



ნოდია, ურუმაშვილი და პარტნიორები

NODIA, URUMASHVILI & PARTNERS

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1. Amendments to the Law of Georgia "On Organizing Lotteries, Games of Chance and other Prize Games"

The amendments made in February 2023 to the Law of Georgia "On the Organization of Lotteries, Gambling and Profitable Games" were based on the country's obligation to develop the rules for licensing of both physically existing casinos and system-electronic casinos, as well as ship casinos.

According to the law, different types of permits are established on games of chance and/or prize games in a systemic-electronic form which include permit activities for organizing casino games, gambling machine games, betting games in a systemic-electronic form.

Considering the above, a respective change was made to Article 3 of the Law to accommodate that organizing games of chance and/or prize games in a systemic-electronic form implies holding games of chance and/or prize games using Internet, phone and/or specially provided electronic means, in compliance with requirements established by this Law. In addition, several other sub-paragraphs were added to the Article, which accordingly define organizing of casino games, gambling machine games, betting prize games in a systemic-electronic form.

At the same time, Article 11 of this Law is amended to include following issues:

- Permits for activities such as organizing casino games in a systemic-electronic form, organizing betting and gambling machine games in the same form are added to the types of permits;
- The persons allowed to obtain these permits are identified;
- In case of annulment of the permit for organizing a casino, gambling venue, betting terminal, the permit for organizing casino games, gambling machine games, betting games in a systemic-electronic form obtained on the basis of the above permit will also be cancelled;
- The validity period of the permit is defined;
- The permit terms and conditions for permit activities are established by law, however, according to the amendment, it is possible to introduce additional permit terms and conditions

which will be established by the Government of Georgia.

- To settle the practical problems also the Government of Georgia will have a right to establish a different procedure of activities of organizing games of chance and/or prize games in a systemic-electronic form during an emergency (pandemics).

As new permit types were defined by the amendment, liability in the amount of 7 000 GEL shall be imposed on holders of permit for organizing casino games in a systemic-electronic form, gambling machine games and betting games in the same form, for non-compliance with the permit terms and conditions for these activities. Also, a penalty in the amount of 20 000 GEL is defined for the same persons, in cases of failure to pay the annual fee within the established timeframes.

The law envisages a transitional period for the valid permit holders. In particular, organizers of games of chance and/or prize games who used to organize games in a systemic-electronic form prior to making this law fully effective, will be obliged to bring the respective permits into compliance with the changed/added terms and conditions envisaged by this Law before June 1, 2024, likewise, person organizing games of chance and/or prize games in a systemic-electronic form shall ensure obtaining a permit envisaged for organizing games of chance and/or prize games in a systemic-electronic form before June 1, 2024. In addition, the Government of Georgia and the Minister of Finance of Georgia shall comply the bylaws with the Law of Georgia "On Organizing Lotteries, Games of Chance and other Prize Games" and/or adopt/issue the respective bylaws envisaged by this Law before June 1, 2024.

It should also be mentioned that in order to comply with the changes of the Law of Georgia "On Organizing Lotteries, Games of Chance and other Prize Games", on February 9, 2023, modifications are made to the Law of Georgia "**On Licenses and Permits**" too.

Respective changes envisage additions to the article 24 with paragraphs "37³, 38¹ and 39¹", which imply the following permits:

- Permit for organizing casino games in a systemic-electronic form;
- Permit for organizing gambling machine games in a systemic-electronic form;
- Permit for organizing betting games in a systemic-electronic form;

Also, accompanying changes were made to paragraph 2, Article 34 and paragraph 4(1) of this Article. New paragraphs are added to the same Article, which serve as a basis for the permit cancellation.

In case of cancellation of a permit for organizing a casino, a permit for organizing casino games in a systemic-electronic form issued on the basis of the above permit shall be cancelled. In case of cancellation of a permit for organizing a gambling venue, a permit for organizing gambling machine games in a systemic-electronic form issued on the basis of the above permit shall also be cancelled. In case of cancelling a permit for organizing a betting terminal, a permit for organizing betting games in a systemic-electronic form issued on the basis of the above permit shall be cancelled.

It should be mentioned that the changes made to the Law of Georgia "On Organizing Lotteries, Games of Chance and other Prize Games" will become effective in two stages. The Law became effective upon promulgation, from February 24, 2023, except for its Article 1, paragraphs 1-3 of Article 2, that will become effective from June 1, 2024.

As for the changes made to the Law "On Licenses and Permits", they will become effective from June 1, 2024.

2. Law of Georgia "On Mortgage Covered Bonds"

On November 29, 2022, the Parliament of Georgia adopted a new Law "On Mortgage Covered Bonds", which governs legal relations related to emission of mortgage bonds, supervision of mortgage bond issuers and their relations. According to the Law, mortgage bond is debt security issued by a commercial bank (including a refinancing bank), secured by assets to which mortgage bondholders have preferred and direct recourse as creditors in accordance with this Law.

The Law established an exclusive usage of the name of the security – "Mortgage Bond", "Mortgage Covered Bond" or its foreign equivalent (including "Covered Bond"), in particular, it is prohibited to issue a security with the above name in Georgia if it does not meet the requirements of Law "On Mortgage Covered Bonds". Essentially, mortgage covered Bond, is a secured debt instrument which implies that the bondholder has a preferential claim to the respective security assets (mainly, mortgage loan assets). Also, unlike securities issued under a securitization transaction, the mortgage bondholder's claim is not limited only to a right of claim to special assets and it can request performance of payment obligations arising from the bond directly from the loan issuer entity too (in this case – from the commercial bank issuing the mortgage loan). Thus, the mortgage bondholder enjoys a so-called right of dual recourse, which implies the right to serve the claim from specially designated assets as well as from other property of the issuer in the rank of unsecured creditor. Another characteristic which differentiates a mortgage bond from other types of debt instruments is that initiation of insolvency, liquidation or resolution proceedings in respect to the issuer (commercial bank) do not entail automatic acceleration of the payment obligation arising out of the bond. Adoption of this Law was predetermined by the fact that for introduction of a mortgage bond as a financial product (instrument), it was first of all required to create a special legal regime in Georgia.

Corresponding Amendments to the Civil Code of Georgia

With the amendment made on November 29, 2022, paragraph 3² was added to Article 254 (Pledge) of the Code stating that: "A pledger shall not pledge intangible property that is an asset included in a collateral pool as defined in Article 2(1)(b) of the Law of Georgia on Mortgage Covered Bonds".

This novelty serves the goal of inclusion of the principle envisaged by Article 12(1) of the Law of Georgia "on Mortgage Covered Bonds" (Preferential right of satisfaction from cover assets) into the Civil Code. Considering that cover assets shall exclusively serve to satisfy the claims

of the circled creditors, there is no interest to encumber those assets with pledge in favor of third persons.

3. Amendments to the Law of Georgia "On Activities of Commercial Banks"

With the amendments to the Law of Georgia "On Activities of Commercial Banks" in November 2022 and February 2023, the concept of "Beneficial Owner" was reestablished. In particular, , from July 1, 2023, Beneficial Owner shall be defined as "a person receiving monetary or another benefit and not obliged to transfer this benefit to another person on the basis of the Law or a transaction, and if the beneficial owner is a legal entity created for non-entrepreneurial (non-commercial) purposes or the owner legal entity does not have an owner of a significant share – a member of its management body". It is also determined that from July 1, 2023, close relative shall be defined according to the Law of Georgia "On the National Bank of Georgia".

It is also stated that to meet the suitability criteria for a natural person while seeking for a license, it will be required to obtain a non-criminal record certificate from the administrative body of all countries where he was a resident for the last 10 years and a legal entity will be required to submit no criminal liability/no criminal record certificate for the legal entity and its administrator from the administrative body of all countries where they were residents for the last 10 years. Eligibility criteria of a commercial bank administrator are also readjusted. It is defined that a commercial bank administrator must not be an administrator of another commercial bank, micro-bank, micro-finance organization and/or a non-banking deposit institution – credit union registered in Georgia, except when the above entity/entities is/are subject to control of the commercial bank or is/are an entity/entities controlling the commercial bank in which he occupies a position of the administrator. A commercial bank administrator must not be a member of the Supervisory Board and/or Directorate of more than 5 enterprises. At the same time, 1 executive position is compatible with 2 non-executive positions, or it is allowed to hold 5 non-executive positions. For the purposes of this sub-paragraph, the positions held at non-entrepreneurial (non-commercial) organizations will not be taken into consideration. For the

purposes of the same sub-paragraph, the following will be considered as 1 position:

- Positions held in one group. For the purposes of this sub-paragraph, group means a commercial bank, its parent enterprise and subsidiary/subsidiaries;
- Positions held in the enterprise/enterprises whose significant share is owned by a commercial bank.

It is noteworthy that a wording is changed in respect to the charter of the commercial bank. Unlike the previous version, from July 1, 2023, commercial bank shall be managed according to its charter and other internal organizational rules that define its organizational structure, risk management framework, responsibilities and must be formalized and permanently available for the National Bank. The previous regulation before the year 2023 listed of issues to be governed by the internal regulations.

It should be mentioned that Article 27 which governs the issues of external audit will be amended from July 1, 2023. Although request to conduct the audit remains, there is no reference to external audit. The commercial bank and its subsidiary shall be obliged to invite an auditor on an annual basis and conduct an audit of financial statements in the manner established by the National Bank. The commercial bank shall be obliged upon completion of the audit of financial statements to submit the audit report to the National Bank and publish the financial statement defined by the rules of the National Bank together with the audit report.

Finally, it should be mentioned that from July 1, 2023, during the liquidation, a liquidator becomes authorized to terminate the bank guarantee issued by the commercial bank and transfer it to another commercial bank with the same terms and conditions. Consent of the beneficiary and the principal of the bank guarantee is not required for such transfer; however, liquidator of the commercial bank shall be obliged to notify the beneficiary and the principal of the bank guarantee on such transfer of the bank guarantee. Sequence of covering claims during liquidation of the commercial bank was defined in a new way.

All these amendments will become effective from July 1, 2023.

4. Amendments to the Organic Law "On the National Bank of Georgia"

With the amendments to the Organic Law "**On the National Bank of Georgia**", in the part of professional secret and conflict of interest, it is clarified that the President of the National Bank, the Vice President of the National Bank and the employee of the structural unit of the National Bank who carries out supervision of financial sector or resolution or liquidation of the commercial bank on the basis of this Law have no right to be employees, direct or indirect owners of shares, members of the Supervisory Board or the Directorate of the financial sector representative or a legal entity related to it. An employee of the structural unit of the National Bank can be appointed as a temporary administrator, liquidator or a special manager, manager, as well as the program administrator or the program liquidator envisaged by the Law of Georgia "On Mortgage Covered Bonds".

In the part of the National Bank supervision, it is added that from July 1, 2023, the National Bank will become authorized, in special cases, when the entity subject to supervision has no funds to pay liquidation expenses, to provide funds for payment of expenses necessary for unhindered performance of the liquidation process of the entity subject to supervision, which will be satisfied in the manner established by the Georgian legislation. The rule of issuance of these funds will be established by the National Bank.

Also, in the part of the preemptive and unconditional right of the National Bank, it was specified that such envisaged powers may be not used in one of the cases below:

a) By decision of the council of the National Bank in respect to the entity in the process of liquidation or temporary administration subject to supervision as well as to the commercial bank in the process of resolution;

b) By decision of the National Bank, within the limits of the amount envisaged by paragraph 16, Article 48 of this Law, for unhindered conducting of the liquidation process of the entity subject to supervision.

All changes will become effective from July 1, 2023.

5. Law "On the Activities of Micro Banks" has come into force

The Law "On the Activities of Micro Banks" adopted on February 22, 2023 has been reviewed in the previous bulletin of "Nodia, Urumashvili and Partners" in detail. The purpose of this Law is to ensure legal compliance of activities of micro banks operating in Georgia, creation of a healthy environment for their development and enabling free competition on the market. Articles 1-40 of the Law became effective upon promulgation, Articles 40 and 41 will become effective from July 1, 2023.

With the Article 41 (Transitional Provisions) it is defined that in case a microfinance organization applies for a micro bank license by microfinance organizations before January 1, 2024, they should no longer have pledged assets, except for the monetary instruments of the National Bank of Georgia to support liquidity, no later than 2 years after the micro banking license is issued. During this period, an individual requirement for a liquidity ratio shall be determined for them:

a) Micro banks whose pledged assets to equity capital ratio, at the time of obtaining the license, is more than 90% shall not be eligible to solicit deposits;

b) Micro banks whose pledged assets to equity capital ratio at the time of obtaining the license is less than 90% shall have the right to solicit deposits provided that the pledged asset ratio will be less than 50% not later than one year after receiving the right to solicit deposits and equal to zero no later than two years.

In case a microfinance organization applies for a of application for a micro banking license by microfinance organizations before January 1, 2024, at least fifty percent of the loan portfolio of a micro bank shall consist of loans issued for entrepreneurial purposes and/or loans, the source of repayment of which is income from entrepreneurial activities. No later than 2 years after receiving the micro banking license, the micro bank must meet the requirements of the first and second paragraphs of Article 3 of this Law.

The National Bank of Georgia is obliged to adopt legal acts provided for by this Law before July 1, 2023.

With the adoption of the Law of Georgia "On Activities of Micro Banks" and for the purpose of facilitating efficient implementation of the framework governing micro banks, certain terminological and technical changes are made to a number of laws.

- In particular, respective provisions of the Law of Georgia "**On Entrepreneurs**" are modified, to ensuring legal compliance similar to commercial banks. Accordingly, paragraph 11 of Article 161, paragraph 3, Article 167 and paragraph 4 of Article 225 of the Law is amended. At the same time, the term such as the bank account is not changed, as this term is contextually related to a micro bank as well.

- A change is also made to the Law of Georgia "**On Organizing Lotteries, Games of Chance and other Prize Games**" from July 1, 2023. Sub-paragraph "v" of Article 3 is added to the Law and for ensure legal compliance similar to commercial banks, in the concept of cashier desk of games of chance and/or prize games in a system-electronic form, located outside of the facility organized on the basis of permit for organizing games of chance and/or prize games, a reference is made to a micro bank as an exception.

- The changes to the Law of Georgia "**On Licenses and Permits**" are also envisaged with the adoption of the Law "**On the Activities of Micro Banks**", as a result of which, paragraph 34¹ - defining a new type of license for activities – micro banking license added to Article 6 of the Law will become effective from July 1, 2023.

- Also, by the changes made to the Law of Georgia "**On Commercial Banks**" in November 2022 and February 2023, it is clarified that no one shall have the right to use the term 'bank', 'micro bank' or other word-combination with this term without a banking license issued under this Law or without a micro banking license issued in accordance with the Law of Georgia "On the Activities of Micro Banks", in the manner established with this Law, unless used as determined or recognized by law or an international agreement, or when the context in which the term 'bank', 'micro bank' is used shows that no banking activity is carried out under this Law, the Organic Law of Georgia "On the National Bank of Georgia" or the Law of Georgia "On the Activities of Micro Banks". A provision regarding transformation of a

commercial bank into a micro bank was added to the Law. A commercial bank shall be authorized to change the subject of activities and apply to the National Bank for obtaining a micro banking license in the manner established by the legislation of Georgia. Prior to deciding on issuing a micro banking license, a commercial bank shall carry out its activities continuously and requirements established by this Law shall apply to it. Upon cancellation of the license of the commercial bank, the respective micro bank shall become its assignee. In case of rejection to issue a micro banking license, the commercial bank shall continue its activities in the manner established by this Law.

All these changes made to the Law "On Commercial Banks" become effective from July 1, 2023.

- Terminological changes to the Organic Law "**On the National Bank of Georgia**" are also predetermined with adoption of the Law of Georgia "On the Activities of Micro Banks". Accordingly, where reference was made only to commercial banks, the new definitions contain references to a micro bank as well, based on the context.

It is noteworthy that the Article related to supervision of a commercial bank, micro banks and a non-banking deposit institution was tailored to accommodate the Law on Micro Banks.

The amendments to the Organic Law "On the National Bank of Georgia" will become effective from July 1, 2023.

- With the introduction of the Law of Georgia "On the Activities of Micro Banks" the changes to the **Law of Georgia "On Securities Market"** was made on November 30, 2022. In particular, it was amended that financial institutions (except commercial banks and micro banks) have a right, on the basis of powers granted by the respective bodies of the developed countries, without granting additional powers on the territory of Georgia, to carry out their activities in accordance with the Georgian legislation. Similar to the Law on Commercial Banks, reference was made to the respective law in the part of activities of micro banks.

- With the changes made to the Law of Georgia "**On Microfinance Organizations**" on February 22,

2023, eligibility criteria of the director of a microfinance organization were reestablished, as position prohibition applied to micro banks as well. At the same time, it became possible to transform a microfinance organization into a micro bank in case it meets certain criteria.

- Beyond that, the **Civil Code of Georgia** was amended, in particular, a micro bank was added to the already defined list in part 5 of Article 286, part 1³ of Article 289 and part 4 of Article 625.

- A micro bank was added to the list defined in paragraph 4 of Article 2¹, sub-paragraph "m" of the first paragraph of Article 34, paragraph 1¹ of Article 40, paragraph 8 of Article 50, paragraph 4 of Article 75 and paragraphs 1 and 1¹ of Article 82³ of the **Law of Georgia "On Enforcement Proceedings"**.

- Technical changes were made to the Law of Georgia **"On Facilitating the Prevention of Money Laundering and the Financing of Terrorism"**, based on which additions were made to the respective Articles of "micro banks".

6. Introduction of the Common Reporting Standard - CRS MCAA

- A provision was added to the **Law on Investment Funds**, according to which, an investment company authorized/registered on the basis of this Law, as well as the asset management company shall be obliged to carry out respective procedures according to the "Common Reporting Standard" envisaged by the "Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information" (CRS MCAA) or a respective Agreement on Automatic Exchange of Financial Account Information between Georgia and the respective jurisdiction within the framework of the Convention on Mutual Administrative Assistance in Tax Matters signed on January 25, 1988 for the authorized/registered investment fund managed by it and submit information about each financial account subject to reporting to the tax authority, if this investment company/joint investment fund is the accountable financial institution defined by the above Agreement.

- The changes made to the **Law of Georgia "On Insurance"** on November 30, 2022 defined new rights and obligations of the Insurer under the

"Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information" (CRS MCAA) within the framework of the Convention on Mutual Administrative Assistance in Tax Matters signed on January 25, 1988. In particular, the Insurer shall be obliged to maintain reporting in accordance with the "Common Reporting Standard" envisaged by such Agreement between Georgia and this jurisdiction. Meanwhile, the Insurer becomes authorized to refuse to provide insurance service or terminate such relations, if the insured/beneficiary refuses to provide information required by the "Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information" (CRS MCAA) or a respective Agreement on Automatic Exchange of Financial Account Information between Georgia and the respective jurisdiction within the framework of the Convention on Mutual Administrative Assistance in Tax Matters signed on January 25, 1988 to the Insurer. Also, based on the above agreements, an addition was made in relation to protection of commercial, confidential and insurance secret information by the company's employees.

7. Amendments to the Labor Legislation

On the basis of amendments made to the Labor Code of Georgia and the Resolution of the Government of Georgia (N33, 24/01/2023), from January 1, 2023, the total governmental allowance to be paid for the period of paid Maternity Leave and Childbirth Support, Paid Child Care and Paid Adoption Leave shall be equal to not more than 2000 (two thousand) GEL instead of 1000 (one thousand) GEL.

8. Amendments to the Law of Georgia "On the Conflict of Interest and Corruption in Public Institutions"

Amendments were made to the Law of Georgia **"On the Conflict of Interest and Corruption in Public Institutions"** in November 2022. On the basis of the above changes, the name of the Law was amended as follows – Law "On the Fight against Corruption". At the same time, legal entities under public law - Anticorruption Bureau and the Inter-Agency Coordination Council to Combat Corruption were established. The role of the Anticorruption Bureau is to facilitate combat

against corruption, while the Inter-Agency Coordination Council supports the unified state policy in the field of combat against corruption.

Part of the changes made to this Law will become effective from September 2023.

9. Amendments the Law "On Copyright and Related Rights"

According to the changes made to the Law of Georgia "**On Copyright and Related Rights**" in December 2022, the copyright owner, the related rights owner or the database creator have a right to request a payment of a one-time monetary compensation instead of indemnification of damage and caused by the violator and deprivation of income. At the same time, according to the change, before initiation of a dispute, the right owner should request payment of a one-time monetary compensation from the violator and the violator has a right to pay the one-time monetary compensation to the right owner within 2 weeks after request of payment in the amount of more than 10% of the monetary compensation to be received by the right owner in case of lawful use of the violated right. If the violator fails to pay the one-time monetary compensation to the right owner within 2 weeks after request, the right owner shall be authorized to initiate a legal proceeding in the manner established by the Georgian legislation and request payment of a one-time monetary compensation, which shall not be less than the - 10-fold amount of monetary compensation to be received by the right owner in case of lawful use of the violated right.

This Law became effective upon promulgation, on December 27, 2022.

10. Decision of the Constitutional Court of Georgia

In accordance with the decision of the **Constitutional Court of Georgia** dated May 20, 2022 (1/2/876 – webpage, 24.05.2022), the normative content of the words "or below cost price" provided in sub-paragraph "i", paragraph 2, Article 5 of the Law of Georgia "On Tobacco Control", which, in case of a lawful economic interest, prohibits sale of tobacco products by an economic agent operating on the tobacco market

to another economic agent operating on the same market at a price below cost price, was declared invalid.

11. Amendments to the Law of Georgia "On Medicines and Pharmaceutical Activities"

Pursuant to amendments made to the Law of Georgia "**On Medicines and Pharmaceutical Activities**" in December 2022, maximal marginal price (reference unit price) of pharmaceutical products is introduced. Reference unit price are defined in accordance with the methodology, procedure and conditions for the state regulation of pharmaceutical products approved by the Government of Georgia.

According to this change, any person engaged in sale of pharmaceutical products shall be obliged to ensure availability of information/documents about circulation of pharmaceutical products.

At the same time, for the purposes of the Law, the competent service under the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia shall be authorized to request a tax secrecy from the tax authority.

The Law envisages respective administrative sanctions for breach of the above obligations.

This Law became effective upon promulgation, on December 13, 2022.

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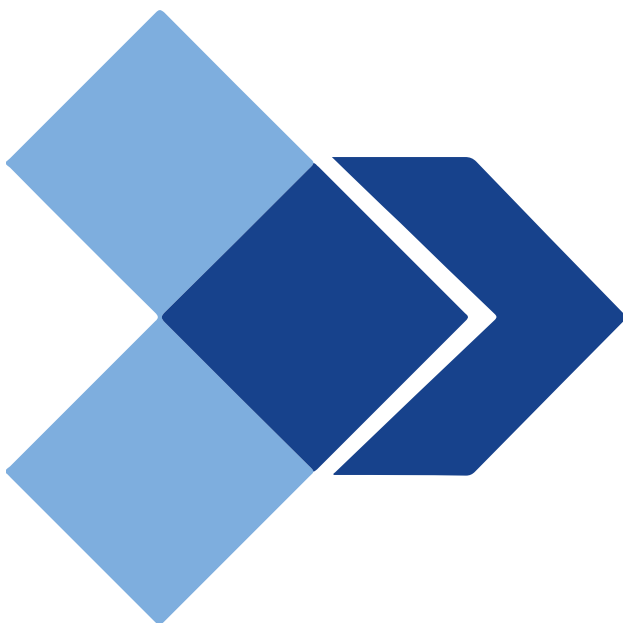
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