Published: Legislative Herald of Georgia
www.matsne.gov.ge 12/03/2015
Registration Code: 300050000.19.012.016052

FINANCIAL MONITORING SERVICE OF GEORGIA
DECREE #12

Tbilisi March 11, 2015

On Approving the Regulation on Receiving, Systemizing and Processing the Information by Payment Service Provider and Forwarding to the Financial Monitoring Service of Georgia

Pursuant to subparagraph "c", paragraph 4, Article 10 of the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalization" I Decree:

1. Approve the Regulation "on Receiving, Systemizing and Processing the Information by Payment Service Provider and Forwarding to the Financial Monitoring Service of Georgia".

2. Payment service providers registered by the National Bank of Georgia prior to May 1st, 2015 shall:

a) Ensure submission of the Form of Registration of Payment Service Provider to the Financial Monitoring Service of Georgia according to the procedure established under the Regulation "on Receiving, Systemizing and Processing the Information by Payment Service Provider and Forwarding to the Financial Monitoring Service of Georgia";

b) Ensure development of internal regulations of financial monitoring on the basis of requirements of the Regulation "on Receiving, Systemizing and Processing the Information by Payment Service Provider and Forwarding to the Financial Monitoring Service of Georgia".

3. Payment Service Providers registered by the National Bank of Georgia after the effective date of this Decree shall ensure:

a) submission of the Form of Registration of Payment Service Provider to the Financial Monitoring Service of Georgia according to the procedure established under the Regulation "on Receiving, Systemizing and Processing the Information by Payment Service Provider and Forwarding to the Financial Monitoring Service of Georgia" within 10 days after the registration;

b) Within two months development of internal regulations of financial monitoring on the basis of requirements of the Regulation "on Receiving, Systemizing and Processing the Information by Payment Service Provider and Forwarding to the Financial Monitoring Service of Georgia".

4. Payment service providers shall ensure within two months after the submission of the Form of Registration to the Financial Monitoring Service of Georgia implementation and operation of an electronic data base containing identification details of clients and other relevant persons and information on transactions (operations) subject to monitoring; as well as implementation and operation of the relevant software for revealing suspicious and partitioned transactions.

5. This Decree shall become effective upon promulgation.

M. Roinishvili

REGULATION

On Receiving, Systemizing and Processing the Information by Payment Service Provider and Forwarding to the Financial Monitoring Service of Georgia

Article 1. General Provisions

1. This Regulation has been developed on the basis of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization", Law of Georgia "On Payment Systems and Payment Services" and other relevant normative acts of Georgia.

2. Requirements of this Regulation shall apply to payment service (including electronic money) providers registered by the National Bank of Georgia except for payment service providers that issue low-volume payment instruments according to the Law of Georgia "on Payment Systems and Payment Services".

3. This Regulation shall regulate the principles and rules of carrying out financial monitoring for the purpose of facilitating the prevention of illicit income legalization and terrorism financing by Payment Service Provider, specifically, the terms and procedure for identifying the Money Remittance Entities' clients and other relevant persons, and receiving, systemizing, processing and retaining the appropriate information, and submitting the information to the Financial Monitoring Service (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 in ownership or possession of 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 natural persons and legal entities;

d) Payment service provider – a legal entity as it is defined under the Law of Georgia "on Payment Systems and Payment Services" and registered by the National Bank of Georgia in compliance with the procedure established under the legislation that provides payment service to a payment service user, including electronic money provider;

e) Electronic money provider – a payment service provider as it is defined under the Law of Georgia "on Payment Systems and Payment services" and registered by the National Bank of Georgia in compliance with the procedure established under the legislation who issues electronic money on the basis of the Georgian legislation;

f) 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;

g) Unusual transaction - complex, unusually large transaction (operation) and/or unusual patterns of a transaction (operation) that does not have the visible economic (commercial) content or lacks lawful purpose, and/or is inconsistent with the ordinary business activity of a person involved therein;

h) Monitoring – identification of persons defined under the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization" by payment service provider, recording, systemizing and processing the information on operations (transactions) subject to monitoring, as well as on persons involved therein and forwarding to the Financial Monitoring Service of Georgia in compliance with the procedure prescribed under this Regulation and other normative acts adopted on the basis of the law of Georgia "Facilitating the Prevention of Illicit Income Legalization";

i) Employee in charge of monitoring – employee of the payment service provider who on the basis of the legalized resolution is charged with the responsibility to ensure conducting monitoring activities within the payment service provider and the respective duties. If the special structural unit is established with the payment service provider for performing monitoring activities, head of such unit shall be the employee responsible for conducting monitoring;

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

k) Client - any person who addresses to the payment service provider for the service defined by the legislation as the principal activity of the latter or / and uses such service;

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

m) Non-cooperative or watch zone – a country or a part of the territory thereof defined by the National Bank of Georgia on the basis of proposition of the Financial Monitoring Service of Georgia. 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 weak mechanisms for controlling illicit income legalization are effective;

n) 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;

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

p) Beneficial owner – a natural person representing an ultimate owner or controlling person 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 of 25% or more of such entity's share or voting stock, or natural person otherwise exercising control over the governance of the business legal entity;

q) Control – exercising strong influence directly or indirectly, alone or in concert with others, through use of voting shares or otherwise;

r) Controlling person – person exercising control;

s) User Manual – Instruction for using of web-portal set on the official website of the FMS (www.fms.gov.ge);

t) Politically Exposed Person (PEP) - a foreign citizen, who has been entrusted with a prominent public function in a respective country or / and carries out significant public and political activities. The PEPs are as follows: the head of the state, the head of the government and members of the government, their deputies, a senior official of a government institution, a member of the parliament, a member of the supreme court, a member of a constitutional court, a senior military official, a member of the central (national) bank's council, an ambassador, a senior executive of state owned corporation, an important political party (union) official, a member of executive body of the political party (union), other prominent politician, his/her family members as well as a person 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;

u) Family member – a spouse of a person, his / her parents, siblings, children (including step – children) and their spouses;

v) Person having close business relationship with the politically exposed person (PEP) – a 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);

w) Payment transaction – a transaction initiated by a payer or a payee for placing/crediting, transferring or withdrawing funds;

x) Payment for public utilities services – payment for electricity, gas, water, cleaning, and telecommunication services;

y) 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. Operations (Transactions) Subject to Monitoring

1. For purposes of this Regulation, subject to monitoring shall be a domestic and cross-border payment operation (transaction) as provided for by paragraph 1, Article 13 of the law of Georgia on “On Payment Systems and Payment Services” (except for payment of utilities services and payment in budget) and/or series of operations (transactions) aimed at partition of the operation (transaction), if one or both of the following provisions exist:

a) The amount of the operation (transaction) or series of operations (transactions) exceeds GEL 30,000 (or its equivalent in other currency);

b) Operation (transaction) is suspicious according to subparagraph (f), Article 2 of this Regulation.

2. Any operation (transaction) regardless its amount, other than operations listed in this Article, shall be subject to monitoring, if there is a supposition that transaction funds whether obtained legally or illegally, may be related with or used for terrorism, terrorist act or by terrorists or terrorist organization or person financing terrorism. The list of terrorists and terrorism-supporting persons shall be published by the Service in Legislative Herald of Georgia.

3. Subject to monitoring shall also be an attempt to conclude or implement of operation provided under subparagraph “b”, paragraph 1 of this Article or any other fact (circumstance), which according to the written instructions of the Service, may be related to legalization of illicit income or terrorism financing.

4. Payment service providers shall pay special attention to transfer/receipt of funds to/from suspicious or watch zone and unusual transactions, which do not have the visible economic (commercial) content or lack lawful purpose, ascertain the purpose and grounds of such transactions to the reasonable extent possible and document obtained results in writing. In case of detecting the high risk of illicit income legalisation and terrorism financing, the payment service provider is required to undertake enhanced procedures of identification and verification provided for by Article 7 of this Regulation, which are commensurate with the risk identified. In such cases, the monitoring of business relationship must be enhanced in order to ascertain whether a transaction (operation) is unusual or suspicious.

5. For the purpose of revealing suspicious and partitioned operations (transactions) the payment service provider shall establish electronic database (system).

Article 4. Obligations of Payment Service Provider with Respect to Implementation of 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 and terrorism financing the payment service provider shall exercise internal control function.

2. Main directions of implementation of internal control shall include the following:

a) Identification of clients of the payment service provider (their representatives and proxies), as well as the third person if the operation is implemented (transaction is concluded) in favor of the third person;

b) Exercising measures provided for in the present Regulation against Politically Exposed Persons (PEPs);

c) Defining terms and procedures for exercising permanent monitoring of business relationships with the client in compliance with the procedure set under the present Regulation;

d) Analyzing the information obtained through identification and revealing operations subject to monitoring;

e) Recording, systemizing and filing the information in a documentary form;

f) Submission of the information on operation subject to monitoring to the Service in the reporting form;

g) Terms and procedure for carrying out the instruction of the Financial Monitoring Service on the suspension of implementation of the transaction.

3. For the purpose of defining internal control rules and procedures, the payment service provider shall develop internal regulation on the basis of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization" and the present Regulation. Internal regulation for conducting monitoring shall define:

a) Procedures for identification of clients of payment service provider, their representatives and proxies, beneficial owners as well as the third person if the transaction (operation) is being concluded in favor of the third person and other relevant persons defined under the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalization" (including the enhanced and simplified identification/verification procedures); Procedures for ascertaining of Politically Exposed Persons (PEPs);

b) Procedures for recording, systemizing and filing information related to the monitoring;

c) Rule for submission of reporting forms and other materials to the Financial Monitoring Service of Georgia;

d) Terms and procedures for exercising permanent monitoring of business relationships with the client;

e) Functions, authority and responsibility of the employee in charge of monitoring;

f) Functions, authority and responsibility of other employees of payment service providers with respect to monitoring;

g) Procedures for certifying copies of documents submitted by clients and employee (employees) in charge of certification in accordance with paragraph 3, Article 10 of this Regulation;

h) Terms and procedure for carrying out the instruction of the Financial Monitoring Service on the suspension of implementation of the transaction;

i) Rights and responsibilities of the employee/employees authorized to confirm the receipt and to carry out the instruction of the Financial Monitoring Service on the suspension of implementation of the transaction.

4. Staff recruitment policy of the payment service provider (covering investigation of employees' qualifications and reputation), as well as rules and procedures established by the internal regulation shall at maximum extent facilitate prevention of participation of payment service provider's employees in the processes of illicit income legalization and terrorism financing.

Article 5. Obligations of Payment Service Provider with respect to Monitoring

Payment service provider with respect to monitoring shall be obligated to:

a) Ensure fulfillment of norms set under the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalization", this Regulation and the normative acts of the National Bank of Georgia as well as the guidelines of the Service and create necessary conditions for this purpose (including equipping the payment service provider with appropriate technical facilities and software, means for safe retention of information and documents etc);

b) Designate an employee in charge of monitoring on the basis of appropriately legalized resolution and assign him/her to fulfill the respective functions (including documenting, systemizing and filing the information on operation (transaction) and submitting to the Service);

c) Under the appropriately legalized resolution define issues on considering operations (transactions) as suspicious and/or aimed at partition of the operation (transaction) as well as issues related with decision - making on submission of reporting forms to the Service and granting the authority to fill reporting form (signing hard copy of reporting form);

d) Ensure conducting the monitoring process in a way that clients of the payment service providers (their representatives) are not aware that their activities are being monitored (with respect to operations subject to monitoring);

e) Ensure respective training programs for employees of the payment service provider on issues related to prevention of illicit income legalization and terrorism financing.

Article 6. Obligations of Payment Service Provider with respect to Identification of the Client

1. Payment service provider shall identify the client (its representative and proxy, as well as the third person if the transaction is being concluded (the operation is being implemented) in favor of the third person) when carrying out services defined under paragraph 1, Article 13 of the Law of Georgia "on Payment Systems and Payment Services" and take reasonable measures to verify their identity by means of reliable and independent source of information (documents) when:

a) Domestic and/or cross-border operations amount exceeds GEL 1500 (or its equivalent in other currency);

b) The operation amount exceeds GEL 3 000 (or its equivalent in other currency);

c) Operation (transaction) represents a suspicious transaction according to subparagraph (f), Article 2 of this Regulation;

d) Doubts arise regarding the veracity and/or adequacy of previously obtained client identification data.

2. Payment service provider shall identify the beneficial owner of the client, as well as to 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 client is. Identification procedures similar to those used for natural persons shall be applied against beneficial owner.

3. In the course of the identification and/or verification of a client (its beneficial owner), the payment service provider may rely on a third party/intermediary that carries out the identification and verification of a person in accordance with the FATF recommendations, keeps documents (their copies) as provided for by Article 10 of this Regulation, and is subject to the supervision and regulation as defined under the FATF recommendations. The payment service provider shall be required to immediately obtain from a third party/intermediary the information related to the identification and verification of a client (its beneficial owner), as well as the purpose and intended nature of business relationship. Furthermore, the payment service provider shall be required to undertake necessary measures to ensure that it can access the identification data of a client (its beneficial owner) and other relevant documents related to the identification and verification of a client (its beneficial owner) held by a third party/intermediary immediately upon request. In such cases, the ultimate responsibility for identification and verification of a client in accordance with the procedure provided for by this Regulation shall remain with the payment service provider. The payment service provider shall take into account the information available about the risk of illicit income legalization and terrorism financing in the host country of a third party/intermediary, when selecting a third party/intermediary.

4. Payment service provider for the purpose of identifying client (its representative or proxy, as well as the third person, if the transaction is being concluded (operation is being implemented) in favor of the third person) and its beneficial owner in conformity with this Regulation, shall be entitled to use the electronic databases of identification documents provided by the Public Service Development Agency – Legal Entity of Public Law at the Ministry of Justice of Georgia according to the procedure set by the Georgian legislation.

5. Identification and verification of the client as well as its beneficial owner and obtaining of other information as it is defined by this Article, shall take place before carrying out of a transaction (payment transaction), as well as prior further continuation of the business relationship if legalization of illicit income or terrorism financing is suspected or if doubts exist about the veracity or adequacy of previously-obtained client identification data, except for cases provided under paragraph 3, Article 7 of this Regulation.

6. Payment service provider prior to commencement of business relations with the client shall ascertain nature and purpose of relations the client intends to establish and

perform ongoing scrutiny of relations between existing clients and the payment service provider.

7. Payment service provider shall be required to obtain the information about the nature of business activity, ownership and control structure of a legal entity (including an organizational formation (arrangement) not registered as a legal entity) when undertaking the identification and verification procedure.

8. Payment service provider shall be required to undertake the appropriate measures for obtaining the information about the purpose and intended nature of the business relationship with the client.

9. For implementing of operations defined in subparagraph (a), paragraph 1 of this Article, the payment service provider shall record person's identification details in an electronic document of payment transaction (electronic message).

10. In the course of making domestic and cross-border money remittances the following information shall be recorded on the payer:

a) Name (in case of natural person – first name, last name);

b) Account number or person's unique number (if applicable);

c) Address (address may be changed for natural person by the ID / Passport or Date and Place of Birth, Identification Number of taxpayer, and for legal entity – by the Identification Number of taxpayer).

11. Identification details noted in paragraph 10 of this Article shall be filled in an electronic document (electronic message) of the respective payment system, so that after implementing payment transaction such information is forwarded to the payment service provider of the payee.

12. If full recording of identification details listed in paragraph 10 of this Article in an electronic format is not feasible technically, the payer's payment service provider upon request of the additional identification details by the payee's payment service provider, shall provide such information.

13. When executing domestic transfers, only recording of information determined in subparagraphs (a) and (b), paragraph 10 of this Article shall be permitted. In such case payer's payment service provider, upon receipt of request of the payee's payment service provider on full identification details of the payer (or in other cases as determined by the legislation) shall provide such information within three working days.

14. Despite the assumed suspicious nature and the amount of funds involved in the operation (transaction), the payment service provider shall continue providing services to the client except for cases listed in paragraph 15 of this Article and upon receipt of the instruction of the Financial Monitoring Service on the suspension of implementation of the transaction as prescribed under Article 11^1 of this Regulation.

15. Payment service provider shall refuse to serve the client in following cases:

a) Client of the payment service provider and/or its representative cannot be identified;

b) Client (or its representative) of the payment service provider is included in the list of terrorists or persons supporting terrorism.

c) Upon management's refusal to establish business relations with the client in case specified in subparagraph (a), paragraph 2 Article 8 of this Regulation

16. In cases stated in subparagraphs (a) - (c), paragraph 15 of this Article, the payment service provider shall immediately submit to the Service the respective reporting form and all the available information (documents) in conformity with the procedure established under Article 11 of this Regulation.

17. Documents necessary for identification process shall be:

a) if the natural person is a Georgian citizen – a citizen identity card, or a citizen passport, or any other official document, which contains the relevant information and is equalized to them under the Georgian legislation; if the natural person is registered as 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 containing relevant data, equalized to the passport according to the Georgian legislation;

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 entrepreneurial or any other relevant register and document confirming authority for representation of a legal 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.

18. The following information shall be obtained through the standard identification process:

a) in case of natural person:

a.a) First name, last name;

a.b) Citizenship;

a.c) Date of birth;

a.d) Place of residence;

a.e) Number of ID (Passport) and citizen's personal number by ID (Passport);

a.f) If the natural person is registered as a sole trader – the relevant registration date, number, registering authority, identification number of tax payer.

b) In case of legal entity:

b.a) Full name;

b.b) Business activity;

b.c) Legal address (in case of the branch or representation the legal address of the head office also);

b.d) Registering authority, date and number of registration;

b.e) Identification number of tax payer;

b.f) Identification details of persons authorized for management and representation (in compliance with subparagraph (a) of this paragraph);

b.g) Identification details of the person representing a legal entity in a specific operation (transaction) subject to monitoring.

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

c.a) Full name;

c.b) Legal address;

c.c) Legal act or other document, based on which the given organizational formation was established (is functioning);

c.d) Identification number of tax payer;

c.e) Identification details of persons authorized for management and representation (in compliance with subparagraph (a) of this paragraph);

c.f) Identification details of the person representing organizational formation in a specific operation (transaction) subject to monitoring.

19. Payment service provider shall record country and authority, which issued documents presented for identification, as well as date of issuance and validity period thereof.

20. If documents (information) stored in or presented to the payment service provider allow, client's bank account details shall also be recorded.

21. Payment service provider shall exercise permanent monitoring of business relationships with their clients that includes:

a) Maintaining current information and records relating to the client and its beneficial owner;

b) Updating periodically existing identification data and ensuring their conformity with current norms;

c) Scrutiny of transactions in order to establish that the conducted operation (transaction) is consistent with their knowledge of the client, client's business or personal activity and risk profile and where necessary the source of property (including funds).

22. Payment service provider shall be required to have the appropriate risk management system for the identification and verification of clients that may pose high

risk of illicit income legalization and/or terrorism financing, and shall apply the enhanced identification and verification, and the enhanced monitoring procedure with respect to such clients as provided under Article 7 of this Regulation. The identification and verification procedure shall be carried out through the risk-based approach having regard to the type of the clients (the beneficial owners), their location (place of registration), geographic area or field of operation, as well as the nature and intensity of the business relationship, the type or size of transactions (operations) or products/services or other factors. A payment service provider shall be required to define the appropriate criteria (risk-factors) through its internal regulations and assign the clients to the category of the high risk of illicit income legalization and/or terrorism financing.

23. Payment service provider shall be authorized to use the simplified identification and verification procedure as provided under Article 7 of this Regulation that is commensurate with the low risk of illicit income legalization and/or terrorism financing identified through the appropriate risk assessment by a payment service provider. The use of the simplified procedure shall be prohibited when there is a suspicion of illicit income legalization and/or terrorism financing or in cases of the high risk of illicit income legalization and/or terrorism financing as provided under paragraph 22 of this Article. A payment service provider shall be authorized to use the simplified procedure once the appropriate criteria (risk-factors) are defined through its internal regulations and the clients are assigned to the category of the low risk of illicit income legalization and/or terrorism financing.

24. Payment service provider should 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. Payment service provider should 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 and when conducting permanent monitoring.

25. Provisions of this Article shall not apply to the Low-volume payment instruments/tools defined under the normative act issued in compliance with the law of Georgia “on Payment Systems and Payment Services”, the payment of utilities services and the payment in budget.

Article 7. The enhanced and simplified identification and verification procedure

1. A payment service provider (authorized employee) shall be required, in addition to implementing the requirements provided for by Article 6 of this Regulation, to apply the enhanced identification and verification procedure with respect to the client that may pose the high risk of illicit income legalization and terrorism financing, in particular to:

a) Verify the existing and/or obtain additional information about the client and the beneficial owner (income, assets and activity) and to ensure, where appropriate, the immediate access to such information;

b) Update the identification data of the client (the beneficial owner) more frequently and verify the authenticity of the documents submitted by the client;

c) Verify the existing and/or obtain additional information about the purpose and intended nature of the business relationship;

d) Take reasonable measures to obtain the information about the source of funds or wealth of the client (the beneficial owner);

e) Verify the existing and/obtain additional information about the reasons and grounds for performed (intended) transactions (operations);

f) Obtain the approval of senior management to enter into and/or continue the business relationship;

g) Conduct the enhanced monitoring of the business relationship, which includes increasing the number and timing of controls applied and selecting patterns of transactions (operations) that need further examination.

2. A payment service provider is authorized, in addition to implementing the requirements provided under paragraph 1 of this Article, to carry out other measures and/or obtain additional information to ensure that the risk identified is effectively managed, including, by determining the expected type and size of future transactions (operations).

3. A payment service provider is authorized, in cases provided under paragraph 23, Article 6 of this Regulation, to use the simplified identification and verification procedure that is commensurate with the low risk of illicit income legalization and terrorism financing, including to:

a) Verify the identity of the client and the beneficial owner after the establishment of the business relationship;

b) Reduce the frequency of updates of the identification data of the client and the beneficial owner;

c) Reduce the frequency of implementing the requirements provided under subparagraph “c”, paragraph 21, Article 6 of this Regulation, based on the reasonable monetary threshold;

d) Establish the purpose and intended nature of the business relationship based on the information provided by the client about the transactions (operations) undertaken and/or the business relationship established.

4. A payment service provider shall not be exempted from the obligation of obtaining the data provided under paragraph 18 of this Article and verifying the identity of the client and the beneficial owner when applying the simplified identification and verification procedure in cases provided under paragraph 23, Article 6 of this Regulation. A payment service provider shall be required, when applying the simplified identification and verification procedure, to obtain sufficient information for determining the reasonableness of assigning the client to the category of the low-risk of illicit income legalization and terrorism financing.

5. A payment service provider shall define the enhanced and simplified identification and verification procedure through its internal regulations on the basis of the requirements provided under this Article.

Article 8. Obligations of Payment Service Provider with respect to Politically Exposed Persons (PEPs)

1. A payment service provider shall identify whether a client or his / her beneficial owner belongs to the category of Politically Exposed Persons (PEPs).

2. If the client of the payment service provider or/and his/her beneficial owner represents a Politically Exposed Person (PEP), in addition to the steps stipulated under the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization" and this Regulation, the payment service provider (its authorized officer) shall take the following actions:

a) Obtain permission from the management of the payment service provider 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 payment service provider, the latter shall undertake measures provided for in paragraph 2 of this Article against such person upon availability of the aforementioned information

4. Payment service provider shall have respective procedures based on which it ensures obtaining respective information from the client, as well as from public sources or respective electronic databases for the purpose of ascertaining and verifying Politically Exposed Persons.

Article 9. Obligations of Payment Service Provider to Record Information (Documents) on Operations (Transactions)

1. Pursuant to paragraph 6, Article 6 of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization", the payment service provider shall be obligated to record information (documents) on client and operation (transaction).

2. Payment service provider shall record the following information:

a) Content of operation (transaction);

b) Date and place of implementing operation (concluding transaction) as well as amount and currency in which operation (transaction) is implemented;

c) Identification details of persons involved in operation (transaction), which includes documents provided for in paragraph 17, Article 6 of this Regulation;

d) Information (documents) required for identification of a person, based on whose order the operation (transaction) is concluded or implemented;

e) Information required for identification of the person who is implementing operation (transaction) based on order of the third party.

3. Identification details (documents) of clients of payment service provider (their representatives) as well as information provided for by paragraph 2 of this Article shall be recorded in an electronic or documentary form.

4. Requirements of this Article shall not apply to Low-volume payment instruments/tools defined under the normative act issued in compliance with the Law of Georgia on "Payment Systems and Payment Services".

Article 10. Obligations of Payment Service Provider to Keep Information (Documents) on Operation (Transaction)

1. A payment service provider shall be required to keep the information (documents) about a client (its beneficial owner) as provided for by Articles 6 and 7 of this Regulation (including information submitted in accordance with the procedure defined in paragraph 4, Article 6 of this Regulation) as well as account files, business correspondence and written notes as provided for by paragraph 4, Article 3 of this Regulation in electronic or material form for at least 6 years from the moment of terminating business relationship with a client unless the respective supervisory or other competent authority requests retention of such information (documents and records) for a longer period and/or a longer period for keeping such information (documents) is provided for by the Georgian legislation. In addition, information recorded electronically (respective databases and etc.) as well as documentary information (documents) shall be retained for the aforementioned period by the payment service provider.

2. Payment service provider shall be required to keep the information (documents) on a payment transaction (cross-border as well as international) for at least 6 years from the moment of implementing a payment transaction, except for the information (documents) provided under paragraph 1 of this Article, unless the respective supervisory or other competent authority requests the retention of such information for a longer period and/or a longer period for keeping such information (documents) is provided for by the Georgian legislation.

3. Information (documents) provided under paragraph 1 and 2 of this Article shall be kept in their original form, and where impracticable, a copy of such information (documents) confirmed by an authorized employee of the payment service provider shall be maintained. For the purpose of complying with this requirement the manager of the payment service provider shall designate the employee authorized under the relevant legal act to certify copies. The copy shall be certified in a way that it is clear who and when certified the copy. Information submitted according to the procedure provided for in paragraph 4, Article 6 of this Regulation for identification of the client and information verified by the payment service provider does not require a notarization (certification).

4. Subject to retention for the period of six years (if a requirement of retaining for a longer period is not set by the respective supervisory authority) shall be reporting forms (electronic or documentary form) submitted to the Service pursuant to Article 11 of this Regulation. Hard copies of reports retained with the payment service provider shall be certified with the signature of an employee, who is authorized under the decision of the payment service provider.

5. The information (documents) retained in the payment service provider shall fully reflect the implemented operation (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.

6. Payment service provider shall ensure observance of confidentiality with respect to retained information and documents.

Article 11. Obligations of Payment Service Provider to **Present Reporting Forms on Operations (Transactions) Subject to Monitoring**

1. Pursuant to Article 9 of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization", payment service provider shall be obligated to send a notice to the Financial Monitoring Service of Georgia on operations (transactions) subject to monitoring as well as if the payment service provider has the suspicion regarding authenticity of identification data or identification of the client is not possible to be carried.

2. Submission of the notice to the Financial Monitoring Service of Georgia shall imply completing and forwarding by the payment service provider of respective reporting form on operation (transaction) as well as confirmation of its submission by the Service according to the procedure set by the present Regulation. Notices submitted to the Service shall be compiled through the web portal of the Service. Report shall be completed and submitted to the Service by the payment service provider according to the User Manual published on the website of the Service. Confirmation of receiving of information by the Service means to assign electronically, through the web portal status "confirmed" to the report.

3. Reporting forms shall be submitted to the Service in an electronic form (online form) pursuant to the procedure defined under paragraph 6 of this Article. Hard copies of reporting forms to the Service shall be submitted according to the procedure defined under this Regulation only if reporting forms are technically impossible to be sent in an electronic format.

4. The following time periods shall be set for submission of reporting forms to the Service:

a) If the amount of operation (transaction) or series of operations (transactions) aimed at partition of the operation (transaction) exceeds GEL 30 000 or its equivalent in other currency, the report shall be submitted no later than five working days from the moment of implementing operation (transaction) or from the moment of receiving information on such transaction or series of operations (transactions)

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

c) If any person involved in the operation (transaction) is on the list of terrorists and persons supporting terrorism, or / and is likely to be connected with them or / and funds involved therein may be related to or used for terrorism, terrorist act or by terrorists or terrorist organization or persons financing terrorism, 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 payment service provider along with the reporting form shall be forwarded to the Service.

5. In exceptional case provided for in paragraph 3 of this Article hard copy of the reporting form shall be submitted to the Service in a sealed envelope by the authorized employee of the payment service provider, or by post as a registered mail. Name and address of the sender – payment service provider shall be written on the envelope, as well

as the addressee – “Financial Monitoring Service of Georgia”. Delivery address: 2, Sanapiro Str. Tbilisi, 0105, Georgia. The envelope shall be marked as confidential.

6. Reporting Forms as well as other confidential information on operation (transaction) subject to monitoring shall be submitted to the Service in electronic form through the relevant web shell and/ or web service of the web portal set on the official website of the Service (www.fms.gov.ge)

7. Decision on completion of the reporting form (in case of hard copies their completion and signature) and submission to the Service shall be made by the responsible employee of the payment service provider, authorized to carry out such activity according to the resolution of payment service provider.

8. The reporting forms sent to the FMS in electronic form shall be retained according to the procedure and period as it is defined under Article 10 of this Regulation. When retaining reporting forms electronically the payment service provider shall observe security measures. In case of sending hard copies two hard copies of the report shall be printed. One copy of the printed form shall be presented to the Service and the other shall be retained according to the procedure and period established under Article 10 of this Regulation.

9. Reporting form shall be filled completely. The payment service provider shall maintain register of reporting forms submitted to Service.

10. In the event of revealing suspicious operation (transaction) and submitting related reporting form to the Service, the payment service provider shall be obligated to indicate grounds of suspicion and to focus special attention on other operations (transactions), implemented by persons involved in this particular operation (transaction).

11. 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 additional information from the payment service provider and available documents (including confidential) in relation to any operation (transaction) and persons involved therein, including those operations (transactions) on which reporting forms have not been presented to the Service. Payment service provider shall be obligated to submit requested information (documents) to the Service no later than two working days from the moment of receiving the request.

12. If the payment service provider reveals (or becomes available) any additional information, with respect to the relevant transaction or parties thereof, after the report is submitted, it shall forward this information to the Service immediately. Also, the additional information shall contain number and submission date of the reporting form, to which the information should be added. Additional information on operation (transaction) subject to monitoring shall be presented according to the procedure as it is defined under the User Manual.

13. A payment service provider shall strictly observe confidentiality of any information related to form completion and submission to the Service. In case of suspicion regarding the operation (transaction) or parties thereof, and in the event of completion of the reporting form and submission to the Service, the payment service provider shall not inform persons involved in the relevant operation (transaction), their representatives and proxies or any other persons.

Article 11[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 Payment Service Provider 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 Payment Service Provider 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 Payment Service Provider 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 Payment Service Provider 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 subparagraph 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 Payment Service Provider);

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 Payment Service Provider'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 Payment Service Provider.

4. Payment Service Provider 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 Payment Service Provider 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 Payment Service Provider 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 Payment Service Provider in the next 24 hours. The Payment Service Provider 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 Payment Service Provider 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 Payment Service Provider 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 Payment Service Provider 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 12. Obligation of Payment Service Provider to Submit the Form of Registration to the Financial Monitoring Service of Georgia

1 .A payment service provider shall submit to the Service the Form of Registration to the Financial Monitoring Service of Georgia through the relevant web shell of the web

portal set on the official website of the Service (www.fms.gov.ge). The Form of Registration shall be considered as submitted only after sending the relevant electronic message by the Financial Monitoring Service of Georgia. Hard copies of reporting forms shall be submitted to the Service only if reporting forms are technically impossible to be sent in an electronic format according to the procedure defined under this Regulation.

2. In case of change of any information (as well as replacement of the employee in charge of monitoring) in the Form of Registration submitted to the Service, the payment service provider shall present not later than three working days from the moment the relevant change have taken place completed form with renewed information to the Service according to the procedure set under paragraph 1 of this Article**.**

Article 13. Responsibilities Related to Monitoring

1. The National Bank of Georgia shall supervise compliance of the payment service provider with norms and requirements of the Law of Georgia "on Facilitating the Prevention of Illicit Income Legalization" and this Regulation.

2. For violation of norms and requirements of the Law of Georgia "On Facilitating the Prevention of Illicit Income Legalization", normative acts issued by the National Bank of Georgia and this Regulation and other elevant normative acts, the sanctions, according to the procedure and amount set by the National Bank of Georgia, shall be used against payment service provider.