Informal translation
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FINANCIAL MONITORING SERVICE OF GEORGIA

DECREE №2

Tbilisi 16 February, 2010

On Approving the Regulation on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry - a Legal Entity of the Public Law and Forwarding to the Financial Monitoring Service of Georgia

Pursuant to the Paragraph 4 (c), Article 10 of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization" I Decree:

1. Approve the enclosed Regulation "on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry - a Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia".

2. The present Decree shall become effective upon promulgation.

Mikheil Roinishvili

REGULATION

on Receiving, Systemizing and Processing the Information by the National Agency of Public Registry - a Legal Entity of Public Law and Forwarding to the Financial Monitoring Service of Georgia

Article 1. General Provisions

1. The present Regulation has been developed on the basis of the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalization" and other relevant normative acts of Georgia.

2. Requirements of this Regulation shall apply to the National Agency of Public Registry - a Legal Entity of Public Law (hereinafter referred to as **the Agency**), functioning under governance of the Ministry of Justice of Georgia, Georgian resident and non-resident persons, their representatives, representational offices and branches, agencies, institutions and organizations.

3. This Regulation shall regulate receiving, systemizing, processing and submitting the information on identification of persons and transactions provided for by the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization to the Financial Monitoring Service of Georgia (hereinafter referred to as the Service), as well as the procedure for carrying out the instruction of the Financial Monitoring Service on the suspension of implementation of the transaction.

Article 2. Definition of Terms

For purposes of this Regulation, the following terms shall have the following meanings:

a) Illicit income – illicit or / and unjustified property possessed or owned by a person;

b) Legalization of illicit income – legalization of illicit income (acquisition, use, transfer or other action), as well as concealing or disguising its true origin, proprietor or owner, or/and property rights or attempt to commit such an action;

c) Property – property as considered under the Civil Code of Georgia: all property (movable as well as immovable) and immaterial property, which can be owned, used and disposed of by physical and legal persons;

d) Monitoring – identification by the Agency of persons defined under the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization"; processing the information on transactions subject to monitoring as well as on persons involved therein and forwarding to the Service in compliance with the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization", this Regulation and other normative acts adopted on the basis of the Law;

e) Suspicious transaction – a transaction (regardless its amount and operation type) supported with reasonable grounds to suspect that it had been concluded or implemented for the purpose of legalizing illicit income or/and the property (including funds) on the basis of which the transaction had been concluded or implemented is the proceeds of criminal activity or/and the transaction had been concluded or implemented for the purpose of terrorism financing (person

participating in the transaction or the transaction amount causes suspicion, or other reasons exist for considering transaction as suspicious), or any person involved in the transaction is on the list of terrorists or persons supporting terrorism, or / and is likely to be connected with them, or / and funds involved in the transaction may be related with or used for terrorism, terrorist act or by terrorists or terrorist organization or persons financing terrorism, or any involved person's legal or real address or place of residence is located in a non-cooperative zone or the transaction amount is transferred to or from such zone; (31.01.12 №11)

f) Unusual transaction – complex, unusual large transaction, also type of transactions, which does not have apparent or visible economic (commercial) content or lack lawful purpose and is inconsistent with the ordinary business activity of the person involved therein

g) Person – any resident or non-resident natural person and legal entity, as well as organizational formation (arrangement) considered under legislation, which does not represent a legal entity (non-registered union, partnership, partnership of apartment owners);

h) Identification of a person – obtaining information on the person, which, when necessary, allows tracing such person and distinguishing from the other person.

i) Person involved in a transaction – all persons participating in transaction, including parties of the transaction, their representatives and agents, as well as third parties in whose favor transaction is concluded;

k) Non-cooperative area or watch zone – country or a part of the territory thereof defined by the National Bank of Georgia on the basis of proposition of the Service. The country or territory thereof shall be identified as such on the basis of the information provided by competent international organization, or if the grounded supposition exists that in such zone mechanisms for controlling illicit income legalization are effective; (01.09.2011 #10)

l) Beneficial owner - natural person(s) representing an ultimate owner(s) or controlling person(s) of a person or / and a person on whose behalf the transaction (operation) is being conducted; beneficial owner of a business legal entity (as well as of an organizational formation (arrangement) not representing a legal entity, provided for in the Georgian legislation) shall be the direct or indirect ultimate owner, holder or / and controlling natural person(s) of 25% or more of such entity's share or voting stock, or natural person(s) otherwise exercising control over the governance of the business legal entity. (31.01.12 №11)

m) Suspicious zone –a country or a part of the territory thereof, identified as having weak mechanisms for controlling illicit income legalization, based on information available to the monitoring entity.

n) Competent international organizations - Council of Europe, Financial Action Task Force (FATF), and other organizations recognized as such by the International Community;

o) Control – exercising strong influence directly or indirectly, alone or in concert with others, through use of voting shares or otherwise; (02.06.10 #13)

p) Controlling person – Person exercising control; (02.06.10 #13)

q) Politically Exposed Person (PEP) - a foreign citizen, who has been entrusted with prominent state (public) functions in a respective country or / and carry out significant public and political activities. The PEPs are as follows: the head of the state, the head of the

government and the member of the government, their deputies, a senior official of government institution, a member of the parliament, a member of the supreme court, a member of the constitutional court, a senior military official, a member of the central (national) bank's council, an ambassador, a senior executive of state owned corporation, important political party (union) official and member of executive body of the political party (union), other prominent politician, his / her family members as well as persons having close business relations with him / her; a person shall be considered as a politically exposed during a year following his / her resignation from the foregoing positions; (02.06.10 #13)

r) Family member – spouse of a politically exposed person (PEP), his / her parents, siblings, children (including step – children) and their spouses. (02.06.10 #13)

s) Person having close business relationship with the politically exposed person (PEP) – natural person who owns or / and controls a share or voting stock of that legal entity, in which a share or voting stock is owned or / and controlled by the Politically Exposed Person (PEP); also, a person having other type of close business relationship with the Politically Exposed Person (PEP). (02.06.10 #13)

t) Implementation of the transaction (operation) – Implementation of the transaction (including the registration of property) by the monitoring entity except for the monitoring entities listed in subparagraphs "f", "j" and "m" of Article 3 of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization.

Article 3. Transactions Subject to Monitoring

1. For purposes of this Regulation, subject to monitoring shall be purchase transaction or donative transaction (including future transaction) concluded (implemented) by the person on the basis of which the proprietary right of the person on real estate registered in the Registry of Rights is originated, if one or both of the following provisions exist:

a) The amount of the concluded (implemented) transaction exceeds GEL 30,000 (or its equivalent in other currency) in case of cash as well as non-cash settlement;

b) Transaction, regardless its amount, is suspicious according to subparagraph (e), Article 2 of this Regulation;

2. In addition to transactions stated in paragraph 1 of this Article, subject to monitoring shall be any transaction, regardless the amount, if there is a supposition that any party of the transaction is related or may be related to terrorists or persons supporting terrorism. The list of terrorists and terrorism-supporting persons shall be published by the Service in the Legislative Herald of Georgia and sent to the Agency.

3. In addition to transactions indicated in this Article, subject to monitoring shall also be any transaction, regardless its amount, concluded (implemented) by the person operating or registered in watch or suspicious zone.

$3^{1.}$ Subject to monitoring shall not be the transaction defined by this Article if such transaction is notarized as well as the transaction defined by this Article where one of the parties is represented by the state (its body) or self governmental body (08.11.2011 #20).

4. The Agency shall focus special attention on unusual transactions which do not have apparent or visible economic (commercial) content or lack lawful purpose. Agency shall itself determine the principles for categorizing the transaction as unusual.

Article 4. Obligations of the Agency with Respect to Implementation of Internal Control

1. Pursuant to Article 8 of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization", for the purpose of averting facts of illicit income legalization, the Agency shall exercise internal control in conformity with requirements of this Regulation and the normative act issued by the Minister of Justice of Georgia on the basis of paragraph 7, Article 8 of the aforementioned Law.

2. For the purpose of determining the rule and procedure of the internal control, the Agency shall develop the internal regulation on the basis of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalization and the present Regulation. Internal regulation shall define the procedure for the identification of persons using the service of the Agency (its territorial registration service), as well as other relevant persons; analyzing and retaining the information obtained through the identification process; identification of transactions subject to the monitoring and submitting the information to the Service, as well as the procedure for carrying out the instruction of the Financial Monitoring Service on the suspension of implementation of the transaction.

Article 5. Functions of the Structural Unit in Charge of Monitoring

1. For the purpose of conducting monitoring process, the Chairman of the Agency shall designate an employee (or employees) in charge of monitoring on the basis of the Order.

2. Functions, authority and work procedure of the employee in charge of monitoring shall be defined in compliance with the legislation.

Article 6. Obligations of the Agency (its Territorial Registration Service) with respect to Identification and Registration of Identification Information (Documents)

1. Agency shall identify transaction participants (their representatives, proxies, as well as the third person in whose favor transaction is concluded), when:

a) Transaction amount exceeds GEL 30 000 (or its equivalent in other currency);

b) Transaction represents a suspicious transaction according to subparagraph (e), Article 2 of this Regulation;

c) In other cases provided for in legislation.

2. Identification process shall be conducted in compliance with the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalization", this Regulation, normative acts issued by the Minister of Justice of Georgia and guidelines and recommendations of the Service.

3. In spite of supposition on equivocacy and amount of the transaction, the Agency shall not suspend rendering its service, except for the following cases:

a) Transaction participant or / and other relevant person can not be identified;

b) Any party of the transaction is on the list of terrorists or persons supporting terrorism;

b[1]) Upon receipt of the instruction of the Financial Monitoring Service on the suspension of implementation of the transaction as prescribed under Article 9[1] of this Regulation;

c) Other cases provided for in the legislation.

4. In cases indicated in subparagraphs (a) - (b), paragraph 3 of this Article, the Agency shall immediately submit the respective information, available materials and any other information on transaction and parties thereof to the Service. (01.09.2011 #10)

5. The following information on all persons participating in the transaction shall be obtained through the identification process:

a) in case of natural person:

a.a) First name, last name;

a.b) Personal number;

a.c) Citizenship;

a.d) Date of birth;

a.e) Address, place of residence by the place of registration, and if this information is not available - actual place of residence.

b) In case of legal entity:

b.a) Full name;

b.b) Identification number of the tax payer.

c) Organizational formation (arrangement) provided for in the legislation not representing a legal entity:

c.a) Full name;

c.b) Identification number of a tax payer (if such);

6. Documents necessary for identification process shall be:

a) if the natural person is a Georgian citizen – a citizen identity card, or a passport, or any other official document, which contains the relevant information for person's identification and is equalized to them under the Georgian legislation; if the natural person is registered as a sole trader – document confirming registration;

b) if the natural person is a foreign citizen – passport issued by the competent authority of the relevant State or other official document equalized to the passport according to the Georgian legislation, which includes data necessary for person's identification.

c) in case of resident legal entity (or organizational formation which does not represent a legal entity) – respective act as determined by the Georgian legislation on establishing the entity, or excerpt from the respective registry and document confirming authority for representation of an entity;

d) in case of non-resident legal entity - foundation and registration documents issued by the competent authorities of foreign countries and document proving authority for representation of such entity shall be presented.

$6^{1.}$ For the purpose of identifying the person having business relationship with the Agency (its representative and proxy, as well as the third person, if the transaction is being concluded in favor of the third person), as well as the beneficial owner, the Agency shall be entitled to use the electronic databases of identification documents provided by the Civil Registry Agency – Legal Entity of Public Law at the Ministry of Justice of Georgia according to the procedure set by the Georgian legislation. (31.01.12 №11)

7. Agency shall identify the beneficial owner of the person and undertake reasonable measures to verify his/her identity by means of reliable, independent source and be satisfied that it knows who the beneficial owner of the person is. Identification procedures similar to those used for natural persons shall be applied against beneficial owner. (31.01.12 №11)

8. Agency shall pay special attention to any threats that may arise from new technologies, products and service that might favor anonymity during the service and take all measures, to prevent their use in legalization of illicit income and terrorism financing. Agency shall have in place such identification and verification policy and procedures that reduces the risks associated with non face to face service as it is considered under the Georgian legislation. Policy and procedures defined under this paragraph shall be used when establishing business relationship. (31.01.12 №11)

Article 6^{1}. Obligations of the Agency with respect to Politically Exposed Persons (PEPs) (02.06.10 №13)

1. The Agency shall identify whether the person having business relations with the entity and his / her beneficial owner belongs to the category of Politically Exposed Persons (PEPs).

2. If a person having the business relationship with the Agency or / and his/ her beneficial owner represents a Politically Exposed Person (PEP), in addition to the steps stipulated under the Law and the present Regulation the Agency shall take the following actions: (31.01.12 №11)

    a) Obtain permission from the management of the Agency to establish business relationship with such person;

    b) Take reasonable measures to ascertain the origin of funds, property of such person;

    c) Perform enhanced monitoring over its business relations with such person.

3. If the person (his / her beneficial owner) becomes Politically Exposed Person (PEP) after establishing business relations with the Agency, the latter shall undertake measures provided for in paragraph 2 of this Article against such person upon availability of the aforementioned

information.

Article 7. Obligations of the Agency to Record Information (Documents) on Transactions (Operations)

1. The Agency shall depict the following information on a transaction:

a) Content of transaction;

b) Date and place of registration of the right originated on the basis of transaction, as well as the transaction amount and currency in which transaction has been implemented;

c) Information (documents) determined in paragraph 5, Article 6 of this Regulation, presented for identification of transaction participant, including information (documents) required for identification of the person, based on whose order transaction is concluded (implemented) and data on the person who concludes or implements transaction based on such order.

d) Content of the action implemented by the Agency.

2. Recording, systemizing and filing of information stated in paragraph 1 of this Article shall be carried out in conformity with procedure set under the legislation.

Article 8. Obligations of the Agency to Keep Information (Documents) on Transaction Subject to Monitoring

1. Agency shall be obligated to keep information (documents) presented for identification of a person for the period not less than 6 years from the moment of registration of the transaction (right) unless a longer term for the retention is required by the respective supervisory authority.
2. Information (documents) on transaction, including those presented for the identification of a person, shall be kept electronically or / and in their original form, and where impracticable, a copy thereof shall be retained.
3. In addition to the information indicated in paragraph 1 of this Article, subject to retention in electronic form for the period of six years (unless a longer term is required by the supervisory authority) shall be information submitted to the Service pursuant to Article 9 of this regulation.
4. Information (documents) retained in the Agency shall fully reflect the implemented transaction and persons involved therein. In addition, information shall be recorded, systemized and filed in a way, that when needed (timely submission to the supervision authorities as well as necessity to use as evidence in criminal cases) it can be found and retrieved in a shortest period of time.
5. Documents (information) shall be retained in a way that be accessible only to the employees authorized by the Agency and to persons authorized under the effective legislation.

Article 9. Obligations of the Agency to Present Reporting Forms on Transactions Subject to Monitoring

1. Agency shall ensure submission of information to the Service in an electronic form.
2. The Service shall be provided with the following type of information:

a) Identification details of transaction participants (their representatives, proxies, as well as the third person in whose favor transaction is concluded) provided for in Article 6 of this Regulation;
b) Type of transaction;
c) Content of transaction (including information on date and place of registration of the right originated on the basis of transaction, registration number of application, data on area, as well as transaction amount and currency);
d) Information pertaining to the suspicious transaction, which became the ground for considering transaction as suspicious.

3. The following timeframes shall be set for submission of information to the Service: (31.01.12 №11)

a) If the amount of transaction or series of transactions aimed at partition exceeds GEL 30 000 or its equivalent in other currency, or the transaction listed in paragraph, Article 3 of this Regulation is present the report shall be submitted no later than five working days from the registration of transaction (operation) at the Agency;

b) If the transaction or identification data is considered as suspicious - the report shall be submitted on the day of origination of supposition or suspicion;

c) If any person involved in the transaction is on the list of terrorists or persons supporting terrorism, or / and is likely to be connected with them the report shall be submitted on the day the information is received. In addition, in the latter case all relevant materials and documents available to the Agency along with the information defined under this paragraph shall be forwarded to the Financial Monitoring Service of Georgia.

4. In the event of revealing suspicious transaction and submitting related reporting form to the Service, the Agency shall be obligated to focus special attention on other activities implemented by the transaction participants in the Agency.

5. Pursuant to subparagraph (a), Paragraph 4, Article 10 of the Law of Georgia “On Facilitating the Prevention of Illicit Income Legalization”, the Service shall be authorized to request and receive within 2 working days additional information from the Agency as well as copies of available documents (including confidential) in relation to any transaction and persons involved therein, including those transactions on which reporting forms have not been presented to the Service. Agency shall ensure accessibility of its database to the Service.

6. Agency shall strictly observe confidentiality of any information related to the submission of information according to the present Regulation to the Service. In case of suspicion regarding the transaction or parties thereof, and in the event of submission of the reporting form to the Service, the information thereon shall not be provided to persons involved in the relevant transaction, their representatives and proxies and any other persons.

Article 9[1]. The instruction of the Financial Monitoring Service on the suspension of implementation of the transaction (operation)

1. The Head of the Financial Monitoring Service shall be authorized, if the transaction is believed to be suspicious and irrespective of the amount of funds, to issue the written instruction to the Agency on the suspension of implementation of the transaction (operation) or any other related transaction (operation) for no more than 72 hours (non-working days and public holidays shall not be considered in the time limit). The case materials shall be immediately disseminated to the respective authorities of the Chief Prosecutor's Service, the Ministry of Internal Affairs and/or the State Security Service of Georgia.

2. The Head of the Financial Monitoring Service or the person designated therein shall be authorized, in case of urgency, to verbally (directly or through electronic means) or in writing through electronic means issue the instruction referred to in paragraph 1 of this Article that shall be confirmed by the written instruction of the Head of the Financial Monitoring Service and handed over to the Agency in the next 24 hours (non-working days and public holidays shall not be considered in the time limit). If within this time limit the written instruction is not handed over to the Agency the instruction of the Financial Monitoring Service shall not be observed. The protocol shall be drawn up as provided for by subparagraph 3 of this Article when the instruction referred to in this paragraph is issued.

3. The protocol shall be drawn up separately by the Financial Monitoring Service of Georgia on the one hand and the authorized employee of the Agency on the other hand immediately upon the issuance of the instruction of the Financial Monitoring Service on the suspension of implementation of the transaction as prescribed under paragraph 2 of this Article. The protocol shall include:

a) First name, last name and the position of the issuer of the instruction (authorized employee of the Financial Monitoring Service) and the recipient (authorized employee of the Agency);

b) Exact time of issuance/receipt of the instruction (specifying the hour and minute);

c) The form of issuance/receipt of the instruction (verbal, including through means of electronic communication, or written, including through electronic mail or other means of electronic communication);

d) The substance of the instruction, including the data enabling the identification of the transaction (transactions) and/or the person carrying out the transaction (transactions);

e) The period of the suspension of implementation of the transaction;

f) The confirmation of the receipt of the instruction by the Agency's authorized employee;

g) The exact time and date of drawing up the protocol;

h) The signature of authorized employees of the Financial Monitoring Service and the Agency.

4. The Agency shall be required to immediately confirm the receipt of the instruction referred to in paragraphs 1 and 2 of this Article to the Financial Monitoring Service through the same means used to communicate the instruction, and to undertake all necessary measures for its implementation. The confirmation of the receipt of the instruction on the suspension of

implementation of the transaction under paragraph 2 of this Article shall be included in the protocol referred to in paragraph 3 of this Article.

5. The time limit referred to in paragraph 1 of this Article shall start to run from the moment of receipt by the Agency of the written instruction issued by the Head of the Financial Monitoring Service, or the instruction issued by the Head of the Financial Monitoring Service or the designated person as provided by paragraph 2 of this Article.

6. The instruction referred to in paragraphs 1 and 2 of this Article can be revoked before the expiry of the time limit provided for in paragraph 1 of this Article if the suspicious nature of the transaction could not be ascertained or if this is required for the interests of investigation based on the written request of the respective authorities of the Chief Prosecutor's Service, the Ministry of Internal Affairs or the State Security Service of Georgia. The Financial Monitoring Service shall immediately notify the Agency about the revocation of the instruction through the procedure referred to in paragraph 2 of this Article, which shall be confirmed by the written instruction of the Head of the Financial Monitoring Service and handed over to the Agency in the next 24 hours. The Agency shall be required to immediately confirm the receipt of the notice on the revocation of the instruction referred to in paragraphs 1 and 2 of this Article to the Financial Monitoring service through the same means used to communicate the notice.

7. The Agency shall be required to keep the written instructions of the Head of the Financial Monitoring Service (including written instructions issued through electronic means) referred to in paragraphs 1 and 2 of this Article for no less than 6 years unless the respective supervisory authority requests to keep the instructions for a longer period. The protocols referred to in paragraph 3 of this Article shall also be retained for 6 years.

8. The Agency shall be required to designate an employee (employees) based on formal decision who shall be authorized: to receive/accept the instruction on the suspension of implementation of the transaction issued by the Head of the Financial Monitoring Service or the person designated therein as provided for by paragraphs 1 and 2 of this Article and the instruction revocation notice; to confirm the receipt of the instruction on the suspension of implementation of the transaction and the instruction revocation notice to the Financial Monitoring Service; to draw up the protocol referred to in paragraph 3 of this Article and undertake all necessary measures for the implementation of the instruction on the suspension of implementation of the transaction.

9. The senior management and employees (both fixed and unspecified term employees) of the Agency shall not be authorized to notify the parties to a transaction or other persons about the implementation of measures provided for by this Article.

Article 10. Responsibilities Related to Monitoring

1. Ministry of Justice of Georgia shall supervise compliance of the Agency with norms and requirements of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization", this Regulation and normative acts issued by the Ministry of Justice of Georgia.

2. For violation of norms and requirements of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization" and this Regulation, the sanctions defined under the legislation shall be applied.