange Bureaux and non-bank depository institutions shall be the following transactions:
 - a) Receipt of money by the entity using bank checks, in bearer form, as well as exchange of denominations;
 - b) Trade of foreign currency in cash form;
 - c) Transfer of funds to or from a bank account in Georgia, by the holders of the accounts with banks registered in non-cooperative areas;
 - d) Issuance or receipt of a loan, by a person registered in a non-cooperative area;
 - e) Transfer of funds from Georgia to another country to the account of an anonymous entity, or transfer of funds to Georgia from the bank account of an anonymous entity in another country;
 - f) Contribution of funds by a person into the authorized capital of an enterprise;-other than the purchase of stocks of accountable enterprises as defined under the Law of Georgia on Securities Market.
 - g) Opening a bank account (including deposit account), with the purpose of placement of funds in cash or non-cash settlement forms;
 - h) Extension of a loan to bearer, secured by securities;
 - i) Extension of a loan without any security.
 - j) Transfer of funds from or to the account of a legal entity within three months after its registration.
3. Subject to monitoring by broker companies and securities registrars shall be the following transactions:
 - a) transactions involving securities in bearer form, as well as trade of securities;
 - b) securities transactions undertaken by entities situated or registered in non-cooperative area, or account holders of banks registered therein;

4. The receipt of insurance premium or/and pension contribution shall be subject to monitoring by insurance companies and founders of non-state pension scheme.
5. Subject to monitoring by entities organizing lotteries and other commercial games shall be the payment of gains in the form of cash or real-valued form as well as the receipt of such funds.
6. Subject to monitoring by entities engaged in activities related to precious metals, precious stones and products thereof, as well as antiquities, shall be the trade of precious metals, precious stones and products thereof, as well as antiquities.
7. Subject to monitoring by customs authorities shall be import and export of monetary units on the territory of Georgia.
8. Subject to monitoring by entities engaged in extension of grants and charity assistance shall be the receipt and extension of grants and charity assistance in the monetary form.
9. Subject to monitoring by notaries shall be the transactions related to sale and purchase or other disposal of property.
10. Subject to monitoring by postal organizations shall be receipt or sending of postal money transfers.

Article 6. Obligations of Monitoring Entities to Register Information (Documents) on Transactions

1. Monitoring entities shall be obligated to ensure identification of an entity (its representative and agent), which has business relationship with them.
2. Commercial banks shall be obligated also to ensure identification of all entities opening a bank account, or all representatives authorized on its opening or disposal and the third person on whose behalf the account is opened.
3. Commercial banks shall be obligated to engage in banking operations, which do not imply the opening of an account by an entity, including receipt and sending of money transfers, only after they complete the identification of an entity. For purposes of this Law, such operations shall be subject to monitoring if sufficient grounds exist thereof.
4. Monitoring entities shall be obligated to register the following information (documents) on the transactions subject to monitoring under this Law:
 - a) Type, form, subject, basis and objective of a transaction;
 - b) Date and place of a transaction, as well as the amount of money needed for the transaction and the currency thereof;
 - c) Information (Documents), as prescribed by this Law, presented for the identification of an entity involved in the transaction;
 - d) Information (documents) necessary for the identification of the person at whose order the transaction is concluded or undertaken;
 - e) Information (documents) necessary for the identification of the person by whom the transaction is being concluded or undertaken.

5. Information (Documents) presented for the identification of an entity shall allow to ascertain, in the case of an individual, his/her name, family name, date of birth, citizenship and place of residence, and, in the case of a juridical entity, his/her name, subject of activity, legal address (location), state registration number, persons authorized to its management and representation, representational missions and branches;
6. Documents necessary for the identification of a resident entity, shall be the following: in the case of an individual - a citizen identity card, having a legal power, or a citizen passport, having a legal power; in the case of a juridical person – a court resolution on registration of a legal entity, or a record from a business register.
7. Non-resident legal entity shall be obligated to legalize the documentation necessary for its identification in compliance with the procedure established under the Georgian legislation.

Article 7. Obligations of Monitoring Entities to Keep Records of Information (Documents) on Transactions

1. Monitoring entities shall be obligated to keep information (documents) presented for identification of an entity for the period not less than 5 years from the moment of breaching business relationship with the entity, while other information (documents) about transactions subject to monitoring - no less than 5 years from the day the transaction has been concluded or implemented, unless the Georgian legislation sets a longer term for the retention of such information (documents).
2. Information (documents) on transactions, including those presented for the identification of an entity shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by a notary or a recipient person (an authorized employee) shall be maintained.
3. The information (documents) shall be recorded and stored in a way where all its data fully reflect the concluded or implemented transactions and, when needed, especially upon criminal prosecutions, are used as evidence.

Article 8. Obligations of Monitoring Entities to Implement Internal Control

1. Monitoring entities shall be obligated to ensure the implementation of internal control for the purpose of preventing legalization of illicit income.
2. Monitoring entities shall be obligated, in agreement with the Financial Monitoring Service of Georgia and the relevant supervisory body, to develop the internal regulations for the purpose of avoiding legalization of illicit income and take adequate measures to enforce them.
3. Monitoring entities shall be obligated to systemize the information on transactions subject to monitoring, i. e. to develop the data registration system and ensure its operation.
4. To systemize information and ensure internal control, the management body of the monitoring entity shall be obligated to designate the relevant staff member in charge, or a structural unit for this particular purpose.

5. A responsible person or a structural unit considered under paragraph 4 of this Article shall be obligated to:
 - a) Take control over the implementation of the internal regulation, developed in accord of this Law, in compliance with the procedure and frequency defined under the regulation;
 - b) Submit written information on the transactions subject to monitoring to the management body of the monitoring entity, in compliance with the procedure and frequency defined under the regulation;
6. Monitoring entities shall be obligated to provide periodic training for the employees involved in the process of detecting the facts of legalizing illicit income.
7. If a monitoring entity is unable to implement direct internal control, the procedures and conditions of the internal control shall be determined under the normative act of the supervisory body, in agreement with the Financial Monitoring Service of Georgia.

Article 9. Obligations of Monitoring Entities to Present Report on Suspicious Transactions

1. If, in the process of monitoring, monitoring entities have the grounded supposition that the transaction subject to monitoring is suspicious, or is concluded and implemented for the purpose of disintegrating the suspicious transactions or other illegal purposes, they shall be obligated to send a written notification to the Financial Monitoring Service of Georgia.
2. The submission of the written notice to the Financial Monitoring Service of Georgia shall imply completing of and forwarding by the monitoring entities a special form of report on suspicious transactions. The report shall be forwarded no later than within one working day from the moment of the conclusion and implementation of the transaction or from the moment the grounded supposition arose.
3. The report may be forwarded in electronic form, yet the monitoring entity shall be obligated to retain a hard copy of the report's form for no less than five years.
4. If the written report cannot be presented within the set period of time, the monitoring entity shall be obligated to report verbally by indicating the time and the name of the recipient person of the verbal notification.

Article 10. Financial Monitoring Service of Georgia

1. The Financial Monitoring Service of Georgia shall be established under the National Bank of Georgia in compliance with the "Law of Georgia on the Legal Entity of Public Law" and Organic law of Georgia "on the National Bank of Georgia" and shall exercise authorities prescribed by this Law and relevant normative acts.
2. The Financial Monitoring Service of Georgia, in agreement with the relevant supervisory body, shall design a reporting form on suspicious transactions. The reporting form, along with other information shall include the information on a suspicious transaction and parties to it, as well as on bank accounts (where practicable).

3. To ascertain the suspiciousness of the transaction, The Financial Monitoring Service of Georgia shall define and forward to the monitoring entities the information (list, directives, etc) on a suspicious transaction and parties to it.
4. The Financial Monitoring Service of Georgia, pursuant to the procedure under the legislation, shall be authorized to:
 - a) For the purpose of revealing the facts of illicit income legalization, obtain from monitoring entities, where practicable, additional information on other relevant transactions and parties to them;
 - b) Provide the supervisory organs with the information to get their response;
 - c) Within the scope of its competence, approve (issue) normative acts and regulations on the conditions and procedures for submission, processing and forwarding the information.
 - d) Participate in drafting laws and other normative acts and discussions thereof regarding the issues that regulate the economic sector and related authorities
 - e) For the purpose of implementing the assigned functions, forward questions and obtain information from all state or local self-government and government bodies and agencies, as well as from any individual or legal entity, which exercises public legal authority granted by the legislation.
5. The financial Monitoring Service of Georgia shall be obligated to:
 - a) Create an information network, systemize and analyze the obtained information, ensure the creation and proper functioning of the relevant database;
 - b) In the case of arising the grounded supposition due to the analysis of the relevant information that the transaction is suspicious, immediately forward this information (including confidential) and relevant materials to the General Prosecutor's Office of Georgia, without any permission from any organ or entity.
 - c) Review the status of the enforcement of this law and prepare appropriate legislative proposals, when needed, to ensure the accomplishment of the goals of this Law.
6. Any entity or agency shall receive the information available at the Financial Monitoring Service of Georgia and containing the information recognized as confidential by the Georgian legislation only upon the submission of the relevant court resolution.
7. The issues related to the management, structure, representation, accountability and control of the Financial Monitoring Service of Georgia shall be determined by the Regulation of the Service approved by the President of Georgia.

Article 11. Responsibilities of Supervisory Bodies

1. The supervisory bodies shall be responsible for overseeing the compliance with the obligations (with respect to transactions, including the systemization, and forwarding the information for identification of parties to the transaction, and performance of internal control, etc) prescribed by this Law by the monitoring entities, in accordance with the set rules and procedures.
2. The supervisory bodies shall be obligated to collaborate with each other, with competent Georgian and other countries' authorized agencies and international organizations through

exchanging information and experience, and assist law enforcement agencies, within the scope of their competence.

3. If, during the supervision process, the supervisory body has a grounded supposition that the transaction is suspicious it shall be obligated to immediately inform the Financial Monitoring Service of Georgia about this fact, unless this information has already been forwarded to relevant agencies by monitoring entities.

Article 12. Responsibility for Protection and Disclosure of Information

1. Financial Monitoring Service of Georgia, monitoring entities, and supervisory bodies shall have no right to inform the persons involved in transactions, or other entities that the information on the transaction has been referred to the relevant body or a person, in compliance with the obligations prescribed by this Law, except for those cases when they are required to submit this information under the applicable Georgian legislation.
2. The Financial Monitoring Service of Georgia, the supervisory and law-enforcement bodies, their management and employees, shall be obligated to ensure the protection of the information obtained pursuant to this Law, which contains personal, banking, commercial or professional secrets, and disclose such information in accordance with the applicable Georgian legislation.
3. When acting within the scope of their powers, Financial Monitoring Service of Georgia, monitoring entities, supervisory bodies, their management and employees shall not be held accountable for failure to observe the confidentiality of information considered under a normative act, or under an agreement, as well as for protection or referral of such information, except for commitment of the crime considered under the Criminal Code of Georgia.
4. General Prosecutor's Office of Georgia shall refer information and materials received from the Financial Monitoring Service of Georgia to other concerned bodies, in observance of the procedure established by the Georgian legislation.

Article 13. International Cooperation

1. The Georgian bodies authorized to work on issues related to legalization of illicit income, shall cooperate, within their competence, with competent agencies of other countries and international organizations, in affairs such as receipt of information, preliminary investigation, court hearing and execution of resolutions.
2. Competent agencies of other countries and international organizations shall be provided with the information concerning detection of illicit income only in cases when such information does not do any harm to the national security and public safety of Georgia, and enables competent organs of those countries and international organizations to conduct investigation on the relevant issues
3. The Georgian bodies authorized to work on issues related to legalization of illicit income, shall forward requests for submission of necessary information to competent agencies of other countries and international organizations, and respond to such requests.

4. The Georgian bodies authorized to work on issues related to legalization of illicit income, shall ensure the confidentiality of relevant information and use it only for the purposes that are indicated in the forwarded request.

Article 14. Compensation of Material Damage

1. The material damage inflicted to individuals and legal entities as a result of illegal actions committed by the officials and employees of the Financial Monitoring Service of Georgia, monitoring entities, supervisory and law-enforcement bodies in cases set under this Law and related to the protection of confidentiality of information obtained in accord with the set Law, shall be compensated by the damaging entity – correspondingly by the Financial Monitoring Service of Georgia, monitoring entity, supervisory and law enforcement bodies at the amount set under the court decision.
2. The Material damage inflicted to individuals and legal entities as a result of the actions committed by the Financial Monitoring Service of Georgia related to referral of information and materials to the relevant service of the General Prosecutor’s Office of Georgia on the basis of ungrounded supposition and by non-compliance with this Law, shall be compensated by the Financial Monitoring Service of Georgia based on a court decision in accord with the procedures established under the Georgian legislation.

Article 15. Transitional Provisions

1. Within ten days from the promulgation of this Law, the National Bank of Georgia shall ensure the preparation, and submission to the President of Georgia for approval, of the appropriate normative acts related to the establishment of the Financial Monitoring Service of Georgia.
2. President of Georgia shall be requested to issue, within one month after the promulgation of this Law, the decree on the approval of the regulation on the Financial Monitoring Service of Georgia
3. Within three months after the promulgation of this Law, the National Bank of Georgia shall complete the legal, organizational and financial measures related to the establishment of the Financial Monitoring Service of Georgia.
4. Prior to January 1, 2004, the following shall be ensured with regard to receipt, processing and forwarding the information:
 - a) Adoption (publication) of normative acts and regulations by Financial Monitoring Service of Georgia and supervisory bodies;
 - b) Publication of internal regulations by monitoring entities.
5. Within 6 months from the promulgation of this Law, the supervisory bodies shall develop the regulation on application of sanction for the violation of this Law by monitoring entities.
6. Within one year after the promulgation of this Law:

- a) The Ministry of Finance, together with the National Bank of Georgia, shall carry out necessary measures to record the movement of cash at the Georgian State borders, in the way to ensure the conscientious use of the information received in relation to the above, and free flow of capital.
- b) The National Bank of Georgia shall undertake measures to promote the use and broader application of non-cash payment, and submit the legislative suggestions to limit the control over the commercial banks by criminals.

Article 16. Conclusive Provisions

- 1. This Law, except for Articles 10 and 15 shall be enforced from January 1, 2004.
- 2. Articles 10 and 15 of this Law shall be enforced upon promulgation.

**President of Georgia
Tbilisi
6 June 2003**