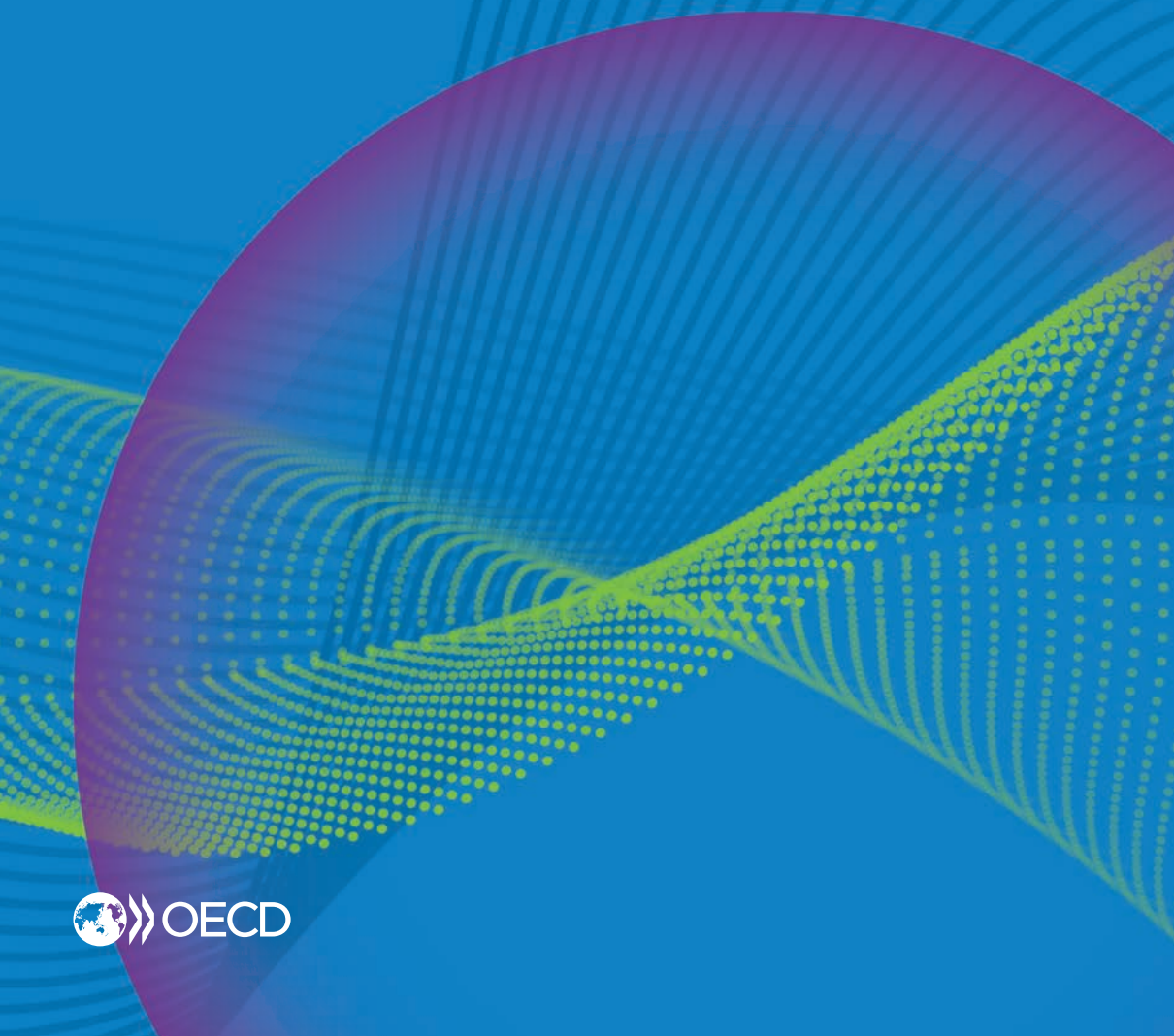
GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

GEORGIA

2024 (Second Round)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Georgia 2024 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST



BETTER POLICIES FOR BETTER LIVES

This peer review report was approved by the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) on 28 February 2024 and adopted by the Global Forum members on 27 March 2024. The report was prepared for publication by the Global Forum Secretariat.

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The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union
The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 160 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. The implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.
2. The implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

Consideration of the Financial Action Task Force Evaluations and Ratings

The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating terrorist financing (AML/CFT) standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as the FATF definition is used in the 2016 ToR (see 2016 ToR, Annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example, because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

More information

All reports are published once adopted by the Global Forum. For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published reports, please refer to www.oecd.org/tax/transparency and http://dx.doi.org/10.1787/2219469x.

Abbreviations and acronyms

AML	Anti-Money Laundering
CBA	Law of Georgia on Commercial Bank Activities
CDD	Customer Due Diligence
CIT	Corporate Income Tax
DTC	Double Taxation Convention
EOI	Exchange of information
EOIR	Exchange of Information on Request
EUR	Euro
GEL	Georgian Lari (National currency)
FMS	Financial Monitoring Service
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
GP	General Partnership
GRS	Georgia Revenue Service
IFRS	International Financial Reporting Standards
ISSSG	Insurance State Supervision Service of Georgia
JSC	Joint Stock Company
LARA	Law of Georgia on Accounting, Reporting and Audit
LLC	Limited Liability Company
LOE	Law of Georgia on Entrepreneurs
LP	Limited Partnership

MER	Mutual Evaluation Report issued by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NAPR	National Agency of Public Registry
NBG	National Bank of Georgia
SARAS	Service for Accounting, Reporting and Auditing Supervision
TIEA	Tax Information Exchange Agreement
TRMD	Tax Risk Management Division
VAT	Value-Added Tax

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in Georgia on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as of 18 December 2023 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of EOI requests received and sent during the review period from 1 October 2019 to 30 September 2022.

2. In 2016 the Global Forum evaluated Georgia in phased reviews against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice. The second phase report of that evaluation (the 2016 Report, see Annex 3) concluded that Georgia was rated Largely Compliant overall.

3. This report concludes that Georgia continues to be rated overall Largely Compliant with the standard.

Comparison of ratings and determinations for First Round Report and Second Round Report

Element		First Round Report (2016)	Second Round Report (2024)
A.1	Availability of ownership and identity information	Largely Compliant	Largely Compliant
A.2	Availability of accounting information	Compliant	Compliant
A.3	Availability of banking information	Compliant	Compliant
B.1	Access to information	Largely Compliant	Compliant
B.2	Rights and Safeguards	Compliant	Compliant
C.1	EOIR mechanisms	Compliant	Compliant
C.2	Network of EOIR mechanisms	Compliant	Compliant
C.3	Confidentiality	Compliant	Compliant
C.4	Rights and safeguards	Largely Compliant	Compliant
C.5	Quality and timeliness of responses	Compliant	Largely Compliant
	OVERALL RATING	**Largely Compliant**	**Largely Compliant**

Note: the four-scale ratings are Compliant, Largely Compliant, Partially Compliant, and Non-Compliant

Progress made since previous review

4. Georgia has made important progress on transparency and exchange of information and in addressing recommendations issued in the 2016 Report resulting in two individual ratings being upgraded from "Largely Compliant" to "Compliant".

5. Regarding the implementation of the court-based procedure to access banking information that had recently been introduced at the time of the 2016 Report, Georgia has devised practical mechanisms to implement the procedure and ensure that there is significant improvement in the time-lines within which banking information is provided to requesting jurisdictions. Georgia is now Compliant with the element of the standard dedicated to Access to Information. In addition, while the scope of professional secrecy of lawyers and accountants is still broader than required by the standard, various legal changes reduced the materiality of the gap, which no longer prevents Georgia from being rated Compliant with the elements of the standard dedicated to Access to Information and Rights and safeguards.

6. Georgia has also strengthened the availability of accounting information by creating a distinct public agency to oversee the obligations to maintain proper accounting records and submit financial statements to a publicly available web portal annually.

7. Additionally, recent amendments require the availability of legal ownership and identity information on foreign companies with sufficient nexus to Georgia and foreign partnerships carrying on business there.

8. The standard was strengthened in 2016 to require the availability of beneficial ownership information in respect of all relevant legal entities and arrangements. Georgia continues to improve on the legal and regulatory framework towards ensuring that beneficial ownership information for all relevant legal persons and arrangements will be available in line with the standard. In this regard, the financial sector regulators have issued helpful guidance on the identification of beneficial owners and on carrying out customer due diligence measures, and the sector is well supervised. However, there is scope for improvement regarding the coverage of requisite obligations and supervision of all obliged persons.

Key recommendations on Transparency

9. Some of the key recommendations made to Georgia relate to the mechanisms put in place in Georgia to ensure availability of information on beneficial owners of relevant legal entities and arrangements. Other

recommendations relate to outstanding gaps identified from the 2016 Report that have not been addressed.

10. The anti-money laundering law is the only source of beneficial ownership information in Georgia. As a result, the obligations to identify beneficial owners do not cover all relevant entities and arrangements in Georgia, since they have no requirement to engage an AML-obliged person on a continuous basis. In addition, the AML framework obliges a wide range of persons, but not all their regulators have issued guidance on how to identify beneficial owners of clients. The regulators of the banking and insurance sector have issued guidance for some time now, and only these sectors are well regulated. The accounting sector regulator has issued its first guidance only in November 2023. Georgia is recommended to ensure that the scope of coverage is increased to ensure availability of beneficial ownership information in all cases (Element A.1).

11. Further, there are no sanctions applicable on non-financial businesses and professions subject to AML obligations that are relevant to EOIR, if they do not carry out the provisions of the AML law to identify, verify and maintain information on the beneficial owners of their clients. Lastly, the sectoral regulators have not carried out any supervision or monitoring to ensure that the AML-obliged persons in this category are carrying out their obligations as enshrined in the AML Law. Consequently, Georgia is recommended to introduce sanctions and also supervise all obliged persons (Element A.1) since the AML framework is the only source of beneficial ownership information.

12. Additionally, as the amendments on the availability of legal ownership and identity information on foreign companies with sufficient nexus to Georgia and foreign partnerships carrying on business in Georgia are recent, Georgia is recommended to monitor their implementation to ensure that such information is available at all times in line with the standard (Element A.1).

Exchange of information in practice and related key recommendations

13. Another key recommendation is related to the effectiveness of providing requested information by Georgia to its peers. Georgia's EOI experience has grown compared to the last review period. From 1 October 2019 to 30 September 2022, Georgia received 84 requests and sent out 26 requests, compared to 38 requests received and 9 requests sent out from 1 July 2011 to 30 June 2014.

14. Regarding the provision of information in an effective manner, the timeliness of responses provided by Georgia to its EOI partners was not always adequate. Georgia's effectiveness in answering requests was negatively affected by Pandemic restrictions. The lifting of restrictions and additional organisational improvements have led to better efficiency toward the end of the review period.

15. Georgia has revamped the operations of the Competent Authority office by hiring new staff and updating the organisational processes and has started to register improvement in timelines. Georgia is recommended to monitor these changes to ensure that requested information is provided in a timely manner. Additionally, Georgia did not provide status updates to its peers in all cases where the requested information could not be provided within 90 days. Georgia is recommended to address these issues (Element C.5). Georgia's organisation of the Competent Authority and procedures to process EOI requests has improved, although there is still room for improvement.

Overall rating

16. Georgia has been assigned a rating for each of the ten essential elements as well as an overall rating. The ratings for the essential elements are based on the analysis in the text of the report, taking into account any recommendations made in respect of Georgia's legal and regulatory framework and the effectiveness in practice. On the basis of this, Georgia has been assigned the following ratings: Compliant for Elements A.2, A.3, B.1, B.2, C.1, C.2, C.3 and C.4, Largely Compliant for Elements A.1 and C.5. Georgia's overall rating is Largely Compliant based on the global consideration of its compliance with the individual elements.

17. This report was approved at the Peer Review Group of the Global Forum on 28 February 2024 and was adopted by the Global Forum on 27 March 2024. A self-assessment report on the steps undertaken by Georgia to address the recommendations made in this report should be provided to the Peer Review Group in accordance with the methodology for enhanced monitoring as per the schedule laid out in Annex 2 of the methodology. The first such self-assessment report from Georgia will be expected in 2026, and thereafter, once every two years.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (Element A.1)		
The legal and regulatory framework is in place but needs improvement	The anti-money laundering law obligations to identify beneficial owners do not cover all relevant entities and arrangements since they have no obligation to engage an AML-obliged person on a continuous basis. Moreover, there is no guidance for some relevant non-financial businesses and professions subject to AML obligations to rely on for proper identification of beneficial owners of their clients. The materiality of the gap is reduced since VAT registered taxpayers are required to provide a Georgian bank account to the Georgia Revenue Service, as a result of which, 86% of taxpayers have a local bank account.	Georgia is recommended to ensure that beneficial ownership information on all relevant legal entities and arrangements is available in all cases in line with the standard.
	The anti-money laundering framework requires various non-financial businesses and professions to identify and maintain beneficial ownership information on their clients. However, there are no sanctions provided for when such persons fail to comply with these obligations.	Georgia is recommended to introduce effective sanctions against all relevant persons when they fail to comply with requirements to maintain beneficial ownership information.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Largely Compliant	Georgia has introduced amendments to require the submission of legal ownership and identity information to the Georgia Revenue Service by foreign companies with sufficient nexus to Georgia, foreign partnerships carrying on business in Georgia, and Civil law partnerships. However, these amendments are recent and have not yet been implemented in practice, thus their effectiveness could not be assessed.	Georgia is recommended to monitor the implementation of the new amendments requiring the submission of legal ownership and identity information for foreign companies with sufficient nexus to Georgia, foreign partnerships carrying on business in Georgia and Civil law partnerships to ensure the availability of identity and legal ownership information in all cases.
	The anti-money laundering framework requires various non-financial businesses and professions to identify and maintain beneficial ownership information on their clients. However, they are not effectively supervised in practice.	Georgia should ensure that its oversight and supervisory activities cover all obliged persons to ensure availability of accurate and up-to-date beneficial ownership information in all cases.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (Element A.2)		
The legal and regulatory framework is in place	Georgian resident trustees who manage foreign trusts and Civil law partnerships are obliged to maintain accounting information for a period of only three years commencing from the end of the calendar year of the related tax liability. This gap is mitigated by the fact that information already collected by the tax authorities through return filing and audit is kept indefinitely. Further, the materiality of this gap in practice is limited as trusts are not commonly administered in Georgia and Civil law partnerships will only be small businesses.	Georgia is recommended to ensure that accounting records of a Georgian resident trustee who manages a foreign trust and of Civil law partnerships are maintained for the minimum retention period of at least five years in all circumstances in line with the standard.
EOIR Rating: Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders (Element A.3)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (Element B.1)		
The legal and regulatory framework is in place	The scope of legal professional secrecy found in the domestic legislation is broader than the international standard as it is not limited to "confidential communications" between a client and an advocate, but it extends to any information which became known to the advocate during the exercise of legal practice. The scope of professional privilege applicable to accountants is also broader than the international standard. There are exclusions for beneficial ownership information, but in any case, requested information would usually be available from other sources, thereby limiting the materiality of the gap.	Georgia should ensure that the scope of professional secrecy is consistent with the standard.
EOIR Rating: Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (Element B.2)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should provide for effective exchange of information (Element C.1)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The jurisdiction's network of information exchange mechanisms should cover all relevant partners (Element C.2)		
The legal and regulatory framework is in place.		
EOIR Rating: Compliant		
The jurisdiction's' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (Element C.3)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (Element C.4)		
The legal and regulatory framework is in place	The EOI agreements of Georgia do not define the term "professional secret" and the scope of legal professional secrecy found in the domestic legislation would be applicable. This is broader than the standard as it is not limited to "confidential communications" between a client and an advocate, but it extends to any information which became known to the advocate during the exercise of legal practice. The scope of professional privilege applicable to accountants is also broader than the standard. There are exclusions for beneficial ownership information, but in any case, requested information would usually be available from other sources, thereby limiting the materiality of the gap.	Georgia should ensure that the scope of professional secrecy is consistent with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (Element C.5)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
EOIR Rating: Largely Compliant	At the beginning of the review period, 60% of the requests received by Georgia were answered after one year. Although, the pandemic affected the operations of the Competent Authority office in part, Georgia acknowledges that the office was not functioning properly. Georgia has revamped the operations of the Competent Authority office by hiring new staff and updating the process. These changes have registered some improvements towards the end of the review period.	Georgia is recommended to continue monitoring the improved operations of the Competent Authority office to ensure that requested information is provided in a timely manner in line with the standard.
	Georgia did not provide status updates to its peers in all cases where the requested information could not be provided within 90 days. Internal processes have been improved upon, however there are still cases where status updates have not been provided.	Georgia should ensure that status updates to its peers are systematically provided in all cases when requested information cannot be provided within 90 days.

Overview of Georgia

18. This overview provides some basic information about Georgia that serves as context for understanding the analysis in the main body of the report.

19. Georgia is located at the eastern end of the Black Sea. Georgia borders Armenia, Azerbaijan, Türkiye and the Russian Federation. The national statistics office of Georgia estimates the country's population to be at 3.74 million people as of January 2023. Georgia's GDP in 2022 was estimated to be about EUR 22.5 billion, which translates into a per capita GDP of about EUR 6 090. Georgia's currency is the Georgian Lari (GEL),[1] and the main economic sectors are agriculture and tourism.

Legal system

20. Georgia is a civil law jurisdiction with a system of Government based on the 1995 Constitution. The authority of the state is vested in three independent arms, the executive, the legislature and the judiciary. Executive power lies with the Prime Minister who is the head of Government.

21. The highest legislative authority is the parliament of Georgia. The Constitution is the supreme law and all laws must conform to it (Constitution, Art. 6). Georgian legislation must also conform to generally accepted principles and rules of international law. International treaties or agreements take precedence over domestic legislative acts unless they contradict the Constitution or the Constitution Agreement of Georgia.[2]

22. Judicial power is exercised by a system of courts. The Constitutional Court reviews the compliance of laws and normative acts to the Constitution. The Supreme Court is the highest and final instance for the administration of justice. Below the Supreme Court are the high Court, Court of Appeals and the district (City) Courts.

1. 1 GEL=0.35 euros.
2. An act issued by the President and approved by the Parliament in matters that concern the relationship between the state and the Orthodox Church.

23. Tax cases are heard at the district (City) courts, from where appeals will be heard at the Court of Appeals. Appeals from the Court of Appeals will ultimately go to the Supreme Court.

Tax system

24. There are five taxes imposed at the national level and one local tax. The taxes levied at national level are the Corporate Income Tax (CIT), individual income tax, excise tax, import tax and value added tax (VAT). The tax levied at local level is the property tax.

25. Since 2017, Georgia has implemented a new model of corporate taxation where resident companies and permanent establishments of non-resident companies are no longer subject to CIT on their taxable profits (gross taxable income minus deductions allowed under the Tax Code) and are instead liable to pay CIT on distributed profits. Under this model, the CIT rate of 15% is levied on the grossed-up values of distributions made by the enterprise to its members. Distributed profit is defined as the profit distributed by an enterprise to its partners as a dividend in a monetary or non-monetary form.[3] The new model started with profit-generating enterprises with the exception of some financial institutions (see paragraph 26). This model of taxation has been extended in 2019 to cover not-for-profit legal entities that conduct economic activities.

26. Georgia tax legislation also offers the classic CIT model of taxation of chargeable income being the difference between gross income and allowable deductions. This classic model is applicable to particular types of entities that comprise commercial banks, credit unions, insurance organisations, microfinance organisations and pawn shops.

27. Resident entities are taxed on their worldwide income while non-resident entities are subject to tax on income from Georgian sources and on worldwide income derived through a permanent establishment that is resident in Georgia. Entities are treated as residents if they have their place of state registration, place of business or the place of effective management in Georgia.

28. Conversely, resident and non-resident individuals are taxed only on incomes sourced from Georgia. Individuals qualify for tax residency if they stay in Georgia for more than 183 days in any continuous 12-month period ending in a tax year.

3. Distributions include, profit distribution, costs incurred not related to economic activity, free of charge distributions and over limit representative expenses.

29. Property tax is charged on land, immovable property and investment property listed on a company's balance sheet. Within the framework of the Association agreement between Georgia and the European Union, Georgian tax legislation was harmonised with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. VAT is levied at all the stages of the supply chain at a standard rate of 18%.

30. The Tax Code in Georgia offers preferential tax regimes where entities can optimise their tax effectiveness in Georgia by obtaining the status of International Company, Special Trade Company, or Free Industrial Zone enterprise. The Georgian tax authorities grant these statuses to eligible companies based on the rules defined by the Minister of Finance of Georgia. The rules regarding availability of ownership and accounting information are the same, regardless of whether an entity enjoys the preferential tax regime or not.

31. An International Company is a Georgian enterprise that engages in activities that have been designated by a government ordinance and earns incomes only from those activities. Its income is taxed at 5% and the dividend paid by an International Company is not taxed at the source and is not included in the gross income of a person receiving the dividend.

32. A Special Trade Company conducts operations in a customs warehouse whereas a Free Industrial Zone Company is licensed to manufacture, process and export goods free of taxation and is exempted from profit tax, property tax and VAT.

33. Georgia has a wide network of EOI mechanisms arising out of 61 bilateral agreements and its participation in the Multilateral Convention since June 2011. EOI matters are managed by the Georgian Revenue Service's Tax Risk Management Division (TRMD).

Financial services sector

34. Georgia has a moderate financial sector comprising banking, insurance, capital market and pension schemes. The sector is dominated by banking, which represents 92% of the sector with total assets held by banks estimated at GEL 60.6 billion (EUR 21.2 billion). Pension funds and insurance represent about 3.1% and 1.5% of the sector respectively, with the rest of the financial sector segment distributed amongst micro-finance organisations, brokerage firms and other loan issuing entities.

35. By December 2022, the sector comprised 15 commercial banks, 36 microfinance organisations, 176 loans holding entities, 1 credit union, 2 stock exchanges, 9 brokerage companies all under the supervision of

the National Bank of Georgia (NBG). The 18 insurance companies are supervised by the Insurance State Supervision Service of Georgia (ISSSG).

Anti-money laundering framework

36. Georgia's AML framework is contained in the Law of Georgia on facilitating the prevention of money laundering and financing of terrorism (AML Law). The AML Law defines a wide range of obliged persons that include financial institutions, insurance organisations and professional service providers such as lawyers, accountants, auditors. The activities of these obliged persons are supervised by different agencies. In practice, only the NBG and the ISSSG have established robust supervisory and monitoring programmes on AML-related activities.

37. The NBG has issued legally binding decrees and rules for the banking and non-banking sectoral entities under its supervision. These decrees cover customer due diligence, determining ownership and control structures of legal persons, and penalties for non-compliance. Similarly, the ISSSG has issued decrees for the insurance sector.

38. Georgia has undergone assessment by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) for compliance with the standards of the Financial Action Task Force. Georgia's last Mutual Evaluation Report (MER)[4] was adopted in 2020. On sections that are relevant to this EOIR review, the MER rated Recommendation 10 (financial institutions customer due diligence) as Largely Compliant, while Recommendations 22 (Designated Non-Financial Business and Professions customer due diligence), 24 and 25 (transparency of legal persons and arrangements) were rated as Partially Compliant. Further, Immediate Outcome 3 concerning supervision was rated moderately effective, owing to the somewhat strong supervision practices of NBG although it was determined that some sectors of designated non-financial businesses and persons were not supervised at all. Georgia was consequently required to report progress on actions taken to address the deficiencies identified in the MER.

39. Georgia continues to work on addressing the identified shortcomings and in its first enhanced follow-up report published in December 2022, MONEYVAL recognises that steps have been taken to improve compliance specifically regarding Recommendation 22, although the Partially Compliant rating was maintained since there is need to address remaining deficiencies.

4. https://www.fatf-gafi.org/en/publications/mutualevaluations/documents/mer-georgia-2020.html.

40. Georgia has since established a standing interagency commission, solely concentrating on AML issues to ensure compliance with the recommendations raised in the MER. Georgia has consequently adopted an action plan running from 2023 to 2026 targeted at addressing the recommendations.

Recent developments

41. Two recent developments are relevant for EOIR purposes in Georgia. Firstly, regarding the availability of legal ownership information on foreign companies with sufficient nexus, Georgia has introduced amendments in October 2023 to Order N 996 of the Minister of Finance of Georgia on Tax Administration of 31 December 2010, requiring the submission of legal ownership information by enterprises that are required to register with the Georgia Revenue Service and these include foreign companies with sufficient nexus to Georgia and foreign partnerships carrying on business in Georgia. Any changes to the submitted information should be reported immediately but in any case, no later than 30 January of the following calendar year.

42. Secondly, Georgia has introduced guidance for the application of the AML law by auditors, accountants and accounting firms. The guidance contains procedures for examining clients' ownership and control structures and identifying and verifying the identity of the beneficial owners.

43. Other relevant developments include the amendments to the Law of Georgia on Entrepreneurs that have made registration data public and accessible via an electronic platform. Legal ownership is now publicly available for search in an electronic platform (website)[5] that is accessible free of charge.

5. Available at https://reportal.ge/en.

Part A: Availability of information

44. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of banking information.

A.1. Legal and beneficial ownership and identity information

Jurisdictions should ensure that legal and beneficial ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

45. The 2016 Report determined that the legal and regulatory framework to ensure availability of legal ownership and identity information for all relevant entities and arrangements in Georgia was in place although improvements were required in certain aspects. The report determined that the availability of information for foreign companies with sufficient nexus in Georgia, foreign partnerships carrying on business in Georgia, and foreign trusts managed by a Georgian resident was not ensured in all circumstances.

46. Georgia has addressed the recommendation related to availability of identity information on foreign trusts by using the anti-money laundering framework. Additionally, Georgia has addressed the gaps related to relevant foreign companies and partnerships with a recent amendment that took effect on 9 October 2023 and Georgia is now recommended to monitor the implementation of the new amendments.

47. Regarding the supervision of the obligations related to availability of legal ownership and identity information, the 2016 Report identified a gap regarding supervision of requirements related to joint stock companies and general partnerships. The Georgia Revenue Service (GRS) carries out robust monitoring and, in any case, legal rights will only accrue to persons listed in the commercial Registry for general partnerships or in the register of members for joint stock companies. Therefore, the recommendation is removed.

48. The standard was strengthened in 2016 to require the availability of beneficial ownership information for all relevant legal entities and arrangements. In Georgia, the AML framework obliges a wide range of persons to carry out customer due diligence to identify, verify and record beneficial ownership information for all clients. For ongoing or existing business, customer due diligence must be carried out on the basis of certain triggers and also once every year for high-risk clients, once every two to three years for average risk clients and once every three to five years for low-risk clients. Two legal gaps have been identified regarding the scope of coverage and availability of sanctions while one gap has been identified regarding the supervisory activities that should be carried out by regulators on relevant AML-obliged persons such as lawyers, notaries, accountants and auditors.

49. Firstly, there is no obligation in Georgia for all legal persons and arrangements to engage an AML-obliged person on an ongoing basis. Georgia has explained that all VAT registered taxpayers are obliged to submit bank account details to the GRS before being granted permission to issue electronic invoices. The Georgian authorities have reported that this is a significant proportion of taxpayers (estimated to be 86.1%) owing to the low VAT threshold of annual turnover of GEL 100 000 (EUR 35 000). Although there is no requirement that the bank account must be from a Georgian bank, in practice the GRS verifies the status of these accounts in collaboration with local banks and as such only local bank accounts will be approved. Therefore, although the scope of entities covered will be high, not all entities will be covered. Georgia is recommended to ensure that the scope of coverage is increased to ensure availability of beneficial ownership information in all cases.

50. Secondly, although there is a wide range of obliged persons, during the period under review only the banking and insurance sectors had issued guidance and sanctions on identification of beneficial owners (guidance was issued afterwards for the accounting sector) and were well supervised. The other regulators have not supervised or monitored the implementation of beneficial ownership requirements by relevant non-financial businesses and professions subject to AML obligations. Since the AML framework is the only source of beneficial ownership information, Georgia is recommended to implement supervisory activities to cover these obliged persons, that are relevant to EOIR.

51. Georgia received 44 requests for legal ownership information, and beneficial ownership was requested in 15 of these requests. Georgia answered all the requests to the satisfaction of its peers.

52. The conclusions are as follows:

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement.

Deficiencies identified/Underlying factor	Recommendations
The anti-money laundering law obligations to identify beneficial owners do not cover all relevant entities and arrangements since they have no obligation to engage an AML-obliged person on a continuous basis. Moreover, there is no guidance for some relevant non-financial businesses and professions subject to AML obligations to rely on for proper identification of beneficial owners of their clients. The materiality of the gap is reduced since VAT registered taxpayers are required to provide a Georgian bank account to the Georgia Revenue Service, as a result of which 86% of taxpayers have a local bank account.	Georgia is recommended to ensure that beneficial ownership information on all relevant legal entities and arrangements is available in all cases in line with the standard.
The anti-money laundering framework requires various non-financial businesses and professions to identify and maintain beneficial ownership information on their clients. However, there are no sanctions provided for when such persons fail to comply with these obligations.	Georgia is recommended to introduce effective sanctions against all relevant persons when they fail to comply with requirements to maintain beneficial ownership information.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
Georgia has introduced amendments to require the submission of legal ownership and identity information to the Georgia Revenue Service by foreign companies with sufficient nexus to Georgia, foreign partnerships carrying on business in Georgia, and Civil law partnerships. However, these amendments are recent and have not yet been implemented in practice, thus their effectiveness could not be assessed.	Georgia is recommended to monitor the implementation of the new amendments requiring the submission of legal ownership and identity information for foreign companies with sufficient nexus to Georgia, foreign partnerships carrying on business in Georgia and civil law partnerships, to ensure the availability of identity and legal ownership information in all cases.

Deficiencies identified/Underlying factor	Recommendations
The anti-money laundering framework requires various non-financial businesses and professions to identify and maintain beneficial ownership information on their clients. However, they are not effectively supervised in practice.	Georgia should ensure that its oversight and supervisory activities cover all obliged persons to ensure availability of accurate and up-to-date beneficial ownership information in all cases.

A.1.1. Availability of legal and beneficial ownership information for companies

53. The law of Georgia on Entrepreneurs (LOE) is the primary law providing for incorporation of companies and registration in the registry of entrepreneurs and non-entrepreneurial (non-commercial) legal entities that is maintained by the National Agency of Public Registry (NAPR). As described in the 2016 Report, Article 2(3) of the LOE provides for the creation of three types of companies:

- **Limited-liability company (LLC)**. An LLC is a company whose liabilities are limited to the assets of the company. It may be established by one or more individuals or legal entities. The capital of an LLC is divided into shares, which are transferable rights. An LLC is managed and represented to third parties by the management body, which comprises one or more managers. As of 30 September 2022, there were 325 064 LLCs registered in Georgia.
- **Joint-stock company (JSC)**. A JSC is a company whose shares are registered intangible securities that determine the participation of a person in its capital. The minimum amount of the subscribed capital of a JSC at the time of registration shall be GEL 100 000 (EUR 35 000). A JSC is liable to its creditors with all its assets. It may have either a one-tier or a two-tier management system. In a two-tier management system, in addition to the general meeting and the management body, a JSC also has a supervisory board. As of 30 September 2022, there were 3 078 JSCs.
- **Co-operative with limited liability**. A co-operative is a company based on the labour activity of its members or incorporated to support the economic or social activities of its members, the objective of which is to satisfy the needs of its members, and the primary goal of which is not to make profit. The subscribed capital of a co-operative may be determined by its statute. A co-operative may have a one-tier or a two-tier management system, which must be stated in its statute. In the case of a two-tier management system, the

management and controlling functions are distributed between the management body and the supervisory board. As of 30 September 2022, there were 5 623 co-operatives.

Legal ownership and identity information requirements

54. The legal ownership and identity requirements for companies are covered by a combination of company law, tax law and the AML framework. Legal ownership is mainly available with the NAPR, independent registrars and the companies themselves. The following table summarises the legal requirements to maintain legal ownership information in respect of companies.

Companies covered by legislation regulating legal ownership information[6]

Type	Company Law	Tax Law	AML Law
Limited liability company	All	Some	Some
Joint stock company	All	Some	Some
Co-operatives with limited liability	All	Some	Some
Foreign companies (tax resident)	Some	All	Some

55. The LOE requires that all entrepreneurs, whether they are natural persons or legal entities, must be registered in the registry of entrepreneurs and non-entrepreneurial (non-commercial) legal entities (hereafter referred to as the "Register") that is maintained by the NAPR. All forms of companies are considered established upon registration into the Register (LOE, Art. 8(6) and the Law of Georgia on the Public Registry (Article 20[1])).

56. However, the information identifying the shareholders of a company is not always maintained by the NAPR in the Register. The NAPR will keep this information for limited liability companies, while for joint stock companies and co-operatives, the information is contained only in their registers of shareholders/members.

6. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" means that the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. "Some" means that an entity will be covered by these requirements if certain conditions are met.

Limited liability companies and the public register

57. Legal ownership information of limited liability companies is maintained in the Register kept by the NAPR. This Register is an online register that is publicly available. Identity information on the founding members of an LLC is submitted to the Register as part of the registration process.

58. In order to establish an LLC, an instrument of incorporation must be drawn, and it contains information identifying the founding members of the company. The information identifying members includes names, residential address, personal identification number of the individuals, or if the member is a legal entity, the name, address and identification number of the entity (LOE, Art. 5(2)(c)). In the case of an individual who is not a citizen of Georgia or a foreign legal person, the equivalent data determined for the identification of Georgian persons must be used. The identification information of persons with management and representative powers, members of the supervisory board where applicable is also included. The instrument is signed by all founding members and their signatures are notarised or certified by the NAPR. The instrument of incorporation must be submitted to the NAPR as part of the registration process.

59. Additionally, the instrument of incorporation contains the number of shares issued by the LLC as well as the shareholding of each of the partners in the capital. The shares are expressed as percentages adding up to 100% (LOE, Art. 5(5)(a)).

60. The process of registration is carried out using an online system. It involves filling out a form that is then uploaded onto the NAPR website. There are different options through which the process of registration of a company may be initiated. Persons intending to register companies may use the approved templates contained on the NAPR website, may use a notary who is an authorised user of the NAPR, or may go to a public service Hall.[7] In all instances, back-office checks that involve the verification of each specific application and its supporting documents are carried out by officials. The verification involves checks on addresses and the identity of individuals.

61. When all the requirements are fulfilled satisfactorily, an identification number which also functions as a TIN is issued and the company will be considered as registered. The NAPR will issue an extract certifying the existence of the company (LOE, Art. 8(1).

62. The Law of Georgia on the Public Registry (Art. 20^{1}) states that a company is considered created and registered upon entry into the Register and that no change to a company's ownership is valid unless it is captured in that Register maintained by the NAPR. Georgia confirmed that for LLCs,

7. Public Service Hall is an agency of the Georgian government that provides services to the public.

only the persons listed in the Register have bona fide ownership of shares, with all rights attached in a company. This is a self-executing mechanism that ensures that legal ownership information and changes to such information will be reported to the NAPR and available in the Register.

Joint stock companies and independent registrars

63. Joint stock companies are also required to be registered in the Register maintained by the NAPR for their incorporation to be complete. Similar to LLCs as discussed at paragraph 58, information identifying the founding members of the JSC, persons with management responsibility and members of the supervisory board where applicable, is included in the founding documents. However, these entities are not required to report changes to this information to the Registrar.

64. JSCs must maintain a register of shareholders or keep it with an independent registrar and any changes to ownership of a JSC must be recorded in this register of shareholders. Changes to the ownership of a JSC have constitutive effect only when entered into the register of shareholders, implying that legal rights will accrue to the owners of shares only and if the register of shareholders is updated. It is mandatory for the JSC with 50 or more shareholders to keep its register of shareholders with an independent registrar, while the JSC with less than 50 shareholders may choose to keep its register or to keep it with an independent registrar (LOE, Art. 162). Independent Registrars are legal persons licensed by the National Bank of Georgia, must be an LLC or JSC incorporated under the laws of Georgia (Law of Georgia on Securities Market, Art. 29(1)(a)), and are responsible for keeping securities registers and performing other functions related to the register such as registration of shareholders and their rights in the register. Georgia has explained that these requirements ensure that the register will always be maintained in Georgia. There are currently three independent registrars licensed by the NBG to operate in Georgia.

Co-operatives with limited liability-Information kept by the entity.

65. The management body of a co-operative is mandated to keep its register of members, including the identity of each member and the number and class of shares held by them. The register of members must be accessible to all members (and must be displayed on the website, if such a co-operative has a website). The acceptance of new members, or any changes in the shares of members can only occur upon registration in the register of members (LOE, Art. 229). Consequently, accurate and up-to-date legal ownership and identity information shall be available in the register maintained by the management body of the co-operative.

Retention period and companies that ceased to exist

66. Companies cease to exist through winding up and liquidation procedures or through re-organisation. In all instances, legal ownership and identity information of the entity that ceases to exist shall be available for the minimum retention period.

67. Companies may be wound up based on the decision of the shareholders, if they are in violation of the provisions of the LOE on the mandatory number of partners, or by the decision of a Court as a result of a criminal case or civil lawsuit (LOE, Art. 78).

68. In these instances, the NAPR shall register the winding up of the company using the submission of the person with management and representative powers or the decision of the Court. The registration of the winding up process of the company results in the commencement of liquidation proceedings and these proceedings must be completed within four months of the registration. If there is an ongoing tax audit, then the liquidation process must be completed no later than one month of the NAPR receiving notification of audit conclusion (LOE, Art. 88). Liquidators may be appointed by the company in the event that the process was initiated by the decision of the company or by Court in the event where the proceedings resulted from a Court decision.

69. The liquidators may be managers of the company or other appointed persons. The liquidators shall apply to the NAPR with a request to register the liquidation, upon the conclusion of which the NAPR shall revoke the registration of the company (LOE, Art. 83).

70. The documents of a liquidated company, including the register of members for JSCs and co-operatives with limited liability, must be maintained by a liquidator for a minimum period of six years in a place determined by the liquidators or the Court. Further, former shareholders and the liquidators must have access to such records at all times (LOE, Art. 89). The requirement for former shareholders and liquidators to have access to the records is interpreted and implemented as an obligation to maintain these records in Georgia. Georgian authorities confirmed that in practice, such records are always kept in Georgia.

71. The legal ownership and identity information of LLCs that is maintained in the online Register by the NAPR is kept indefinitely.

72. A company may also cease to exist as a result of re-organisation and merger of two or more companies. In this case, the records of the extinguished entity shall be maintained by the surviving company together with its own records (co-operatives with limited liability and some JSCs) or by the independent registrar (some JSCs)-(LOE, Art. 65(10)). If the company was an LLC, the ownership will be available in the Register maintained by the NAPR.

73. Lastly, the activities are supervised by the NAPR which must be informed at various stages, with the initiation of winding up procedures, the commencement and conclusion of liquidation proceedings and the identity of the appointed liquidators. Accordingly, the availability of legal ownership and identity information is ensured in line with the standard.

Foreign companies

74. Article 22 of the Tax Code states that a foreign company that has its place of business or management in Georgia is considered as being resident for tax purposes. The Tax Code further defines the place of management to be the place of effective management of the enterprise. These residence criteria are wide and encompass branches of foreign companies and also some Permanent Establishments (PE) when they have a place of business in Georgia. Foreign companies that are resident in Georgia are subject to tax on their worldwide income. The Tax Code lists scenarios that are considered as equal to PE status, including, if the foreign company has a place of management, a branch or a representative office in Georgia. Other considerations include construction sites for installation or construction projects and the controlling activities related to them or a permanent base used by a non-resident person, although these other considerations will not qualify as having sufficient nexus. There were 2 019 branches of foreign companies and 158 PEs through other qualifications of foreign enterprises, registered in Georgia as of 30 September 2022.

75. Under the LOE, a branch of a foreign company must be entered in the Register maintained by the NAPR, providing an application for the registration of the branch, decision of the enterprise on appointment of the branch director or the power of attorney authorising a person to manage the branch, and information on the enterprise and its management (LOE, Art. 15). No ownership information has to be provided to the NAPR at the time of registration of a foreign branch and the LOE also does not prescribe that ownership information must be maintained by branches of foreign companies.

76. The LOE requires the submission of a document of registration in the jurisdiction of incorporation and the articles of association of the foreign company. These documents must be certified in accordance with the legislation of Georgia (LOE, Art. 15(6)). Therefore, to the extent that the shareholders of a foreign company are included in the articles of incorporation or the registration document at the time these are presented for registration of the branch to the NAPR, such information will be available in Georgia. This avenue will provide ownership information only for companies that are incorporated in jurisdictions whose laws require the inclusion of the identity of shareholders in the articles and other founding documents, but in

any event will not ensure the availability of subsequent changes to ownership information.

77. More robust legal ownership information of foreign companies is available via tax law.

Legal ownership information available directly to the tax authorities

78. For most entities, tax registration is simultaneously done by the NAPR at the time of registration of the entity and accordingly, all the information and any changes to it are transmitted to the GRS. Therefore, when the registration with the NAPR entails the submission of updates to legal ownership and identity information, as is the case with LLCs, detailed information is available in the GRS databases. Regarding JSCs and co-operatives, legal ownership information would be available in the tax returns filed when such companies make profit distributions (see paragraph 80).

79. Additionally, tax law requirements also complement the provisions of the LOE and the operations of the NAPR in ensuring the availability of legal ownership information on entities that are not required to register with the NAPR. These obligations will apply to, among other entities, foreign companies whose place of effective management is in Georgia, and which would have attained sufficient nexus to Georgia. Other entities captured are legal entities established by public law and organisations with diplomatic status.[8]

80. The model of corporate taxation implemented in Georgia (see paragraph 25), where resident companies and permanent establishments of non-resident companies are liable to pay CIT on profits distributed to their shareholders, ensures reporting of ownership information to the tax authorities in some cases. During the review period, the filing rate for CIT on distributed profit averaged at 83%.[9] When a company makes these distributions and declares the same in the tax return, it is required to include a list of the shareholders to whom the distributions have been made. These exceptions imply that some legal ownership information will be available at the GRS. On the other hand, information would not be available on companies that did not distribute dividends on a given year.

81. Thus, legal ownership on relevant foreign companies was available only if they distributed profits. To rectify the gap, Georgia has introduced amendments that will ensure that companies that register with the GRS but not with the NAPR will provide up-to-date ownership information,

8. International (inter-state, intergovernmental, diplomatic) organisations, organisations regulated by international law, diplomatic missions and consular institutions, foreign non-commercial organisations (Tax Code, Art. 30(10)).
9. The filing rate for the classic CIT tax returns (see paragraph 26) was 93%.

i.e. relevant foreign companies and Civil law partnerships. On 9 October 2023, Georgia amended Order N 996 of the Minister of Finance of Georgia on Tax Administration of 31 December 2010, requiring the submission of legal ownership information by such enterprises, starting in January 2024. Any changes to the submitted information should be reported immediately but in any case, no later than 30 January of the following calendar year. Article 291 of the Tax Code contains a general penalty of GEL 100 (EUR 35) imposed for failing to fulfil an obligation where no specific penalty is provided, Georgia has indicated that this penalty would be imposed on an entity that does not file this information. More critically, Georgia has reported that the entity will not be able to perform any task on the GRS website if it does not fill in the form where ownership information is required. The new amendment applies to foreign companies and addresses the legal gap identified in the 2016 Report and will ensure the availability of legal ownership information. However, the amendments are recent and have not yet been implemented in practice, thus their effectiveness could not be assessed. Accordingly, **Georgia is recommended to monitor the implementation of the new amendments requiring the submission of legal ownership information for foreign companies with sufficient nexus to Georgia, to ensure the availability of legal ownership information in all cases**.

Anti-money laundering law

82. Some legal ownership information is also available pursuant to AML in some cases when a company engages with an AML-obliged person. There are no specific requirements under Georgian law for companies to engage an AML-obliged person at all times. However, most companies are required to provide bank accounts under the VAT framework, and some companies are required to engage auditors in order to produce audited financial statements (see paragraphs 130 to 133). In these instances, some legal ownership information will be available with the AML-obliged persons as part of their Know Your Customer (KYC) and Customer Due diligence (CDD) obligations.

83. Since customer due diligence obligations under AML law are particularly conducted in establishing beneficial ownership information, they are discussed in more detail in the dedicated sections below.

Nominees

84. The standard requires that identity information be available on any person who acts as a legal owner on behalf of another person as a nominee or under a similar arrangement, including the identity of the person on whose behalf such an arrangement has been established.

85. In Georgia, nominee arrangements are envisaged to facilitate the smooth trading of securities in joint stock companies, regardless of whether the shares of the JSC are traded on the stock market or not. As discussed in the 2016 Report, the information identifying the nominee and the nominator when nominee shareholders are used in such circumstances is available to the authorities.

86. In application of Article 2(43) of the Law of Georgia on Securities Market, a nominee holder of securities can only be, (i) a securities market intermediary,[10] (ii) one of the 15 banks or (iii) the central depository,[11] and the relationship must be authorised under a written agreement. All these entities are licensed and supervised by the National Bank of Georgia (NBG) and are AML-obliged persons. Therefore, in addition to the written agreement, nominee shareholders are required to perform customer due diligence and identify the beneficial owners on whose behalf they act for.

87. The nominee shareholder is also required to open a separate account for each client (nominator) on whose behalf it holds securities. Nominee shareholders are further required to provide the securities registrar (whether such registrar is an independent licensed registrar or an employee of the JSC which maintains its own shareholder register) with all relevant information concerning the arrangement and ownership of the shares (Order N 206/04 of the President of the NBG on Approving the Rule of Production of Securities Register, Art. 7(3) and (4)). In practice the register of shareholders will indicate which shareholder is a nominee and on whose behalf such a person is acting. Therefore, the information identifying both the nominee and nominator will be available to the person maintaining the register of the JSC and to the authorities.

88. Regarding LLCs and co-operatives with limited liability, the LOE does not provide for the use of nominees. In accordance with Article 5 of the LOE, only the persons registered in the Register maintained by the NAPR are recognised to have legal rights to such shares in an LLC. Similarly, for co-operatives, only the members in the register of members are recognised to have legal rights to such shares (LOE, Art. 229). However, the LOE recognises an arrangement where a shareholder will appoint another person as a share manager. In such a scenario, the arrangement and the identity of both the share manager and actual owners of the shares must be captured in the Register maintained by the NAPR (LOE, Art. 5(2)(f)). In practice, the

10. This is a brokerage company or other intermediary, whose activities are supervised by the National Bank of Georgia under the procedures established thereby.

11. A legal person licensed by the National Bank of Georgia that is authorised to provide central clearance and settlement of securities under the instructions of a registered owner or a nominee holder, as well as to perform other services defined by the procedures established by the central depository and the National Bank of Georgia.

template for registration of an LLC contains fields where such information is captured. Georgian authorities confirmed and demonstrated a case in the online Register where such an arrangement was used to show the identity of the share manager and person on whose behalf the share manager was acting.

89. In conclusion, nominee arrangements pertaining to JSCs are regulated and only licensed and obliged persons can act in that capacity, while for LLCs, a different arrangement of the use of share managers is equally regulated. Therefore, in all cases, the information identifying the owners of the shares and/or their representatives will be available. For co-operatives with limited liability, nominee arrangements are not recognised. In the event that strawmen were used outside of these arrangements, the nominators will have no legal protection of their rights and in any case, these persons should be identified under AML law. Further, the GRS monitors any distributions of dividends made by a company and would identify any distributions to persons that are not reported in the company's ownership records (see paragraph 101).

Legal ownership information – Enforcement measures and oversight

90. Registration and record keeping requirements are supervised primarily by the NAPR, as the company's registrar, although the GRS supervises the filing and record-keeping obligations of entities with tax obligations in Georgia. The GRS also monitors through inspections for any entrepreneurial activity performed without registration or licensing, which is punishable under the tax and criminal codes. Violations of such a nature will attract a penalty of 10% of the tax to be assessed (Art. 274, Tax Code) or a fine or house arrest for a period of six months to two years, or imprisonment of one to three years (Art. 192, Criminal Code).

91. Once a company has been registered, Article 312 of the Civil Code of Georgia states that the information contained in the Registry is presumed to be accurate and complete until proven otherwise. Therefore, regarding company law obligations, the NAPR will oversee the registration of entities but does not need to supervise any record-keeping obligations by the entities themselves. This is because of the general requirements under the LOE that shareholder's rights are only exercisable by those persons entered in the registers, which effectively ensures the availability of accurate and up-to-date shareholder information.

Oversight of legal ownership obligations by the National Agency of Public Registry

92. Regarding the registration of entities by the NAPR, input of information in the Register is on the basis of an application by the applicant or their representative and/or a decision made by the NAPR. In order to ensure the accuracy of the information held in the Registry, the NAPR puts emphasis on verifying the information submitted at the point of initial registration or any submissions made to request changes in registration details.

93. The NAPR officials perform mandatory checks on all applications for registration before approval. The checks include verifying the identities of applicants, addresses and forms of identification attached where the applicants are Georgian nationals. Additional checks include verifying whether there are any prohibitions on the persons included in the application submitted to the NAPR. The NAPR officials will use the requisite government databases to carry out the verification. The latter includes establishing whether the persons involved in forming a company have any public debts, public-legal restrictions such as sanctioned individuals or other restrictions on entrepreneurial activities arising from past non-compliance.

94. Where the submitted information is not complete or the supporting documents are not satisfactory, the NAPR will ask the applicant to provide the required information before registration is completed. If the submitted documents are found to be defective, the NAPR identifies the specific defect and provides a timeframe of 30 calendar days for rectification. Failure to correct the defect within this specified period results in the termination of the registration process.

Supervision of independent registrars

95. By the time of the 2016 Report, there were 3 independent registrars licensed by the NBG who maintained ownership information of 818 out of the 1 200 joint stock companies at the time. There had been no inspection of these registrars by the NBG and Georgia was recommended to ensure that the obligations to keep ownership information of JSCs were sufficiently monitored.

96. The number of licensed independent registrars remains at three and Georgia reported that these maintain the share registers of 900 JSCs (29%) out of the currently registered 3 078 JSCs.

97. The independent registrars are obliged persons under AML law and since the 2016 Report, the NBG has instituted mechanisms to monitor their activities. The registrars submit biannual reports to the NBG detailing their activities. On this basis, the NBG will determine appropriate supervisory activities to be undertaken. The detailed description of NBG activities is

contained under the Beneficial ownership sections of this report (see paragraphs 135 to 145). The supervision of the NBG, although skewed majorly towards AML obligations, will also cover some aspects of legal ownership, especially since obliged persons are required to understand the ownership and control structures of entities.

98. In any case, as far as the availability of up-to-date and accurate legal ownership information is concerned, there are no shareholder rights accorded unless the claimant is registered in the register of shareholders. Therefore, complete, accurate and up-to-date legal ownership information will be contained in the register of shareholders maintained by the JSC or the independent registrar, since the legal ownership rights are self-enforcing on account of the fact that legal title will only arise for those persons entered into the register. Consequently, and considering the enforcement activities now being performed, the recommendation issued in the 2016 report has been removed.

Supervision by the Georgia Revenue Service

99. The GRS monitors compliance with registration obligations and verifies the accuracy of ownership information available to the authorities. In this regard, the GRS employs the following compliance procedures: (i) onsite inspection of places of economic activity, (ii) mystery shopping[12] conducted in person or online, (iii) risk based automated analysis of GRS data and (iv) tax audits.

100. Regarding persons carrying out economic activities without registration, the GRS carries out a targeted inspection programme that employs some of the above-mentioned compliance procedures. During the review period, the GRS carried out operational activities in 15 943 cases and identified 557 entrepreneurs that should have registered with the NAPR. Additionally, 283 individuals applied for registration as a result of the tax audits while an additional 114 individuals were identified and registered through other compliance activities.

101. The GRS also employs automated analytics of taxpayer data to check among other things, potentially non reported shareholders or illegal nominee arrangements. For example, under the model of charging CIT on profits distributed by companies to shareholders (see paragraph 25), the taxes due are filed via withholding tax returns. The GRS has implemented an automated programme that checks the accuracy of these returns, including checking whether distributions to shareholders have been made to

12. GRS officials will act as secret buyers to gather and evaluate information on an entity's compliance with relevant tax obligations.

persons not indicated in the register of shareholders or if such distributions have been disguised. These checks are performed on the monthly withholding tax return and cover on average 120 000 taxpayers (36%). Georgia reported that they did not detect any instances showing differences between the data submitted to the GRS as part of the withholding tax return and ownership information contained in the NAPR Registry (for LLCs).

102. Other checks are performed to determine if taxpayers are non-compliant or indeed economically inactive (see paragraph 105). As part of the checks carried out by the GRS, a special risk module automatically defines the segment of taxpayers which, based on several criteria, such as their economic activity field, their size, previous filing patterns, fall within the risk of not submitting or delaying the submission of tax returns by ascertaining whether such taxpayers are economically active. Risky cases identified are subjected to reminder messages, inspections and tax audits. Additionally, ownership information is checked during tax audits. As discussed at paragraph 240, the GRS carried out 12 894 audits and no instances of incorrect legal ownership information were identified.

Inactivity and related concepts

103. As discussed in previous sections, only the shareholders entered in the registers have legal rights, therefore any changes to ownership information must be entered in the NAPR Registry (for LLCs) or the registers of members (for JSCs and co-operatives) for them to take legal effect.

104. However, the authorities reported that there are instances where they become aware that some of the other data in the Registry is not accurate. If the registered data of a company no longer complies with the mandatory requirements of registration, such as a change of address, the NAPR assigns the status of “company with a defect”, which is indicated on the Registry website and notified to the company. When the status of a company with a defect applies, the validity of the registered data shall be suspended and an extract from the Registry cannot be issued (Art. 80, LOE). Georgia reported that during the review period 829 companies were assigned the defect status and once contacted the companies rectified the identified defects. Georgia informed that no EOI request was received concerning a company in such a state. However if a request were to be received, the Competent Authority would check with the affected company to rectify the information. If there are delays or failure by the company to make the necessary updates, the Competent Authority would provide the information contained in the Register and make a note to the requesting jurisdiction on which parts of a company’s data are considered to have a defect.

105. The GRS, on the other hand, identifies and monitors taxpayers who have become economically dormant and classifies them as "passive" or "inactive". In 2015, the GRS introduced a mechanism to identify entities that had become economically inactive. For an entity to be classified as inactive, the GRS will carry out various checks and monitoring programmes to establish if the entity has any economic activity. The GRS will classify an entity if within a two year period, it does not meet any of the following criteria: (i) is newly registered, (ii) filed tax returns, (iii) imported or exported goods, (iv) issued or received way bills,[13] (v) the cash machines of which show turnover, vi) issued or received electronic invoices, (vii) requested a tax registration certificate, (viii) requested for a tax residence certificate, (ix) has a tax debt notification[14] or (x) about which tax audit or inspection has not revealed elements of economic activity. This monitoring is facilitated by electronic systems that are all interconnected with the GRS and supplemented field inspections and tax audits.

106. The supervisory actions described at paragraphs 99 to 102 cover these entities with specific and targeted monitoring that relies on the above listed criteria. Any entity that triggers any of the criteria will be reclassified. Georgia has reported that since 2013, 68 898 entities (about 20%) have remained inactive. This concept of inactivity had no impact on ownership information, during the review period, since tax returns were not a source for ownership and identity information (see paragraph 277).

107. However, Regarding the JSCs (with less than 50 shareholders) and co-operatives with limited liability where the register of shareholders is maintained by the entity, it may be the case that the dormant entity will not maintain its operational premises or company seat from where the authorities will access the register. As explained at paragraphs 58, 63 and 65, the authorities will maintain the addresses of the shareholders and persons with management responsibility and can access the registers through such persons. Nevertheless, Georgia should monitor the availability of legal ownership information for joint stock companies with less than 50 shareholders and co-operatives with limited liability, when such entities are economically inactive (see Annex 1).

Availability of legal ownership information in EOIR practice

108. Georgia received 44 requests with regard to legal ownership information. Requested information has been provided in all cases and peers were satisfied with the information provided.

13. Required for domestic transportation of goods.
14. Georgia maintains a database of tax debt.

Availability of beneficial ownership information

109. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. The only source of beneficial ownership information in Georgia is information required to be maintained under the Law of Georgia on Facilitating the Prevention of Money Laundering and Financing of Terrorism, hereafter referred to as the AML Law.

110. The AML Law covers a wide range of obliged persons that are required to perform Customer Due Diligence (CDD) measures towards their customers. Obliged persons include banks and other financial institutions, other persons performing non-financial activities such as lawyers, notaries, accountants, auditors and dealers in precious metals. Some public institutions such as the NAPR[15] and GRS[16] are also obliged when they carry out specific services (Art. 3(1), AML Law). The different categories of obliged persons are supervised by different regulators and the regulators have issued legally binding sector specific decrees that provide guidance to the obliged persons in application of the provisions of the AML law.

111. The following table shows a summary of the legal requirements to maintain beneficial ownership information in respect of companies.

Companies covered by legislation regulating beneficial ownership information

Type	Company Law	Tax Law	AML Law
Limited liability company	None	None	Some
Joint stock company	None	None	Some
Co-operative with limited liability	None	None	Some
Foreign companies (tax resident)	None	None	All[17]

Anti-money laundering law – Beneficial owner definition

112. Article 2 of the AML law states that a beneficial owner is a "natural person as defined by Article 13". The detailed definition and methodology to identify beneficial owners are set out in Article 13 as follows:

> 1. For the purposes of this Law, a beneficial owner shall be a natural person who is the last possessor or the last controller of

15. The NAPR is obliged to apply AML control measures regarding real estate and transactions of immovable property.
16. The GRS is obliged to apply AML control measures regarding cross border transfer of cash and other securities.
17. Where a foreign company has a sufficient nexus, then the availability of beneficial ownership information is required to the extent the company has a relationship with an AML-obligated service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 Footnote 9).

> a client and/or on whose behalf a transaction is prepared, made or completed.
>
> 2. For the purposes of this Law, a beneficial owner of a legal person shall be one who possesses, directly or indirectly, 25% or more than 25% of the holdings or voting shares of said legal person, or otherwise provides ultimate control over said legal person.
>
> 3. The direct possession of holdings or voting shares provided for by paragraph 2 of this article shall be considered the possession of 25% or more than 25% of holdings or voting shares by an entrepreneurial legal entity, and indirect possession shall be considered the possession of 25% or more than 25% of holdings or voting shares of an entrepreneurial legal entity by a legal person who is controlled by a natural person(s), or by several legal persons who are controlled by the same natural person(s).
>
> 4. If, after having implemented all possible measures, an accountable person is sure that a beneficial owner as referred to in paragraphs 2 and 3 of this article does not exist, the preventive measures determined by Article 10(1)(b) [on CDD] of this Law shall be applicable to a person(s) with managerial authority over a client.

113. The definition meets the requirements of the standard. The reference to "the last possessor or the last controller" in the first paragraph of the definition covers situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control. Further, the aspect of ultimate control captured in the second paragraph will cover scenarios when control is exercised through other means. Moreover, the reference to different legal persons who are under the control of a natural person (third paragraph) also cover diversified ownership interests where individuals act alone or jointly. Lastly, ultimate control through ownership interests is determined according to a threshold of participation set at 25%, which is in line with the standard.

114. The first three paragraphs of the definition follow a simultaneous approach, requiring the AML-obliged person to identify control via ownership and other means concurrently. If the AML-obliged person does not identify a person qualifying as a beneficial owner, then the fourth paragraph requires that persons with managerial authority over the client shall be identified.

115. The definition contained in the AML law is further supplemented by legally binding guidance that has been issued by sector-specific regulators to clarify on areas of the definition and methodology to identify beneficial owners. For example, in Order N 53/04 of the President of the National Bank of Georgia

(NBG) on determining, identifying and verifying beneficial owners entered into force on 15 March 2019. The Insurance State Supervision Service of Georgia (ISSSG) has issued similar guidance to cover the insurance sector.

116. The guidance from the NBG confirms the simultaneous approach of the methodology to identify beneficial owners, except for the back stop option to identify senior managing officials. It also expounds on the application of the definition covering aspects of direct or indirect ownership, joint ownership and control by other means. The guidance also provides various scenarios and case studies to demonstrate these aspects.

117. On the determination of the beneficial owners through ownership rights, financial institutions are guided to identify direct or indirect ownership, nominee ownership, joint ownership and agreements for management of shares and voting rights. On control by other means, the guidance gives examples such as the appointment or dismissal of management staff, financing the enterprise through family or other personal relationships. It further guides that on determining control by other means, financial institutions should inform themselves about the clients' activities, including sources of assets/wealth and the purpose of transactions. Finally, the guidance explains that persons with managerial control are those individuals who are authorised to make strategic decisions on behalf of the legal person and include directors and the chairman of the board. It is stated that nominee directors should not be included in the list of persons with managerial control.

118. The representatives of financial institutions met during the onsite demonstrated a good level of understanding of the definition and the methodology of identification of beneficial owners. They also confirmed that the guidance provided has improved their understanding and ease of application of the definition. They particularly pointed out that the sample case scenarios included in the guidance have provided useful references to them, when dealing with complex structures.

Customer due diligence obligations

119. The AML framework in Georgia requires that obliged persons identify and verify the identity of their customers, identify the beneficial owners and take reasonable measures to verify the identity of the beneficial owners using data and information obtained from independent and reliable sources (Art. 10, AML Law). This obligation applies before or when establishing a business relationship and in other cases.[18] Obliged persons are further required to monitor an ongoing business relationship (Art. 11, AML Law).

18. These include a single transaction whose value exceeds GEL 15 000 (EUR 5 250), trading in precious metals where the value exceeds GEL 3000 (EUR 1 050) or when

120. The NBG has issued a decree, Order N 189/04, to facilitate and guide financial institutions while applying CDD measures. It states that where there are other legal persons interposed in the ownership structure of a client, the obliged person must conduct an examination of the client's ownership and control structure. In this regard, the obliged person must obtain a self-declaration from the client and then proceed to verify the information using independent and reliable sources. Ultimately, the registration number, date and country of incorporation of each entity in the ownership chain must be recorded.

121. The obliged person should then proceed to identify the beneficial owner(s) of the client and should obtain and record their first and last names, citizenship, date of birth, and identity or citizen document number. In all cases, information should be verified using reliable sources that have been approved by the Financial Monitoring Service (FMS) of Georgia, i.e. identity documents must be issued by state bodies while other documents should be notarised or issued by Court.

122. Generally, the AML Law and associated decrees lay out a structure of application of CDD based on the risk factors associated with a client. Generally, when there is a high level of risk of money laundering and terrorism financing, the client is subjected to a stricter application. This can be assessed at three levels.

123. Firstly, if an obliged person fails to complete CDD, they cannot commence the business relationship or execute the transaction and is required to file a suspicious transaction report to the FMS (Art. 10, AML Law). However, verification may be completed following the establishment of a business relationship only where there is a low risk of money laundering or terrorism financing, and it is essential not to interrupt the normal business. In such a case, the verification must be completed within a reasonable time, no later than 30 calendar days after the establishment of the business relationship.

124. Secondly, Articles 18 and 24 of the AML Law contain enhanced and simplified customer due diligence requirements respectively. Simplified CDD is permitted where there is no suspicion of money laundering or terrorist financing. In these instances, the obliged person must obtain sufficient information to determine the reasonableness of assigning the client a low level of risk. The identification and verification of the identity of the client and its beneficial owner(s) must still be conducted as discussed at paragraphs 119 and 120.

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the accuracy of identification data obtained is in doubt.

125. Thirdly, obliged persons are mandated to monitor their customer's business relationship. Article 11 requires that CDD be conducted each time the accuracy of identification data obtained previously is in doubt. Apart from this trigger, Articles 18 and 24 of the AML Law provide that the level of risk assigned to a client will determine the frequency of carrying out CDD and updating the beneficial ownership information of the client. When the risk level is high, there should be an increased frequency.

126. Further, binding decree, Order N 82/04 of the President of the NBG on the approval of the guideline on illicit income legalisation and terrorism financing risk assessment clarifies that as part of ongoing monitoring, CDD should be carried out upon certain triggers, including when (i) there is suspicion of money laundering/terrorism financing, (ii) a client is looking for a new product or service, or (iii) the transaction exceeds specified limits. The decree further requires that in any case, CDD should be carried out periodically, once every year for high-risk customers, once every two to three years for average risk clients and once every three to five years for low-risk customers. Similar guidance is contained in ISSSG guidance.[19] The representatives of banks and insurance sectors met during the onsite confirmed that they implement these rules regarding the frequency of CDD and updating beneficial ownership information and that the matter is a subject of supervisory inquiries by the NBG. In contrast, the AML-obliged persons falling under the category of non-financial businesses and professions that are relevant for EOIR (lawyers, notaries, accountants and auditors) do not have similar guidance (see further discussion at paragraphs 149 and 150).

127. The obliged person should keep the information and records pertaining to the identification of the client, including the supporting evidence and methods used to verify the identity, for a minimum period of five years after the end of the business relationship. When the obliged person ceases to exist, the records will be retained by liquidators as explained at paragraphs 214 and 255. The Georgian authorities explained that in the case of death of a natural person who is an AML-obliged professional, then the successor in the business of the professional will maintain the information. Besides, AML-obliged professionals are usually partnership firms, where one of the remaining partners continues to comply with the obligations and this would be specified in the partnership agreement.

19. ISSSG Methodological Recommendation N3 on Money Laundering and Terrorism Financing Risk Assessment by the Obliged Entity Supervised by the Insurance State Supervision Service of Georgia.

Reliance on third parties

128. Obliged persons may rely on a third party to carry out CDD (Article 16, AML Law). In such a scenario, the obliged person maintains the responsibility of ensuring that appropriate CDD measures have been applied. The obliged person must ensure that the third party is subject to appropriate AML regulation and should not be from a jurisdiction that has been classified as high risk by Georgia. The obliged person should immediately receive identification data and other documents concerning the client from the third party and should receive upon request any other information.

129. These conditions are in line with the standard. They ensure that third parties must themselves be under appropriate AML supervision. In any case, all identification data must be submitted to the obliged person, who remains responsible for their accuracy. The representatives of the banking sector stated that reliance on introduced business is rare in practice.

Scope of coverage

130. There is no legal requirement on companies to engage an AML-obliged person continuously. Therefore, while the AML Law and the sector guidance on the application of the above CDD measures would ensure that beneficial ownership information on companies is available where the company engages with an AML-obliged person, there may be some gaps in certain situations where such engagement is either not there or has not been there on an on-going basis.

131. Although there is a wide range of AML-obliged persons, only the financial sector under the supervision of the NBG and the insurance sector players are actively implementing the AML obligations. The regulators for these sectors have issued guidance in the form of orders and decrees and have actively supervised the obliged persons (see below). Recently (November 2023), the accounting sector regulator has also issued guidance.

132. Entities may engage a notary as one of the options to register with the NAPR although non-financial professionals subject to AML obligations do not have any form of guidance to identify beneficial owners and are not adequately supervised. Georgia has noted that these are not a main sources of beneficial ownership information.

133. Regarding the scope coverage of AML obligations on companies in Georgia, the authorities indicated that most of them have local bank accounts for VAT purposes. In order to get a qualified VAT status allowing them to issue electronic tax invoices, VAT registered taxpayers are obliged to submit bank account details to the GRS (decree N 3751 of the head of GRS). The Georgian authorities have reported that this is a significant proportion of taxpayers, owing to the low VAT threshold of annual turnover of

GEL 100 000 (EUR 35 000). Further, taxpayers can also register for VAT voluntarily even if they have not attained this threshold. Georgia further submitted that 86.1% of taxpayers[20] have provided details on a Georgian bank account and that those not covered are mainly natural persons and entrepreneurs with small and micro status, who may be largely irrelevant for EOIR purposes. There is no specific requirement that the bank account number submitted be with a Georgian bank. However, in practice, the GRS is required to verify the status of the bank account pursuant to decree N 3751 of the Head of the GRS. Verification is carried out by checking with the issuing bank, and if the account number cannot be verified because it is a foreign bank account, the GRS will request the taxpayer to submit another (Georgian) bank account. Therefore, in practice, the bank accounts submitted are accounts held in Georgia. Regarding the coverage of the insurance sector obligations, only about 1% of the companies are covered. Consequently, the availability of beneficial ownership information for all companies as required under the standard is not ensured. **Georgia is recommended to ensure that beneficial ownership information on all companies is available in all cases in line with the standard**.

Beneficial ownership information – Enforcement measures and oversight

134. The supervision of AML obligations is carried out by the sector-specific regulators.[21] The level of oversight differs from sector to sector.

Supervision on the financial and insurance sectors

135. The most active supervision is carried out by the NBG and ISSSG. The NBG's supervisory mandate covers commercial banks, non-banking depository institutions, loan issuing entities, brokerage companies, independent registrar of securities, microfinance organisations, currency exchange bureaus, payment service providers, investment funds and virtual asset service providers. On the other hand, the ISSSG supervisory mandate covers insurance companies and non-state pension schemes.

136. Both the NBG and ISSSG are empowered to issue a broad range of sanctions for failure to comply with AML requirements, including the

20. This includes taxpayers currently registered for VAT and have the "qualified status" to issue VAT invoices and those that were previously registered but have " VAT non-qualified status" because they can no longer issue VAT invoices due to economic inactivity or falling below the annual threshold.

21. The Georgian Financial Monitoring Service (FMS) is not a supervisory authority. It plays a strategic role at policy level to ensure that the AML Law is in line with the standards of the Financial Action Task Force.

power to withdraw an institution's licence, issue monetary penalties[22] or issue written instructions (Art. 48, Organic Law of Georgia on the NBG, and Art. 21[1], Law of Georgia on Insurance).

137. Serious violations such as failure to record client identity information attract a penalty of GEL 20 000 (EUR 7 000) for each violation identified by the NBG. Further, failure to examine a customer's ownership and control structure and failure to identify the beneficial owner will attract a penalty of GEL 1 500 (EUR 525) separately for each instance of violation. The insurance sector has a similar administrative sanctioning regime.

138. Regarding supervision and oversight, the NBG employs a risk-based approach[23] to determine the manner and frequency of supervision of AML obligations. Further, the supervisory actions that can be relied upon by the NBG are classified under preventive measures, remedial actions and compulsory sanctions. Preventive measures ensure systematic updates (through communication and engagement) to the financial sector on regulatory expectations, while remedial actions include measures or recommendations that must be implemented based on the results of supervision. Lastly sanctions range from written warnings to monetary penalties.

139. AML-obliged persons are required to submit an annual report to the NBG, and these reports are analysed by the off-site division (desk review). Where irregularities are detected, the offsite division will forward them to the onsite division for further inspection.

140. Georgia authorities reported that during onsite inspections, application of CDD measures and identification and recording of beneficial ownership information is verified, including the timely update of CDD and beneficial ownership information. Where non-compliance is detected, the NBG will issue corrective measures that include sanctions. In some cases, the risks detected by the NBG are submitted to the FMS for further management in collaboration with law enforcement agencies.

22. Orders and decrees have been issued to gazette administrative sanctions that can be issued by the NBG and ISSSG. For example, Order N 242/01 of the NBG (Article 2) lays out the values of monetary penalties and categorisations under which the penalties would be issued.

23. The NBG has developed a desk-based tool which it utilises to obtain information on the activities of the banks and other financial institutions it supervises. Some of the key data it collects includes products offered, geographic area of business and type of business of the customer. Others include the number of suspicious transaction reports submitted. Based on this data, a risk profile of each institution is generated. The NBG uses the assigned risk level to assign the appropriate level of supervision.

141. From 2019 to 2022, the NBG identified 2 291 cases[24] of non-compliance related to the obligations to maintain beneficial ownership information and applied administrative penalties amounting to GEL 2.6 million (EUR 918 855). Additionally, the NBG has issued 41 written instructions for AML-obliged persons to take corrective actions.

142. The supervisory actions and sanctioning covered various financial sector players as seen in the table below.

Category of obliged persons	No of cases	Penalty amount/GEL	Penalty amount/EUR
Commercial banks	1 910	2 119 500	741 825
Brokerage houses	29	14 500	5 075
Microfinance organisations	43	21 500	7 525
Payment service providers	226	371 300	129 955
Foreign exchange entities	83	98 500	34 475
Total	2 291	2 625 300	918 855

143. Most of the supervisory actions are targeted on commercial banks and accordingly the highest number of infractions recorded and penalties issued affect that industry. This level of supervision is reflective of the fact that commercial banks are the main source of beneficial ownership information for the Georgian Competent Authority.

144. Georgian authorities further submitted that infringements included (i) providing services without identification and/or verification of the client, (ii) failure to examine the client's ownership and control structure and iii) failure to properly identify and/or verify beneficial owners. Further, Georgia has reported that by 2022, the rate of compliance across the different industries had improved. The table below shows instances where sanctions were issued when AML-obliged persons did not properly identify their clients or determine beneficial owners (as explained at paragraph 142) in the different supervisory periods (years) during the review period. For these offences, the break down per category of obliged person in the years where offences were established is as seen in the next table.[25]

24. Incidents of non-compliance, implying that a particular institution may have multiple cases.

25. For banks, all the years of the review period are shown in the table due to the relevance of banks on the availability of beneficial ownership information in Georgia.

Category and number of obliged persons	Year	Number and type of supervisory action	Number of cases	Penalty (GEL)	Penalty (EUR)
Commercial banks – 15	2019	Onsite inspection – 9 banks	653	726 000	254 100
	2020	Onsite inspection – 3 banks	199	276 000	96 600
	2021	Onsite inspection – 4 banks	1 058	1 117 500	391 125
	2022	Insite inspection – 8 banks	0	0	0
Brokerage Houses – 9	2021	Onsite inspection on 3 entities	29	14 500	5 075
Microfinance organisations – 36	2020	Inspections on 17 entities	43	21 500	7 525
Payment service providers – 32	2019	Inspection on 1 entity	112	256 400	89 740
	2021	Inspection on 1 entity	74	69 200	24 220
	2022	Inspection on 1 entity	40	45 700	15 995
Foreign exchange entities – 509	2019	Inspections on 60 entities	83	98 500	34 475

145. The statistics provided show that the level of compliance was low in some cases. Nevertheless, the supervisory activities and resultant actions taken demonstrate that Georgia actively supervises the financial sector obliged persons and that where necessary, the NBG has sanctioned non-compliance. Regarding commercial banks, there was a spike in non-compliance in 2021 with 55% of the sanctioned cases being due to failure to properly carry out verification of client information. The concerned banks took corrective actions, and by 2022, onsite inspections of eight banks did not identify such violations.

146. Regarding supervision of the insurance sector during the review period, the ISSSG carried out desk-based reviews covering all the 18 Insurance companies and one onsite inspection. A total of 29 violations were identified, 18 of which pertained to record-keeping requirements while 11 concerned failures to identify clients and/or their beneficial owners. The ISSSG issued written warnings to licensees to rectify these violations.

147. The information submitted by Georgia shows a systematic approach towards supervision of AML-obliged persons in the financial and insurance sectors. There are clear risk-based approaches that start off with desk reviews and escalate to onsite inspections and sanctioning. For these sectors, Georgia's supervisory activities are commensurate, and this was collaborated by the representatives of the private sector met during the onsite visit. The submissions made by the representatives confirmed that there is frequency of supervision by the NBG and ISSSG (see paragraphs 142, 144 and 146 respectively). Moreover, the sectoral guidance issued provides effective references for the obliged persons.

148. However, the AML-obliged persons under the category of non-financial professionals are not as effectively supervised as discussed in the next section.

Supervision of other AML-obliged persons

149. The sanctions within the legal and regulatory framework are sector specific. Therefore, there are no sanctions applicable on several categories of AML-obliged persons that may be relevant to EOIR,[26] when they fail to implement the provisions of the AML Law. There are currently 292 notaries, 5 248 lawyers, 397 law firms, 443 sole practitioners or employees of audit firms and 271 audit firms operating in Georgia. This gap is of limited materiality since the main sources of beneficial ownership information are the banks. Nevertheless, **Georgia is recommended to introduce effective sanctions against all relevant persons when they fail to comply with requirements to maintain beneficial ownership information**.

150. Some of the sectoral supervisors are beginning to plan for oversight and supervision of their members. However, there is not yet a systematic and coherent supervision of these obliged persons. The Bar association is in the process of drafting guidance for its members concerning their obligations to carry out CDD and identify beneficial owners. The association has recruited one officer to analyse reports expected to be submitted by its members, however, no reports have been submitted as yet. Further, the Service for Accounting, Reporting and Auditing Supervision (SARAS) has recently, in November 2023, issued guidance for its members on how to implement the AML obligations, but no accountants or auditors have been supervised on their obligations to identify and maintain beneficial ownership information. **Georgia should ensure that its oversight and supervisory activities cover all obliged persons to ensure availability of accurate and up-to-date beneficial ownership information in all cases**.

Availability of beneficial ownership information in EOIR practice

151. During the peer review period, Georgia received and answered 15 requests for beneficial ownership information while 1 other request was withdrawn by the requesting jurisdiction. Peers were satisfied with the responses received from Georgia.

26. These are Lawyers/law firms; notaries; certified accountants, Accountant providing professional services; accounting firms; and auditors/audit firms.

A.1.2. Bearer shares

152. Georgian law prohibits the issuance of bearer shares. The LOE states that shares must be in nominal form and the identities of the shareholders included in the Register as kept by the NAPR (for LLCs) and the registers of shareholders/members for JSCs and Co-operatives.

A.1.3. Partnerships

153. Partnerships in Georgia are either civil law partnerships, general partnerships (GP) or limited partnerships (LP). Civil law partnerships are created under the Civil Code of Georgia and are formed using a partnership agreement where two or more persons undertake to jointly act towards achieving a common business or other goals in the manner defined by the agreement, without creating a legal person. These are only small local businesses. There were 5 150 Civil law partnerships registered as of 30 September 2022. Civil law partnerships are only registered with the GRS.

154. Conversely, the formation of general partnerships and limited partnerships is provided for under the LOE. Article 2(3) of the LOE stipulates that both the GP and LP are deemed as companies, with legal personality.

- **General Partnership** is a legal entity where at least two persons (general partners) carry out an entrepreneurial activity jointly under a single name and are liable for the obligations of the entity as joint debtors to their creditors directly with no limitation to their personal assets (LOE, Art. 94(1)). Partners may be natural or legal persons. All partners have management powers and are authorised to represent the GP. As of 30 September 2022, there were 2 903 GPs registered in Georgia.
- **Limited Partnership** is a legal entity where several persons carry out an entrepreneurial activity under a single brand name and liability of one or several partners to the creditors is limited to the agreed pledge amount (limited partners), whereas the other partner(s) are personally liable to the creditors, without limitation, as joint and several debtors (general partner) (LOE, Art. 112(1)). Partners may be natural or legal persons. The general partners are tasked with management of the LP. Limited partners have voting rights and under an agreement, a limited partner may be authorised to carry out an activity that has legal significance on the LP, in which case the limited partner shall be liable as part of the management body of the LP. As of 30 September 2022, there were 157 LPs registered in Georgia.

Identity information held by the commercial registrar

155. In order for general partnerships and limited partnerships to be created, the partners must sign a written agreement and must apply to the NAPR for registration in the Register. They are considered as formed once the application for registration with the NAPR has been verified and accepted (LOE, Art. 4(2)). The identity information of all the founding partners must be included in the written agreement. The first and last names, residential address and personal identification numbers will be included for natural persons, whilst the legal name, address and identification number will be included for partners who are legal persons (LOE, Art. 5(2)).

156. Any changes to the registered data must also be registered with the NAPR before any legal rights of the partners are established (as in the case of LLCs). The changes in the data shall be made on the basis of an application of the person with management or representative capacity of the partnership or the partner selling or purchasing the shares (LOE, Art. 12(1-2 and 9)).

157. Consequently, information identifying the persons participating in a GP or LP will be available in the Register maintained by the NAPR and any changes to that data must be entered into the Register before they can take effect. As discussed at paragraph 62, all legal rights that may accrue to the partners must be derived from entries in the Register, and as such this self-enforcing feature ensures that up-to-date identity information will be available in the Register.

158. Civil law partnerships do not have to register with the NAPR. The identity information for Civil law partnerships is maintained by the tax authorities.

Identity information held by tax authorities

159. All partnerships carrying out economic activity in Georgia must register for tax purposes. Similar to companies, general and limited partnerships are simultaneously registered for tax purposes and all ownership information and changes thereon are automatically transmitted to the GRS. Therefore, the GRS databases also contain up-to-date identity information concerning general and limited partnerships.

160. Civil law partnerships are fiscally transparent. Accordingly, the profits of civil law partnerships are taxed in the hands of the partners on the basis of the share held and must be included in the gross income of any partner (Tax Code, Art. 96(2) and 143(2-5)). A partnership must determine the taxable profit or loss for each specific year, and irrespective of whether the partnership distributes the taxable profit of a tax year, the partners who are taxpayers must include this in their gross income. The identity of the partners must be disclosed to the tax authorities because partnerships are obliged to

submit a tax return that must contain information about the amount of taxable profit (losses) and distribution thereof among their members (Tax Code, Art. 143(10)). Besides, the partners who are taxpayers will also declare the source of their incomes in their tax return, thereby including information on the partnership in which they participate. However, the civil law partnerships will not be required to file a return if they do not have taxable elements. This has been addressed by the amendments to Order N 996 (see paragraph 162) requiring the submission of identity information to the GRS every 30 January and whenever change occurs, starting in January 2024.

161. Additionally, foreign partnerships carrying on business in Georgia are required to register for tax purposes. Similar to foreign companies as discussed at paragraphs 78 to 81, amendments made in October 2023 to Order N 996 of the Minister of Finance of Georgia on Tax Administration of 31 December 2010 require the submission of identity information by foreign partnerships carrying on business in Georgia at least every 30 January (and whenever a change occurs), starting in January 2024.

162. The amendments are new and have not been implemented in practice, thus their effectiveness could not be assessed. Therefore, **Georgia is recommended to monitor the implementation of the new amendments requiring the submission of identity information for foreign partnerships carrying on business in Georgia and Civil law partnerships to ensure the availability of identity information in all cases**.

Beneficial ownership

163. The only source of beneficial ownership in Georgia for partnerships is the data collected in application of the same AML Law obligations as described in respect of companies. The same definition applicable to companies also applies to partnerships (see paragraphs 112 to 118).

164. The determination of beneficial owners for partnerships must take into account the specificities of their different forms and structures. In Georgia, general partnerships and limited partnerships have legal personality while civil law partnerships have no legal personality. Participation in GPs and LPs is by shares. Additionally, limited partners are required to have voting rights and, in some cases, may be granted authority to represent the partnership. Therefore, the application of the share threshold will identify both general and limited partners participating in GPs and LPs.

165. Regarding general partners that have unlimited liability and also for the case of civil law partnerships where participation is not by way of shares, the determination of the beneficial ownership information will be facilitated by the application of the definition using the simultaneous approach. General partners are responsible for the management of the activities of the

partnership and hold decision-making authority related to amendments to the partnership's constitutive documents and any changes therein. As such, the general partners exercise ultimate control over the partnership even if this control does not manifest through any shareholding in the partnership. Applying the first two steps of the method of identification of beneficial owners simultaneously may result in all general partners who are natural persons being identified under control through other means.

166. The definition covers situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control and the reference to different legal persons who are under the control of a natural person (third paragraph) also covers diversified ownership interests where individuals act alone or jointly. Further, NBG Order N 189/04 explains that obliged persons should study the partnership agreement and other relevant documents to identify scenarios where shares and relevant rights are held jointly or otherwise. Finally, reference to "a beneficial owner shall be a natural person who is the last possessor or the last controller of a client" will ensure that there is look through the partners which are legal persons.

167. The guidance on identification of beneficial owners of partnerships is in line with the form and structure of partnerships in Georgia and in line with the standard. As discussed at paragraphs 130 to 133, there is no obligation that partnerships engage an AML-obliged person on a continuous basis. There are requirements under VAT law that will ensure that a good number of partnerships registered for VAT purposes will have a bank account. There is no obligation that the bank account presented for VAT purposes must be a Georgian bank account. In practice, the GRS requires all partnerships registered for VAT purposes to have a Georgian bank account number, but not all entities have reported a Georgian bank account yet. Consequently, the availability of beneficial ownership information for all relevant partnerships as required under the standard is not ensured in all cases. **Georgia is recommended to ensure that beneficial ownership information on all relevant partnerships is available in all cases in line with the standard**.

168. The obligations on AML-obliged persons to conduct CDD and identify the beneficial ownership information of their clients described in respect of companies also applies to partnerships.

Oversight and enforcement

169. Regarding availability of identity information, the robust compliance risk management and tax audit programme carried out by the GRS will ensure that up-to-date identity information is available. As explained at paragraphs 99 to 102, the GRS monitoring ensures that all persons conducting

business will be identified and that partnerships will not make any distributions to persons not listed as participants in a Georgian partnership. In any case, for general and limited partnerships, legal rights will only accrue to those partners that are listed in the NAPR. Therefore, the recommendation issued in the 2016 Report regarding the supervision practice to ensure availability of ownership information of general partnerships has been removed.

170. Regarding beneficial ownership information, the supervisory activities carried out by the NBG and the ISSSG on AML-obliged persons in the financial and insurance sectors also covers clients that are partnerships, including foreign partnerships that carry out business in Georgia.

171. As explained under section A.1.1, there are no sanctions applicable on non-financial professionals subject to AML obligations that are relevant for EOIR when they fail to implement provisions of the AML law such as conducting proper CDD and identifying the beneficial ownership information of their clients. This is the case for lawyers, notaries, accountants and auditors. Accordingly, **Georgia is recommended to introduce effective sanctions against all relevant persons when they fail to comply with requirements to maintain beneficial ownership information**.

172. Moreover, some of the sectoral supervisors are beginning to plan for oversight and supervision of their respective obliged members. This is the case for AML-obliged persons that are relevant for EOIR such as lawyers, notaries, accountants and auditors. **Georgia should ensure that its oversight and supervisory activities cover all obliged persons to ensure availability of accurate and up-to-date beneficial ownership information in all cases**.

Availability of partnership information in EOIR practice

173. Georgia did not receive any requests for beneficial ownership and identity information with respect to partnerships during the review period.

A.1.4. Trusts

174. The concept of trust does not exist under Georgian law and Georgia is not a party to the Hague Convention on the Law of Trusts. However, no restrictions exist in Georgia that would prevent a resident from acting as a trustee, protector or administrator of a trust formed under foreign law.

175. Additionally, as discussed in the 2016 Report, the Civil Code in Georgia recognises the concept of entrustment of property, whereby, on the basis of a contract, a settlor designates a person (akin to a trustee) to hold and manage property in the interest of the settlor (Civil Code, Art. 724). Under the arrangement of “entrustment of property”, a person similar to a

trustee is bound by contract to manage the property held in his/her own name at the expense and risk of the settlor. The trustee enjoys the owner's entitlements in relation to third parties. The property subject of entrustment can be anything, including intangible property. The trustee can conclude any transaction, but he/she is not entitled to sell the property unless it is specified in the contract. The settlor pays no remuneration to the trustee with respect to the management of the property held in trust unless otherwise stipulated by the agreement of the parties.

Requirements to maintain identity information in relation to trusts and implementation in practice

176. The availability of identity information in relation to "entrustment of property" arrangements and foreign trusts managed by Georgian resident trustee is available, if they engage an AML-obliged person. The AML Law requires obliged persons to conduct CDD measures and identify and verify the identity of their clients, whenever they establish any business or perform any activities related to a trust or any legal arrangement similar to a trust. Specifically, for "entrustment of property" arrangements, Article 69 of the Civil Code states that for any written agreement to be authentic, the signatures thereon must be verified by a notary and notaries are obliged persons under the AML Law.

177. Regarding the definition of beneficial owner, the overarching definition described at paragraph 112 also applies to trusts and refers to natural persons. Additionally, the AML Law provides guidance concerning trusts or legal arrangements similar to trusts.

> In the case of a trust or a legal structure similar to a trust, the preventive measures determined by (…) shall be applicable to the following persons or persons of an equivalent status:
>
> a) the trustee
>
> b) the settlor
>
> c) the protector (if any)
>
> d) the beneficiary
>
> e) any other natural person who exercises effective ultimate control over a trust or a legal structure similar to a trust (if any).

178. This definition contained in the AML Law is further supplemented by guidance that has been included in Order N 53/04 of the President of the NBG on determining, identifying and verifying beneficial owners. The provisions of the AML Law and the binding guidance issued by the NBG

and ISSSG are comprehensive enough to allow for the identification of all persons involved in the trust. The guidance clarifies that settlors, trustees, beneficiaries and custodians (where applicable) should be identified. The NBG order further guides that in identifying the beneficiaries of a trust, sufficient information should be gathered about the "class or group of beneficiaries". It also informs obliged persons to be cognisant that the aspects of control in trusts depend on applicable laws of the respective jurisdiction of formation of the trust and that provisions of the deeds of the trust should be comprehensively studied. Obliged persons are required to study the trust deed or similar agreement and identify any person referred to therein. Obliged persons are further guided to look at public registries and the information related to dividend or income distribution document. This source of information would be especially helpful for the entrustment arrangements.

179. The definition and guidance provided are broad enough and will cover all natural persons who are involved in the arrangement. Besides the reference to "natural person who is the last possessor or the last controller…", in the main part of the definition and reference in part (e), on any other natural person who exercises effective ultimate control over the trust, will ensure that a look through approach is carried out in cases where a legal person is involved in any of the structures of control of the trust.

180. As part of the CDD measures, obliged persons are further required to define the ownership and control structure in respect of trusts. The CDD measures on an ongoing basis are carried out on the basis of trigger events and regularly as discussed at paragraph 125. The retention of beneficial ownership information collected by obliged persons is ensured pursuant to the provisions of the AML Law (see paragraphs 127 and 255).

181. Consequently, information identifying persons involved in a foreign trust that is administered by a Georgian resident or in the "entrustment of property" arrangement would be available pursuant to the AML Law. Trustees of foreign trusts are likely to be professionals, however, if a non-professional trustee is used, the provisions of the AML Law would still apply to such a person, if engaging in a relationship with an AML-obliged persons. Regarding "entrustment of property", the issue of professional or non-professional participants is of no consequence since in all cases, a contract must be entered and notarised, but this will not ensure that subsequent changes will be identified.

182. Regarding the "entrustment of property" arrangements, there is an obligation for the contracts and any changes thereto to be notarised. Accordingly, there is an obligation to engage an AML-obliged person. Therefore the availability of beneficial ownership information is ensured. However, concerning foreign trusts, as discussed at paragraphs 130 to 133, there is no obligation that trustees engage an AML-obliged person

on a continuous basis. Notably, there are requirements under VAT law that will ensure that any trustees registered for VAT purposes will have a bank account, although, this will not cover all trustees. Consequently the availability of beneficial ownership information for all foreign trusts managed by a Georgian resident trustee as required under the standard is not ensured in all cases. **Georgia is recommended to ensure that beneficial ownership information on all foreign trusts managed by a Georgian resident trustee is available in all cases in line with the standard**.

Oversight and enforcement

183. The supervisory activities carried out by the NBG and the ISSSG on AML-obliged persons in the financial and insurance sectors cover foreign trusts managed by Georgian residents and "entrustment of property" arrangements, when the trusts engage the services of these obliged persons. These supervisory activities are complemented by the robust compliance risk management and tax audit programme carried out by the GRS. The Georgian authorities indicated that in practice, they are not aware of any foreign trusts managed in Georgia.

184. As explained under section A.1.1, there are no sanctions applicable to other AML-obliged persons that are relevant to EOIR, when they fail to implement provisions of the AML Law such as conducting proper CDD and identifying the beneficial ownership information of their clients. Accordingly, **Georgia is recommended to introduce effective sanctions against all relevant persons when they fail to comply with requirements to maintain beneficial ownership information**.

185. Moreover, some of the sectoral supervisors are beginning to plan for oversight and supervision of their respective obliged members. This is the case for lawyers, notaries, accountants and auditors. **Georgia should ensure that its oversight and supervisory activities cover all obliged persons to ensure availability of accurate and up-to-date beneficial ownership information in all cases**.

Availability of trust information in EOIR practice

186. During the review period, Georgia did not receive any request in respect of trusts. Peers have not reported having ever requested for information regarding trusts from Georgia.

A.1.5. Foundations

187. Georgian legislation does not provide for the concept of foundation; however, as discussed in the 2016 Report, it allows for the formation of non-commercial legal entities under the Civil Code. The aim of a non-commercial legal entity is to perform charitable non-profitable activities and commercial activities are authorised only to support the realisation of the goals of the entity (Civil Code, Art. 25(5)). As of 30 September 2022, there were 30 904 such charitable and non-profit entities registered in Georgia, with 485 of them approved to carry out commercial activities as provided for in Article 25(5). The profits earned as a result of commercial activities must be spent on the realisation of the goals of the entity, and cannot be distributed to the founders, members, donors or managers. These entities cannot be used for wealth management or other private purposes.

188. Non-commercial legal entities are not relevant for EOIR purposes.

A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

189. The 2016 Report concluded that the legal and regulatory framework on the availability of accounting records and underlying documentation was in place in respect of all relevant legal entities and arrangements, and Georgia was rated Compliant with this element of the standard. The obligations then were mainly contained in the Tax Code and were supplemented by the Law on Accounting and Auditing Financial Statements. The latter has been revamped in 2017 and renamed Law of Georgia on Accounting, Reporting and Audit and Georgia has created a public agency under the Ministry of Finance to oversee the provisions contained in the new law. These changes have further strengthened the legal framework.

190. Regarding implementation, the new Service for Accounting, Reporting and Auditing Supervision has carried out various monitoring, supervision and enforcement activities leading to 95% filing rate by medium and large entities while micro entities are filing at a rate of 85% annually. Moreover, non-filing has been sanctioned. Additional supervision especially covering underlying documentation is carried out by the Georgia Revenue Service, and where tax auditors identify non-compliance regarding maintenance of accurate and complete accounting information, monetary sanctions have been issued in addition to additional tax assessments.

191. A minor gap has been identified regarding the obligations of Georgian resident trustees who may manage foreign trusts, and for Civil law partnerships to keep accounting information for the minimum retention period of five

years. Whereas the Tax Code is the only source of obligations to maintain accounting information in such cases, the code only provides for a three-year retention period, commencing from the end of the calendar year of the tax liability. This period will not cover the availability of information for five years in all cases, including when the entity ceases to exist. This gap is mitigated by the fact that information already collected by the tax authorities through return filing and audit is kept indefinitely. Further, in practice, this issue is likely to be only a small gap as trusts are not commonly administered in Georgia, while Civil law partnerships will only be small local businesses. Nevertheless, Georgia is recommended to address this gap.

192. Georgia received 57 requests for accounting information, and all these were answered to the satisfaction of its peers.

193. The conclusions are as follows:

Legal and Regulatory Framework: in place

Deficiencies identified/Underlying factor	Recommendations
Georgian resident trustees who manage foreign trusts and Civil law partnerships are obliged to maintain accounting information for a period of only three years commencing from the end of the calendar year of the related tax liability. This gap is mitigated by the fact that information already collected by the tax authorities through return filing and audit is kept indefinitely. Further, the materiality of this gap in practice is limited as trusts are not commonly administered in Georgia and Civil law partnerships will only be small local businesses.	Georgia is recommended to ensure that accounting records of a Georgian resident trustee who manages a foreign trust and of Civil law partnerships are maintained for the minimum retention period of at least five years in all circumstances in line with the standard.

Practical Implementation of the Standard: Compliant

No issues have been identified in the implementation of the existing legal framework on the availability of accounting information. However, once the recommendation on the legal framework is addressed, Georgia should ensure that it is applied and enforced in practice.

A.2.1. General requirements

194. At the time of the 2016 Report, accounting obligations in Georgia were mainly provided for under tax law. In addition, Georgia had a new law from 2012, the Law on Accounting and Auditing Financial Statements. In 2017, the latter was revamped and renamed Law of Georgia on Accounting, Reporting and Audit (LARA) and now contains the bulk of the provisions on accounting information. Georgia also launched the Service for Accounting, Reporting and Auditing Supervision (SARAS) in 2016, as a public agency to manage and supervise the new provisions.

195. Therefore the availability of accounting records and their underlying documentation in line with the standard for companies, partnerships and foundations is now required by a combination of obligations set in accounting law and tax law. Regarding trusts, the tax law requirements are the primary source of obligations in respect of accounting records. The different legal regimes and their implementation in practice are analysed below.

Accounting law requirements for companies, partnerships and foundations

196. The LARA places obligations on entities (see definition and scope at paragraph 199) to keep accounts and prepare financial statements in manual or electronic form and on the basis of relevant financial reporting standards.

197. The LARA requires all entities to keep registers, ledgers and journals. These accounting records must contain the following details:

- the date of a transaction
- debit and credit accounts, indicating relevant amounts
- a short description of the transaction
- the transaction amount (LARA, Art. 4).

198. The recording of the transactions must be in accordance with the double entry principle (debit and credit entries) and on the basis of the primary (underlying) and secondary (records) accounting documentation.

199. Article 2 of the LARA qualifies the scope of coverage by defining entities to include all legal entities of public and private law (with the exception of budgetary organisations provided for in the Budget Code of Georgia and the National Bank of Georgia), branches of foreign enterprises and sole proprietors/entrepreneurs.[27] This coverage includes all companies, partnerships (excluding Civil law partnerships), branches of foreign enterprises and foundations.

200. For purposes of the accounting law obligations, entities in Georgia are classified under four broad categories (LARA, Art. 2):

27. When the revenue generating assets of such sole proprietors/entrepreneurs exceed GEL 10 million (EUR 3.5 million) annually.

Categorisation of entities for accounting purposes

	Value of total assets	Revenues	Employees (average)	Financial statements standard
Category I (large)	Above GEL 50 million (EUR 17.5 million)	Above GEL 100 million (EUR 35 million)	Above 250	International Financial Reporting Standards (IFRS)[28] + external audit
Category II (medium)	Up to GEL 50 million (EUR 17.5 million)	Up to GEL 100 million (EUR 35 million)	Up to 250	IFRS for small and medium enterprises + external audit
Category III (small)	Up to GEL 10 million (EUR 3.5 million)	Up to GEL 20 million (EUR 7 million)	Up to 50	IFRS for small and medium enterprises
Category IV (micro)	Below GEL 1 million (EUR 350 000)	Below GEL 2 million (EUR 7 00 000)	Below 10	local accounting standards established by SARAS

201. All entities as scoped out at paragraph 199 are required to prepare financial statements, although the basis of preparation and reporting is differentiated based on the category of the entity, as indicated in the table above. Public interest entities and category I entities prepare their statements based on International Financial Reporting Standards (IFRS). Regardless of the accounting standard used, complete accounting information must be available. The financial statements must show an accurate financial position of the entity and contain the income statement, cash flow statement, statement of changes in equity together with notes that explain the contents of the statements (LARA, Art. 5)

202. The records must be kept with the entity at its legal address.[29] Additionally, all first and second category entities and public interest entities are required to file audited financial statements annually to SARAS. Other categories of entities and non-commercial entities must also file financial statements annually, although such financial statements need not be audited.

Trusts

203. As earlier discussed, Georgia's legal framework does not allow for the formation of trusts, however no restrictions exist in Georgian law that prevent a Georgian resident from acting as a trustee, protector or administrator of a trust formed under foreign law. If a legal or natural person acts

28. These include International Financial Reporting Standards (IFRS) comprising the full set of standards adopted and published by the International Accounting Standards Board (IASB) and the International Accounting Standards (IAS).
29. Article 5(10) of the LOE states that the legal address of an entity is its actual address in the territory of Georgia.

as a trustee of a foreign trust or a manager in an entrustment of property arrangement, the income earned by the trust is subject to income tax in the hands of that person, unless they demonstrate that the income should be attributed to another person.

204. In any case, the persons managing the trust are themselves required to submit a tax return to declare and pay tax on incomes earned from rendering the services associated with the trust. In order to differentiate the income of the trust from the income the trustee has earned which is taxable in Georgia, the trustee must maintain the full accounts of the trust.

205. Therefore, the trustee will maintain accounting records on the basis of the provisions of the Tax Code as discussed in the following section.

206. These explanations are largely theoretical, as the authorities have never encountered a trustee of a foreign trust in Georgia.

Tax Law

207. Accounting information is also available pursuant to the Tax Code of Georgia. All taxpayers must submit tax returns, calculations, and accounting documents, to a tax authority in accordance with the rules determined by the legislation of Georgia (Tax Code, Art. 43(1)). A taxpayer is defined as a person who is obligated to pay a tax set forth under the Tax Code (Tax Code, Art. 20(1)). On average, 297 601 entities (86.1%) have filed different types of tax returns during the review period.

208. Accounting documents are defined as "primary documents (including taxation documents), ledgers and other documents, on the basis of which taxable objects connected to taxation are determined and tax liabilities are established" (Tax Code, Art. 8(22)). Tax in Georgia is paid on the basis of the "taxable object", which is defined as the difference between gross income received during a calendar year and the amounts of the deductions envisaged under the Tax Code for such a period (Tax Code, Art. 80 and 97).

209. Consequently, taxpayers are required to record incomes and expenditures accurately and keep accounts for tax purposes on the basis of cash or accrual basis. The Tax Code further obliges taxpayers to define and recognise revenue and expenses in compliance with cash or accrual basis accounting standards (Tax Code, Art. 136).

210. Further, the Tax Code provides for simplified accounting for micro-businesses. This status is granted to natural persons who do not use hired labour and whose annual gross receivable income does not exceed GEL 30 000 (EUR 10 500). The simplified accounting rules require to keep a book of all transactions and primary accounting documents such as payment receipts or invoices where applicable. Therefore, some accounting

information will be available, but in any case, such micro businesses would ordinarily not be relevant for EOIR purposes.

211. Moreover, the GRS collects accounting information during tax audits and on the basis of VAT obligations. The Georgian authorities informed that such information often contains underlying accounting information and is stored in the GRS data warehouse.

212. The description of the types of documentation that should be maintained by taxpayers and the methods to be used in conformity with international accounting standards as required by the Tax Code ensure that accounting information shall be available on the basis of the Tax Code too. Moreover, persons that are not explicitly covered by the LARA, such as resident trustees that manage foreign trusts and Civil law partnerships, are fully covered by the requirements of the Tax Code to maintain full accounting information.

Retention period and entities that cease to exist

213. Accounting records should be kept by the entity for a period of six years following the end of the respective accounting period. This applies to all entities where the obligation to maintain accounting information is derived from the LARA (LARA, Art. 4(18)). In addition, the financial statements submitted to SARAS are kept indefinitely.

214. As discussed from paragraphs 66 to 73, an entity may cease to exist through winding up and liquidation procedures or through re-organisation. The LOE was amended in 2021 to require that the records of an entity that ceases to exist must be kept by a liquidator for a period of six years in a place determined by the liquidator or court (LOE Art. 89). The identity of the liquidator must be communicated to the NAPR before the winding up exercise is concluded. Georgian authorities explained that in practice, such records are always kept in Georgia. If the entity has ceased due to a re-organisation, then its accounting records must be maintained by the continuing entity for the minimum period of six years.

215. Georgia reported that the provisions of Article 89 of the LOE were clarified in 2021 after challenges to obtain information on liquidated entities. While in the process of collecting information to answer requests on entities that had been liquidated in three cases, the Competent Authority discovered that the records of these liquidated entities had not been maintained with the liquidators. Moreover, the representatives of these companies (such as directors and shareholders) had left the country, making it difficult for the authorities to compel them by any other means. In these cases, the Competent Authority relied on the information contained in the GRS databases and audit case files which was sufficient to respond to the EOI requests. Ever since the new provisions came into effect, Georgia has not

received any other requests on liquidated entities. Georgia should monitor the application of the requirements on liquidation of entities to ensure that accounting information for entities that cease to exist is maintained for at least five years (see Annex 1).

216. Further, Article 5(8) of the LARA states that the submitted financial statements of an entity must provide information on liquidation proceedings if an entity is under such proceedings. Besides, a liquidator or taxpayer must notify the GRS and file a tax return within 15 days for an entity that is undergoing liquidation.

217. Regarding tax law obligations, the Tax Code obliges taxpayers to keep accounting documentation for three years from the end of the calendar year of the relevant tax period. This is not in line with the standard in all cases, although in practice, it will only affect the availability of accounting records of Georgian resident trustees who manage foreign trusts and for Civil law partnerships. For these, the Tax Code is the only source of accounting information. There are mitigations and as such the materiality of this gap in practice is very limited. Firstly, the information submitted to the GRS as part of the tax return and the underling documentation collected for VAT purposes and through tax audits will still be retained by the GRS indefinitely. Secondly, in practice trusts are not a commonly administered in Georgia, while Civil law partnerships are only small local businesses that are likely not relevant for EOIR purposes. Nevertheless, **Georgia is recommended to ensure that accounting records of a Georgian resident trustee who manages a foreign trust and of Civil law partnerships are maintained for the minimum retention period of at least five years in all circumstances in line with the standard**.

A.2.2. Underlying documentation

218. The LARA requires entities to keep accurate and complete accounts. The accounts should be based on books of original entry that include primary documents confirming the internal transactions of an entity as well as documents received from external parties. The primary documents include invoices, sales documents, contracts and other related information proving the transactions entered into by an entity. The primary accounting documents must show the economic content of the transactions, the date and the names of the persons taking part in the transaction.

219. The description of the primary documentation required by LARA as well as the requirements of the Tax Code for accounting documentation to include primary documents, and transactional information kept by double entry methods in accordance with international accounting standards discussed from paragraphs 208 to 211, confirms that sufficient underlying documentation will be available both on the basis of LARA and the Tax Code.

Oversight and enforcement of requirements to maintain accounting records

220. The supervision of accounting obligations is shared between SARAS and the GRS (in addition to external audit for medium and large entities).

Supervision by the Service for Accounting, Reporting and auditing supervision

Available sanctions

221. The LARA provides for a sequential approach to dealing with non-compliance, often starting with written warnings and escalating to monetary fines and restrictions on members of management boards. Depending on the seriousness of the offence, these sanctions may be applied simultaneously.

222. Failure to fulfil the requirements regarding maintaining accurate and proper accounts, failure to submit financial statements to SARAS and/or submitting inaccurate financial statements, all attract penalties. Article 26 of the LARA contains penalties that vary depending on the size or category of the entity. Category I enterprises and public interest enterprises will be fined a sum of GEL 10 000 (EUR 3 500), category II enterprises, GEL 5 000 (EUR 1 750), category III enterprises, GEL 1 000 (EUR 350) and category IV enterprises, GEL 500 (EUR 175). Similarly, audit firms and auditors can be sanctioned with written warnings or monetary fines ranging from GEL 500 (EUR 175) to GEL 5 000 (EUR 1 750) for failing to comply with audit quality requirements.

223. In addition to the monetary penalties, written warnings can be issued to the entities and the licence of the auditor or audit firm engaged by the entity may be revoked or suspended for a period of three years.

224. The Service for Accounting, Reporting and Auditing Supervision (SARAS) under the Ministry of Finance of Georgia is responsible for the oversight of accounting and auditing obligations arising from the LARA since 2016. SARAS maintains a publicly available web portal where all entities are required to submit their financial statements annually.[30]

Improving the rate of submission

225. The oversight activities carried out by SARAS include monitoring the rate of filing of financial statements and verifying that submitted financial statements conform to the relevant accounting standards. The latter is carried out on the basis of risk-based approach.

30. https://reportal.ge/en.

226. SARAS regularly holds awareness-raising activities where entities are informed about requirements of the law, including the obligation to keep accounting records and to prepare and submit financial statements. In 2021, seven awareness raising events held virtually gathered 1 500 participants. Additionally, instructional materials are posted online to inform and guide participants on the requirements and process for submission.

227. The awareness activities carried out by Georgia have led to high filing rates. By 2020, 94% of entities that are not micro entities submitted their financial statements annually, with the ratio rising to 95% in 2022. The rate of submission for micro-enterprises rose to 75% in 2022 (see table at paragraph 229).

Dealing with non-filing

228. For entities that do not file their financial statements by the due date, SARAS will issue a written warning asking them to file their annual returns within one month. If the entity still does not file its financial statements, SARAS will impose other sanctions in a sequential manner as described at paragraph 222 and these may include monetary penalties. Upon issuance of the penalty, the entity will be given another period between one and six months within which to submit its returns. If the entity has still failed to file its financial statements by then, then the monetary penalty is doubled.

229. The number of entities that did not submit their financial statements in due time was considerably lower before the pandemic and slightly rose up during the pandemic period in 2020 and 2021 as seen in the table below.

	Reporting year 2019		Reporting year 2020		Reporting year 2021		Reporting year 2022	
Category of entity	Number of entities not submitted	Non-submission rate %	Number of entities not submitted	Non-submission rate %*	Number of entities not submitted	Non-submission rate %	Number of entities not submitted	Non-submission rate %
Public interest	1	1%	1	1%	6	4%	7	5%
Category I	5	4%	7	6%	17	13%	21	14%
Category II	36	6%	36	6%	65	10%	92	13%
Category III	270	7%	211	5%	266	6%	392	7%
Category IV[31]	-	-	15 617	20%	20 896	23%	31 575	25%

Note: The rate of submission does not take into account the economically inactive or dormant entities, and those that have filed nil declarations to GRS for three consecutive years, as no financial statements are expected from such entities.

31. Category IV entities were obliged to submit information from 2020 (LARA, Art. 28(12)).

230. A large number of entities registered in Georgia (over 50%) are category IV or micro-enterprises and the rate of non-submission is considerably higher in this category. Further, Georgian authorities have explained that entities whose declarations made to the GRS are nil in all fields including assets, employees, expenses, turnover, for three consecutive years, are not expected to file financial statements to SARAS. Based on this methodology, by the end of the review period, an average of 138 492 mainly category IV entities (41%) were not expected to file financial statements. This is because the financial statements of such companies would not contain any information in any case. The number of entities in this category for each year of the review is shown below.

	2020	2021	2022
Category	**Number of entities**	**Number of entities**	**Number of entities***
Expected to file	83 112	96 216	132 898
nil filers	151 000	144 000	138 492
Dormant	68 896	68 896	68 896
Total	303 008	309 112	340 286

* Georgia explains that the difference between total entities and those covered in 2022 is due to the reporting periods of taxpayers since this statistic is based on the end of review period.

231. The nil filers and dormant entities are comprehensively monitored by the GRS using the criteria described at paragraphs 105 to 106. Georgia has further explained that all nil declarations are verified using the GRS risk programmes before the declaration is approved and if inconsistencies are detected, such a declaration will not be approved. Entities whose status change, for example due to new economic activity, are expected to file financial statements with SARAS. During the review period, there were 62 601 entities whose status changed, and they submitted financial statements. Another category not expected to file financial statements with SARAS are the 68 898 entities that have been dormant since 2013 (see paragraph 106) and this category is monitored too (see paragraph 243). Further, Georgia informed that the awareness programmes have helped to keep the ratio of non-submissions low, ensuring that those expected to submit financial statements comply, otherwise written warnings and monetary sanctions have also been issued to entities that do not comply.

232. For the entities that did not submit their financial statements as explained at paragraph 229, Georgia has reported to have issued written warnings and monetary fines to such entities in a number of cases for the years 2019 to 2022 as seen in the table below.

Category	No of cases	Written warnings	Monetary fines/GEL	Monetary fines/EUR	Doubled fines/ GEL	Doubled fines/ EUR
Public interest	131	32	70 000	24 500	0	0
Category I	246	112	500 000	175 000	360 000	126 000
Category II	1 247	622	1 105 000	386 750	766 000	268 100
Category III	6 877	4 250	1 126 000	394 100	584 000	204 400
Category IV	61 442	59 457	50 000	17 500	33 000	11 550
Total	69 943	64 473	2 851 000	997 850	1 743 000	610 050

233. The number of penalties has grown parallel to the rate of non-submissions despite this having been in the pandemic period, implying that warning letters and monetary penalties have been used consistently. In 443 cases, the sanctioned entities did not respond after the first monetary fine, and subsequently, the fines were doubled.

234. Similarly, SARAS sanctioned audit firms and auditors for failing to provide information to SARAS about their practice in an accurate and timely manner and for violating specific provisions of the LARA. The next table show the nature of violations for which penalties, written warnings and penalties and only written warnings were issued during the period 2019 to 2022.

	Audit firms			Individual auditors		
Nature of violation	Penalty	Written warning and penalty	Written warning	Penalty	Written warning and penalty	Written warning
Failure to update registry information within five business days	23	2	0	11	3	0
Failure to submit information about revenue and personnel employed	110	0	0	36	0	0
Failure to provide complete and/or timely information	20	0	0	7	0	0
Issuance of audit opinion not compliant with International Standards for Auditing	0	0	1	2	0	0

235. The information provided shows that where audit firms and auditors were concerned, the authorities preferred to issue financial penalties. Consequently, a total amount of GEL 135 450 (EUR 47 407) was realised as penalties.

236. The supervisory actions carried out by SARAS are adequate to increase the rate of compliance, as evidenced by the high rate of submissions.

237. Further, SARAS monitors the degree of compliance of financial statements with international and local financial reporting standards, to ensure the reliability of accounting information submitted by category I, II and public interest entities. In this regard, Georgia uses a risk-based approach to identify entities whose submissions would require further scrutiny. Georgian authorities reported that from 2019 to 2022, the submissions of 98 entities have been reviewed and where non-compliance was detected, the sanctions discussed at paragraph 234 were issued.

Supervision by the Georgia Revenue Service

238. The Tax Code provides for penalties for failure to keep accounting records, failure to submit accounting records together with a tax return by the due date or for falsifying accounts. Where a taxpayer has not maintained accounting records, GRS auditors will apply indirect methods to establish a tax liability. Further, failure to submit a tax return and relevant financial statements by its due date attracts a fine of 5% of the tax due, whilst understatement of the tax amount in a tax return by falsifying accounting information is subject to a fine amounting to 50% of the under-declared tax amount (Tax Code, Art. 275(2)). Further, Article 291 of the Tax Code contains a general penalty of GEL 100 (EUR 35) imposed for failing to fulfil an obligation where no specific penalty is provided. The understatement of a tax amount by more than GEL 100 000 (EUR 35 000) by a person in a tax return is considered as tax evasion by a large amount and may attract criminal sanctions (Tax Code, Art. 275(4)).

239. The GRS carries out a broad compliance monitoring programme to ensure that taxpayers comply with accounting obligations provided for under the Tax Code. Audits are planned for and conducted on the basis of assessed risk, and cover both taxpayers that have submitted a tax return and taxpayers that have not submitted a tax return. Compliance with accounting records keeping obligations is verified for all audits.

240. From 2019 to 2022, the GRS conducted a total of 12 894 audits, either looking into specific tax matters or general audits that cover a wide range of aspects and tax types.

Type of audit	2019	2020	2021	2022
Specific	771	1 989	2 175	757
General	869	2 395	2 823	1 115
Total	1 640	4 384	4 998	1 872

241. Georgia reported that regarding the obligations to keep accounting records as envisaged in the Tax Code, in 367 cases out of the 12 894 (3%),

taxpayers were found not to have kept complete and accurate accounting records as required by the Tax Code and were fined a total of GEL 221 600 (EUR 77 560). This figure is in addition to the tax assessment raised, which amounted to GEL 117 112 393 (EUR 40 989 338).

242. The activities of SARAS and GRS taken together enhance Georgia's oversight and monitoring activities towards ensuring that accounting records and underlying documentation of relevant entities and arrangements are maintained in line with the standard.

243. However, as discussed at paragraph 106, an estimated 68 898 entities (20%) that have remained inactive and are considered to be economically dormant since 2013 and an additional 138 492 mainly category IV entities (41%) that have made nil declarations to the GRS for three consecutive years (see paragraph 230), were not expected to file financial statements to SARAS as long as they remain economically dormant or with nil filings respectively (see paragraph 105). These entities remain on the commercial register and maintain their legal personality. The practice of the GRS as explained at paragraphs 99 to 106 confirms that these entities are monitored efficiently at the domestic level, including if the entity is receiving passive income as the person paying for the service will expect to receive an invoice. However, such entities may engage in economic activities outside of Georgia. The Georgian authorities have reported that some of the checks carried out, including establishing if an entity has requested a tax residence certificate or tax registration certificate, are geared towards detecting activity outside of Georgia. Nevertheless, since the entities retain their legal personality, there may be a potential risk that such entities will engage in economic activity. Georgia should monitor inactive companies to ensure that accounting information on all companies is always available in line with the standard (see Annex 1).

Availability of accounting information in EOIR practice

244. Georgia received 57 requests for accounting information and was able to provide information as requested in all cases. This included for instance documents confirming income and expenses, information on customers and counteragents, business transactions, agreements, invoices (including appendixes), volumes and prices, consolidated statements but also employment and hiring documents. Peers were satisfied with the responses provided from Georgia.

A.3. Banking information

Banking information and beneficial ownership information should be available for all account holders.

245. The 2016 Report concluded that banks' record keeping requirements and their implementation in practice in Georgia were adequate and banking information was available. Identity information on all account holders and transaction records continue to be made available through AML and banking law obligations.

246. The standard was strengthened in 2016 to specifically require that beneficial ownership information be available concerning bank accounts. The AML Law requires banks to gather and keep this information. The legal and regulatory framework is in place, ensuring that the holders and beneficial owners of accounts will be identified at the time of account opening and that customer due diligence on existing accounts will be carried out based on specific trigger events and through a specified frequency that is based on the risk level of the client (once every year for high-risk, once every two to three years for average risk clients and once every three to five years for low-risk accounts).

247. The National Bank of Georgia is responsible for the licensing, regulation, supervision and monitoring of banks. During the review period, it carried out supervision programmes on all the banks registered in Georgia and where non-compliance was established, warning letters and sanctions were issued.

248. Georgia was able to answer all 35 requests for banking information that were received during the review period, to the satisfaction of its peers.

249. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Georgia in relation to the availability of banking information.

Practical Implementation of the Standard: Compliant

The availability of banking information in Georgia is effective.

A.3.1. Record-keeping requirements

250. The Law of Georgia on Commercial Bank Activities (CBA) and the Organic Law of Georgia on the National Bank of Georgia regulate the operations of the 15 banks. The National Bank of Georgia (NBG) is mandated with licensing and monitoring of commercial banking activities in Georgia.

Availability of banking information

251. Banking laws and the AML Law require banks to maintain all transactional information on all accounts.

252. Georgian banks and branches or subsidiaries of foreign banks operating in Georgia are required to maintain adequate financial information in respect of their banking business (CBA, Art. 23). The records kept must explain each financial transaction and include all contractual documents related to transactions, such as agreements on credits, guarantees and pledges.

253. In addition, the AML Law and binding decrees issued by the President of the NBG pursuant to this law, all require the following information to be kept for each transaction:

- type and content (purpose and intended nature) of a transaction
- amount/value and currency of a transaction
- identification data of the customer (and any person acting on behalf of the customer)
- identification data of any other person involved in the transaction (and of any individual acting on its behalf)
- identification data of the person in favour of whom a transaction is concluded/conducted
- the type, number, opening/closure date of the account, through which the transaction was conducted.

254. Based on these obligations, banks are expected to maintain all account opening documents and financial transactional information on all accounts in accordance with the standard.

255. Commercial banks must keep the information on their customers and any transactions on their accounts in electronic form for not less than 15 years (CBA, Art. 23). The NBG has the responsibility to supervise the liquidation process of a bank and will keep all records of a liquidated Georgian bank, including a branch or subsidiary of a foreign bank operating in Georgia. The NBG will keep the records indefinitely. Therefore, if a bank ceases to exist in Georgia, the records will be available with the NBG.

Beneficial ownership information on accounts

256. The standard was strengthened in 2016 to specifically require that beneficial ownership information be available in respect of all bank accounts. In Georgia, these obligations are met through the AML Law and binding decrees issued by the NBG. The AML framework obliges banks to carry out CDD on all account holders and on one off transactions.

257. The definition of beneficial owners contained in the AML Law and the guidance contained in the decree, Order N 53/04 of the President of the National Bank of Georgia on determining, identifying and verifying beneficial owners that entered into force on 15 March 2019, as discussed under section A.1.1, allow for identification of beneficial owners of bank accounts in line with the standard.

258. The AML framework provides extensive requirements for carrying out CDD as discussed under section A.1.1. The NBG has issued a specific decree to complement the provisions of the AML Law. The NBG's Order N 189/04 facilitates and guides banks while applying CDD measures. Banks are required to identify their customers, identify the beneficial owners and take reasonable measures to verify the identity of the beneficial owners before establishing a business relationship. If a bank cannot complete CDD measures, then it cannot commence a business relationship or complete a transaction (see paragraphs 121 to 123) and this had happened in a few cases.

259. The AML Law allows banks to apply simplified CDD measures only where it is determined that there is no risk of money laundering or terrorism financing. In these instances, the bank must obtain sufficient information to determine the reasonableness of assigning the client a low level of risk and in any case, the identification and verification of the identity of the client and its beneficial owner(s) must still be conducted.

260. Ongoing monitoring and CDD measures on existing accounts is carried out on the basis of certain triggers and the risk level of the client. As discussed at paragraph 126, CDD must be carried out when there is suspicion of money laundering/terrorism financing, when a client is looking for a new product or service, when transaction limits are exceeded or where the bank has doubts on information previously obtained. Further, CDD should be carried out periodically, once every year for high-risk accounts, once every two to three years for average risk accounts and once every three to five years for low-risk accounts. The representatives of banks met during the onsite confirmed that they implement these rules regarding the frequency of CDD and updating beneficial ownership information and that the matter is a subject of supervisory inquiries by the NBG.

261. Banks may rely on third parties to carry out CDD, only if the third party was itself subject to appropriate AML regulation and is from a jurisdiction classified by Georgia as not being high risk. In such a scenario, the bank retains the responsibility of ensuring that appropriate CDD measures have been applied. The obliged person should immediately receive identification data and other documents concerning the client from the third party and that upon request any other information can immediately be provided by the third party. These conditions are in line with the standard and the representatives of the banking sector stated that reliance on introduced business is rare in practice.

Oversight and enforcement

262. The NBG supervises and monitors the operations of banks through a risk-based mechanism that includes the analysis of periodic reports submitted by banks, to identify potential areas of non-compliance and take appropriate supervisory action.

263. As discussed at paragraph 136, Order N 242/01 of the NBG lays out a variety of sanctions for offences, such as failing to properly examine the ownership and control structure of a client and hence failing to properly identify the beneficial owner, that attracts a penalty of GEL 1 500 (EUR 525) for each violation or failure to properly record the identity of the holder of an account, which attracts a penalty of GEL 20 000 (EUR 7 000) for each violation. The NBG may also withdraw the licence of the bank in more serious circumstances.

264. As elaborated from paragraphs 140 to 144, the NBG carried out various supervisory activities that covered all the banks operating in Georgia. As a result of this supervision, 1 910 instances of non-compliance were detected in commercial banks during the review period and a total of GEL 2 119 500 (EUR 741 825) were issued in monetary penalties. In addition, the NBG issued 41 warning instructions to banks to rectify areas of non-compliance. The level of non-compliance as established by the NBG inspections was considerable in 2021. Georgia has explained that in 2021, the NBG introduced stringent supervisory checks, through which the non-compliance was identified and sanctioned. The comprehensiveness of the supervision and the resultant sanctions issued are commensurate. The banking sector representatives interviewed during the onsite visit acknowledged that after the sanctions, there was improvement of their internal processes. As noted at paragraph 145, there was no notable non-compliance among commercial banks by 2022. Similarly, the Georgian authorities have reported that in 2023, onsite inspections on three commercial banks did not detect similar non-compliance.

265. The sanctions included in the AML framework are of wide range and appear to be dissuasive enough. The NBG has carried out various compliance supervision activities during the review period and appropriate sanctions were issued where non-compliance was established. Moreover, the representatives of the banking sector met during the onsite visit confirmed that the authorities have supervised the sector comprehensively. They also demonstrated a clear understanding of their obligations and acknowledged that where they failed, they had been sanctioned by the NBG.

Availability of banking information in EOIR practice

266. Georgia received 35 requests for banking information and was able to provide information as requested. The requests concerned entities and individuals, and asked for instance for bank statements and payment orders. Peers were satisfied with the responses provided from Georgia.

Part B: Access to information

267. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards are compatible with effective EOI.

B.1. Competent authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

268. The 2016 Report concluded that whereas the competent Authority in Georgia had broad access powers to obtain all types of relevant information, including ownership, accounting and banking information from various sources, the scope of professional secrecy found in domestic legislation for advocates and accountants was broader than what is provided for under the standard. Amendments to the Law of Georgia on Facilitating the Prevention of Money Laundering and the Financing of Terrorism has created an exception to secrecy, applicable in particular to beneficial ownership information on their clients. In addition, in practice, the likelihood of this privilege to hinder exchange of information has greatly reduced with the increase in sources of accounting information. Since 2017, the options to access accounting information have increased with the introduction of the online reporting of accounting information and an increase in the amount of underlying documents retained by the tax authorities. Moreover, legal ownership information is publicly available online. Georgia should nonetheless align its legislation with the standard. Consequently the recommendation issued in the 2016 Report is maintained whilst recognising that the potential to hinder EOIR has diminished.

269. Regarding implementation, by the time of the 2016 Report, Georgia had just introduced new procedures to access banking information and

Georgia was recommended to monitor the implementation of this procedure. Georgia has successfully applied this procedure in 14 cases. Moreover, the Competent Authority had adopted practical approaches, such as constant engagement with stakeholders involved in this process, to minimise delays. By the end of the review period, Georgia is registering improvements in time-lines of accessing banking information. Consequently the recommendation issued in the 2016 Report has been removed.

270. During the review period, there was no case where Georgia was unable to provide requested information due to an inability of the Competent Authority to access information or to exercise its access powers.

271. The conclusions are as follows:

Legal and Regulatory Framework: in place

Deficiencies identified/Underlying factor	Recommendations
The scope of legal professional secrecy found in the domestic legislation is broader than the international standard as it is not limited to "confidential communications" between a client and an advocate, but it extends to any information which became known to the advocate during the exercise of legal practice. The scope of professional privilege applicable to accountants is also broader than the international standard. There are exclusions for beneficial ownership information, but in any case, requested information would usually be available from other sources, thereby limiting the materiality of the gap.	Georgia should ensure that the scope of professional secrecy is consistent with the standard.

Practical Implementation of the Standard: Compliant

No issues have been identified in the implementation of the existing legal framework on access to information. However, once the recommendations on the legal framework are addressed, Georgia should ensure that they are applied and enforced in practice.

B.1.1. Ownership, identity and banking information

272. The Minister in charge of finance has delegated the operational role of the Competent Authority to the Georgia Revenue Service (GRS). The EOI unit is placed under the Tax Risk Management Division (TRMD) of the Analytical Department of the GRS.

Access powers

273. In many cases, the information requested for by peers is readily available to the Competent Authority through the GRS databases or the publicly accessible databases of the NAPR (legal ownership) and SARAS (accounting).

274. When there is need to obtain information from other sources, the GRS has wide information gathering powers, including the power to obtain information directly from taxpayers, third party information holders and government agencies.

275. Article 70(1) of the Tax Code of Georgia states that:

> A tax authority may request persons:
>
> a) to provide accounting documents and/or taxation-related information (including information requested by another state's[32] competent (authorised) body on the basis of an international agreement to which Georgia is a party)

276. These powers specific to EOI are supplemented by general powers granted to the GRS through the Tax Code. Article 49[1] permits the GRS to obtain, from taxpayers and their representatives, documents related to computation and payment of tax and to provide written and verbal explanations thereof. The application of Article 49[1] enables the Competent Authority to obtain requested information whenever there is an ongoing tax audit or to secure information whenever such a procedure is required. The general powers contained in Article 49[1] do not refer to EOI and are used if the requesting jurisdiction has stated that the taxpayer or person subject to a request should not be made aware of the request.

277. Therefore in practice, the Competent Authority relied on GRS databases that automatically obtain information from the publicly available online databases of the NAPR (legal ownership) and SARAS (accounting) to answer requests. If there was need to collect information from taxpayers or other third parties such as ownership records of joint stock companies or banking information, then the GRS generated notices based on Articles 70[1] or 49[1] to the relevant information holders to produce such information. Information holders were given five to ten working days to provide responses, based on the complexity of the required information.

Accessing beneficial ownership information

278. The Competent Authority can access beneficial ownership information held by all AML-obliged persons. In addition, when beneficial ownership

32. This is interpreted to also include jurisdictions that are not States, when such jurisdictions have an EOI relationship with Georgia. In practice, Georgia has not received an EOI request from non-state jurisdictions.

information is accessed from banks, the Competent Authority uses the same procedure for accessing banking information as discussed from paragraph 283.

279. The GRS uses the bank account information that is submitted by taxpayers to identify the bank in which the entity subject to a request maintains a bank account. When beneficial ownership information is requested from the bank, then a Court order must be obtained, which together with a notice, are issued to the bank (see paragraphs 283 to 293). All VAT-registered taxpayers are obliged to submit bank account details to the GRS for VAT refund purposes. The Georgian authorities have reported that this is a significant proportion of taxpayers, owing to the low VAT threshold of annual turnover of GEL 100 000 (EUR 35 000). The authorities stated that the taxpayers not registered for VAT would only be small taxpayers.

280. In practice, the Competent Authority, has used the database of bank accounts used for VAT purposes to easily identify the relevant banks to request for beneficial ownership information from. Georgia has further confirmed that in the event that the bank account information was not readily available in GRS databases, the Competent Authority would secure a court order and send notices to all the 15 commercial banks.

281. During the review period, Georgia received and answered 15 requests for beneficial ownership information to the satisfaction of its peers. Beneficial ownership information was obtained from banks in 13 cases.

282. In two cases where beneficial ownership information was requested for and banking information was not part of these requests, the GRS requested the taxpayers to provide their beneficial ownership information and received adequate responses. The Georgian authorities have reported that this approach was taken in order to quicken the timeliness of responses. In the absence of clear obligations and guidance to entities on how to identify their beneficial owners, there is a risk that when beneficial ownership is obtained from entities, it may not be accurate, adequate or up to date. Georgia should monitor its approach to obtain beneficial ownership information from entities in the absence of clear obligations and guidance to these entities on how to identify their beneficial owners, to ensure that accurate, adequate and up-to-date beneficial ownership information is provided to its peers in all cases (see Annex 1).

Accessing banking information

283. The Law of Georgia on Commercial Bank Activities provides for bank secrecy. By the time of the 2016 Report, Georgia had just introduced an exception to this secrecy and new procedures in the Tax and Administrative Codes to facilitate access to banking information for domestic

and EOI purposes. Since the procedure was fairly recent at that time, Georgia was recommended to monitor its implementation.

Procedures to access banking information

284. The procedures to access banking information were introduced in December 2014 in the Tax Code, the Law of Georgia on Commercial Bank Activities and the Administrative Procedure Code of Georgia.

285. Article 70(3) of the Tax Code states that:

> A tax authority may request a commercial bank to provide confidential information specified in Article 17 of the Law of Georgia on Commercial Bank Activities during a tax audit (within the scope of the audit) of a taxpayer or upon request of another state's competent (authorised) body according to an international agreement to which Georgia is a party. A tax authority shall request this information on the basis of a court decision as prescribed by the Administrative Procedure Code of Georgia (…).

286. To supplement to the Tax Code, the Law of Georgia on Commercial Bank Activities (Article 17(2)) confirms that the tax authority can have access to banking information based on a judicial decision under the Administrative Procedure Code.

287. The Administrative Procedure Code sets the procedure to follow. It requires the tax authority to file a petition to court in order to access confidential banking information (Article 21[49]). The petition submitted to the city or district court must capture the following essential elements:

- the identity information of the person, in respect of whom information is requested
- the name of the commercial bank which shall provide information
- description of the information which is requested
- the form and time limit for receipt of information
- a written statement indicating that the EOI request received complies with the requirements of the relevant international treaty entered into with Georgia.

288. Georgia has reported that the aspect of the identity of the person to whom the request has been made can also be satisfied by providing a bank account number and related identifiers such as addresses, although this has not happened in practice. The GRS relies on its database of bank accounts extracted from VAT registrations to identify the banks where information is maintained.

289. In the event that the bank has not been identified, or the requesting jurisdiction has asked for information on all bank accounts held in Georgia by the relevant person, court orders will be processed for all the 15 banks operating in Georgia.

290. Within the GRS, the Competent Authority sends a notice to the Disputes Department of the GRS which is responsible for generating and presenting the petition to the district or city court. The petitions are then scheduled and heard by the Court in the presence of GRS lawyers. A judge is required to issue an order within 14 days of receipt of the petition (Art. 21[50], Administrative Procedure Code). Upon determination, the Court will issue an order that is sent to the GRS.

291. The Competent Authority sends a notice to the bank together with the Court order asking the bank to provide information within 5 days of receipt of the Court order.

292. The GRS can appeal the decision of the Court within 48 hours after receiving the order. Such an appeal would be reviewed by the appellate court within 10 days of its lodgement (Art. 21[50], Administrative Procedure Code). Since the introduction of these new procedures, the GRS has not appealed any of the Courts' decisions regarding access to banking information since the court has always granted the petitions to access such information.

293. The person subject of the request may participate in the proceedings or appeal the Court's decision under certain conditions, as discussed at paragraphs 330 to 332. However, the bank cannot participate in these proceedings and cannot appeal the Court order.

Approaches to gathering information in practice

294. At the time of the 2016 Report, Georgia had used the procedure to obtain information from a bank to answer 1 request and had taken 11 months to provide the requested information. The Georgian authorities have reported that they have monitored the implementation of these procedures and introduced administrative processes in the GRS to improve on the timeliness of accessing banking information.

295. Georgia has explained that in some cases, requested banking information is collected directly from taxpayers without the need to use the court-based process to obtain the information from banks. This applies in instances when the requested information is only bank statement transactions and the Tax Risk Management Division (TRMD) which houses the Competent Authority Office has determined that the entity subject of the request would comply, based on their past compliance behaviour. This approach is only considered if the requesting jurisdiction does not state that the person subject to the request should not be made aware of the request.

296. During the review period, Georgia received 35 requests for banking information and obtained the requested information from taxpayers in 21 cases (60%).

297. The other 14 requests (40%) were answered by getting information from banks. Georgia has reported that in these cases, the entire process to obtain information was concluded within 180 days (6 months), with the exception of 1 request which took 10 months to answer. This request was received at the end of 2021, at a time when Georgia was in the process of making personnel and administrative changes to its Competent Authority office (see discussion under section C.5.2). Besides, the functioning of the court system had been severely affected by COVID-19 restrictions and hence there were delays in getting the court decision on the petition.

298. Overall, Georgia has established practice and experience in using (or not) the court-based procedure to access banking information.

299. Moreover, in a bid to improve access to banking information, starting from September 2022, the Competent Authority has carried out extensive engagements with key stakeholders involved in the process. Firstly, the Competent Authority team engaged their counterparts in the Dispute Resolution department of GRS to formulate efficient ways to prepare and send petitions to courts in a timely manner. Secondly, the GRS established contact with judges' assistants, and they use this channel to follow-up on the status of petitions and rulings granted. Georgia has reported that this has reduced delays in scheduling of petitions, and feedback from courts is obtained in a timely manner. Georgia reported that in two cases, the judges requested for additional information before the rulings could be issued and using this channel, information was promptly provided to the courts.

300. Thirdly, the Competent Authority team has identified contact persons in all the commercial banks to quicken the process of obtaining information. When notices and court orders are issued to banks, the Competent Authority officials contact these contact persons to ensure that information is delivered in a timely manner.

301. The engagement of stakeholders (starting towards the end of 2022) has started to yield results. The statistics presented by Georgia indicate that by 2023, some requests where information was obtained from banks were answered within 90 days.

302. The administrative procedures and approaches adopted by Georgia to access banking information from taxpayers, where applicable, and active engagement with key stakeholders to minimise delays when information is sought from banks is efficient. Besides the court-based procedure has now been sufficiently tested with courts granting positive decisions to the GRS

in all 14 cases and the approach to engage key stakeholders continues to improve the timeliness of the procedure.

303. Peers were satisfied with the information provided by Georgia. Georgia should continue to monitor the organisational elements recently put in place to ensure that banking information is provided in a timely manner in all cases (see Annex 1).

B.1.2. Accounting records

304. Some accounting information is submitted to and maintained in the SARAS online portal, and this information is accessible to the GRS. In addition, the GRS collects substantial information as part of its electronic invoicing systems and relies on this information to answer requests. The GRS also accesses accounting information from audit files if the taxpayer subject to the EOI request was recently audited.

305. Whenever the requested accounting records are not readily available in the databases such as underlying documents, the Competent Authority sends out notices to taxpayers using Articles 70 (1) and 49[1].

306. During the review period, Georgia used databases available to the GRS and taxpayers themselves evenly to answer the 57 requests for accounting information.

B.1.3. Use of information gathering measures absent domestic tax interest

307. The legal and regulatory framework in Georgia authorised the gathering of information for EOI purposes in the absence of a domestic tax interest.

308. Particularly, Articles 70(1) and 70(3) of the Tax Code as discussed under section B.1.1 ensure that the Competent Authority will apply its access powers to obtain ownership, accounting and banking information for EOI purposes even in cases where there is no domestic tax interest.

309. Besides, as discussed in the 2016 Report (paragraph 266), if the Competent Authority were to rely on the general access powers enshrined in Article 49[1], say in the event where the requesting jurisdiction has asked that the person subject to a request should not be made aware of the request, the information gathering powers of the Competent Authority would still apply. This is because the GRS interprets the phrase, “obtain from a taxpayer and/or representative thereof documents related to the calculation and payment of taxes” in wide manner regardless of whether those taxes are levied by Georgia or its treaty partners. In practice, the general access powers have been used successfully to answer requests in cases where the

requesting state mentioned that the person subject to the request should not be made aware of the request.

310. Peers did not raise any concerns concerning domestic tax interest and the Georgian Competent Authority confirmed that they did not have domestic tax interest in most of the cases received and answered.

B.1.4. Effective enforcement provisions to compel the production of information

311. Administrative sanctions can be applied on any person who fails to provide information requested for or provides incomplete or inaccurate information. Failure to submit information upon request of the tax authority is subject to a fine of GEL 400 (EUR 140), and if the action is repeated, the taxpayer will be subject to a fine amounting to GEL 1 000 (EUR 350) for each subsequent repeated action (Art. 279, Tax Code).

312. If the information holder does not respond even after the penalty, the GRS has the option to open an audit to collect the requested information. This process of audit will involve inspection and search and seizure of documents where necessary (Art. 49, Tax Code).

313. Regarding banking information, if the bank does not co-operate or provides incomplete or inaccurate information, such a bank will be penalised according to the Article 279 of the Tax Code. Additionally, since bank information is obtained through court orders, not complying with a court order can lead to criminal proceedings.

314. The Competent Authority has not had the need to rely on these sanctions or compulsory powers to access information for EOIR purposes, although these have been used successfully for domestic purposes. For EOIR, most of the information is contained in GRS databases, and in other circumstances, information holders have provided information within the stipulated timelines or after first time reminders.

B.1.5. Secrecy provisions

Bank secrecy

315. Bank secrecy and related confidentiality rules are set out in the Law of Georgia on Commercial Bank Activities, which contains a broad restriction for banks to disclose or use confidential information. However, there are explicit exceptions for access by the tax authority based on a Court based procedure, as explained at paragraphs 283 to 293.

316. The understanding of the obligation to provide banking information pursuant to a court order was clearly demonstrated by the banking representatives during the on-site visit. Besides, Georgia was able to respond to 14 requests for banking information by obtaining information from banks. No challenges regarding bank secrecy arose during the review period.

Professional secrecy

317. The 2016 Report determined that the scope of professional secrecy extended to advocates and accountants in domestic law was broader than what is accepted by the standard. Accordingly, Georgia was recommended to ensure that the scope of professional secrecy was consistent with the standard. No change has occurred in the legal framework since then.

318. Article 7 of the Law of Georgia on Lawyers states that a lawyer shall respect professional secrecy, regardless of the time elapsed, and shall not disseminate, without the consent of the client, information that was obtained from the client in the course of the practice of the profession of lawyer.

319. Further, Article 2 of the law on lawyers defines the "practice of the profession of lawyer" to involve

> the provision of legal advice to persons who apply to a lawyer for assistance, the representation of a client in constitutional disputes, in criminal, civil or administrative proceedings in a court, or in arbitration, detention or investigation bodies; the drafting of legal documents with respect to a third party and the submission of any documents on behalf of a client; and the provision of such legal assistance that is not related to representation before a third party.

320. The standard establishes that the Contracting Parties to an EOI agreement are not required to exchange confidential communications between a client and an attorney, solicitor or other admitted legal representative, "produced for the purposes of seeking or providing legal advice, or produced for the purposes of use in existing or contemplated legal proceedings". Regarding the coverage of the definition of the "practice of the profession of lawyer", some of the quoted activities such as the "drafting of legal documents with respect to a third party" and "the submission of any documents on behalf of a client" are broader than what is envisaged in the standard.

321. On a positive note, the Law of Georgia on Facilitating the Prevention of Money Laundering and the Financing of Terrorism has created an exception indicating that information provided under AML Law by lawyers would not be in contravention of their secrecy obligations, and as such, the information would be accessible by the GRS through the Financial Monitoring Service and in accordance with Article 70 of the Tax Code. This presents a mitigation to hinderances to EOI arising from the current secrecy provisions

contained in the legal framework. Largely, potential information relevant to EOI that would be sourced from lawyers would be beneficial ownership information arising from their obligations as accountable persons, but there is also the possibility that lawyers may act as trustees of a foreign trust managed in Georgia (AML Law, Art. 3(2)(e)) and hence be accountable for accounting records. The representatives of the lawyers met during the onsite visit confirmed their understanding that they are bound by professional secrecy with the exception of information that is pursuant to the AML Law.

322. Accountants have a duty of confidentiality in respect of information acquired as a result of professional and business relationships. Article 18 of the Law of Georgia on Accounting, Reporting and Audit provides that:

> 1. The information received by an auditor/audit firm during the course of providing professional services shall be a professional secret.
>
> 2. Except as provided for by the legislation of Georgia, an auditor/audit firm shall be obliged to:
>
> a) observe professional secrecy regardless of the time passed and the type of activity changed
>
> b) observe professional secrecy unless the entity consents it to be disclosed.

323. The representatives of the accountants met during the onsite visit confirmed that they would provide information requested by the tax authorities only after obtaining authorisation from their clients. The same new exception in the Law of Georgia on Facilitating the Prevention of Money Laundering and the Financing of Terrorism applies to accountants. The representatives of advocates and accountants met during the onsite confirmed that they would provide beneficial ownership information, if requested. However, the exception in the AML law is specific to beneficial ownership information and will not extend to accounting records (AML law, Art. 28(2)). Moreover, whereas SARAS is an alternative source for financial statements, this will not cover the underlying documents that are not submitted to SARAS.

324. In any case, there are various sources of information that are available to the Competent Authority. Since the 2016 Report, Georgia introduced an online service for reporting accounting information and the amount of underlying documentation retained by the GRS continues to grow. Moreover, accounting information not available to the GRS would be collected from taxpayers.

325. As was the case in the 2016 Report, in the current review period the Competent Authority did not approach lawyers or accountants to gather information needed for EOI purposes, neither did they seek to access any

information subject to professional secrecy. This is because lawyers/advocates and accountants are not a key source of information in practice.

326. Considering the mitigations in place, the risk to EOI is greatly reduced. Nevertheless, the recommendation issued in the previous report is maintained. **Georgia should ensure that the scope of professional secrecy is consistent with the standard**.

B.2. Notification requirements, rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested Georgia should be compatible with effective exchange of information.

327. Generally, Georgia's legal and regulatory framework does not require the tax authorities to notify taxpayers or third parties of the receipt of an exchange of information request, or when collecting information for such purpose, neither prior nor after having sent the requested information to the requesting jurisdiction.

328. Since Article 70(1) of the Tax Code may be easily associated with EOI matters, if the requesting jurisdiction has stated that the person subject to the request should not be made aware of the request, the GRS uses Article 49[1] which is more general in nature (see discussion under section B.1). The use of this article limits the risk that the information holder may inform the taxpayer concerned about the existence of the EOI request. Similarly, if the GRS uses a tax audit to gather information needed to respond to an EOI request, the Notice sent to the taxpayer on commencement of the audit does not make reference to an EOI request (see paragraph 309).

329. The Tax Code establishes rights of taxpayers, including the right to appeal the decisions of the tax authority. However, these are more associated with tax audits and audit findings. Besides, the taxpayers are not made aware or notified in any way of a presence of an EOI request. No appeals have been initiated by taxpayers in respect of EOI.

330. Regarding the procedure to collect information from banks through the court-based procedure, there has been a change due to a Constitutional Court ruling. Previously, the Administrative Procedure Code (Article 21[50]) prohibited the person subject to the request to participate in the proceedings or to appeal the decision of the court. Under these provisions, the petition submitted to the Court by the GRS was heard without the presence of the person subject to the request, who did not have the right to appeal the Court decision.

331. In February 2017, the Constitutional Court of Georgia ruled against these provisions. The Constitutional Court stated that only if there is a

legitimate justification, such as the threat of the person hiding or the risk of evidence destruction, would it then be allowed to limit the procedural rights of the person for a certain period of time (as long as the said risks exist). The ruling concluded that it is only then that the Court would be justified to restrict the person's right to participate in the process, and only if the tax authority substantiates the existence of such risks.

332. Georgia has reported that if the requesting jurisdiction has stated that the person subject to the request should not be made aware of the request, then the GRS would use this position to ask the Court to limit the potential hearing of the petition and to exclude the person subject to the request. Georgia has already used this approach in four cases where the requesting jurisdiction stated that the persons subject to the request should not be made aware of the presence of a request. Moreover, the representatives of the banks confirmed that they will never inform their clients that they received a Court order to produce information and therefore any risks of unintended notification are mitigated.

333. Under the same Constitutional Court ruling, the person subject to a request may appeal the decision of the Court, although the bank cannot appeal the decision of the Court. Article 21[50] of the Administrative Procedure Code states that appeals should be heard within 10 days after submission, although in practice there were no such appeals during the review period.

334. The rights and safeguards that apply to persons in Georgia have never prevented or unduly delayed exchange of information and are thus compatible with an effective exchange of information.

335. The conclusions are as follows:

Legal and Regulatory Framework: in place

The rights and safeguards that apply to persons in Georgia are compatible with effective exchange of information.

Practical Implementation of the Standard: Compliant

The application of the rights and safeguards in Georgia is compatible with effective exchange of information.

Part C: Exchange of information

336. Sections C.1 to C.5 evaluate the effectiveness of Georgia's network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all Georgia's relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether Georgia's network of EOI mechanisms respects the rights and safeguards of taxpayers and whether Georgia can provide the information requested in an effective manner.

C.1. Exchange of information mechanisms

Exchange of information mechanisms should provide for effective exchange of information.

337. The 2016 Report determined that Georgia had an extensive EOI network covering 102 jurisdictions through 54 DTCs, 3 TIEAs and the Multilateral Convention. Since 2016, Georgia's network of EOI relationships has increased due to more jurisdictions becoming parties to the Multilateral Convention. Georgia has also signed seven new DTCs and one TIEA[33] with six jurisdictions that were already its EOI partners through the Multilateral Convention (they are therefore not further analysed in the present report), and a DTC with Kyrgyzstan, the EOI provision of which is based on Article 26 of the OECD Model DTC.

338. Georgia's expansion of its EOI network on account of the Multilateral Convention has brought most of its EOI relationships in line with the standard, including with Armenia and Kuwait where the EOI relationships prior were based on DTCs that are not in line with the standard. Most of Georgia's EOI relationships are in force and contain sufficient provisions to enable Georgia to exchange all relevant information – two of the DTCs with the six EOI partners that are not Parties to the Multilateral Convention

33. DTCs with Hong Kong (China), Japan, Korea, Kyrgyzstan, Moldova, Poland and Saudi Arabia, a TIEA with the Bahamas.

meet the standard (with Belarus and Kyrgyzstan) and a determination of the compliance of the four others depends on the interpretation of courts and/or require data on the legal framework of the partners that is not available for this review (with Egypt, Iran, Turkmenistan and Uzbekistan).

339. Regarding implementation, the interpretation by the Georgian competent authority of the concept of foreseeable relevance, including in the case of group requests, is in line with the standard. Although Georgia did not receive any group request during the review period, the Competent Authority demonstrated that they would be able to apply an approach to determine foreseeable relevance that is in line with the standard.

340. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms of Georgia.

Practical Implementation of the Standard: Compliant

No issues have been identified that would affect EOIR in practice.

Other forms of exchange of information

341. In addition to EOIR, Georgia engages in spontaneous exchange of information with other jurisdictions. Georgia automatically exchanges information with Latvia, Lithuania and the Netherlands regarding income received by tax residents of those foreign countries in Georgia.

C.1.1. Standard of foreseeable relevance

342. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and the enforcement of the domestic taxes of the requesting jurisdiction. The 2016 Report found that the majority of Georgia's DTCs used the term "is necessary". The usage of the term "necessary'' is sufficient, as referenced in the commentary to Article 26(1) of the Model Tax Convention indicating that the Contracting States may agree to an alternative formulation of the standard on foreseeable relevance that is consistent with the scope of the Article, for instance by replacing "foreseeably relevant" with "is necessary" or "may be relevant". Georgia's four TIEAs all use the term "foreseeably relevant", as well as DTCs signed recently.

Clarifications and foreseeable relevance in practice

343. Regarding practical application, the Rules for Exchange of Information for Tax Purposes – hereafter referred to as the EOI Manual – directs EOI officials to test requests for foreseeable relevance. While no specific template is provided to the requesting jurisdictions for the formulation of requests, Georgia expects jurisdictions to provide sufficient information to demonstrate the foreseeable relevance of the request and would seek for clarification where necessary. The Manual states that a request for information should contain the identity of the person concerned (in case of a natural person, at least name, surname and date of birth or any other information that can be used to identify the person including identity or passport numbers, addresses, family names or participation in a particular legal entity) relevant taxes and relevant tax period, the type of information requested, the purpose for which the information is requested, the legal basis for the request and a statement that the requesting jurisdiction has exhausted all means available within the framework of its domestic tax procedure to obtain the information.

344. During the review period, Georgia sought clarification in 12 of the 84 requests received (14%), to determine whether the request was foreseeably relevant. In the majority of these cases, Georgia sought additional details in order to identify the persons subject of the request. For banking information, "identity" can be either the name of the person or the bank account number. The list of elements required to be provided to the court dictates the kind of specificity Georgia considers in order to answer a banking request (see paragraphs 287 and 288).

345. When additional information was provided, Georgia processed the requests and provided information. In some cases additional details were not provided and the requests were considered closed. Georgia has confirmed that the letter asking relevant partners for additional information includes a note stating that the case would be considered closed if additional details are not provided after 30 days, although they would reopen the case if the information is sent after the 30 days.

Group requests

346. Georgia's EOI agreements and domestic law do not contain language prohibiting group requests. The EOI manual has been updated to include specific guidance on group requests. The Competent Authority officials demonstrated knowledge on the concept and stated that if they received a group request, they would be able to provide information in accordance with Article 26 of the OECD Model Tax Convention and its commentaries.

347. Georgia neither received nor sent any group requests during the review period.

C.1.2. Provide for exchange of information in respect of all persons

348. The 2016 Report explained that Georgia's DTCs explicitly provided for exchange of information in respect of all persons, except for six DTCs (with Switzerland, Azerbaijan, Bulgaria, Kuwait, Luxembourg and Uzbekistan), which do not include a provision that extends the scope of the exchange of information Article to persons other than the residents of one of the Contracting States. The Multilateral Convention is in force in all these jurisdictions except Uzbekistan. In any event, the DTC provides for the exchange of information as is necessary for carrying out the provisions of the domestic laws of the Contracting States. Georgia has explained that they would be able to exchange information on non-residents with Uzbekistan.

349. Georgia has not received any requests for information where the persons concerned were neither resident in these jurisdictions nor resident in Georgia.

C.1.3. Obligation to exchange all types of information

350. Jurisdictions cannot engage in effective exchange of information if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity.

351. The 2016 Report determined that 32 out of the 54 DTCs at that time did not contain wording akin to Article 26(5) of the Model Tax Convention. However, this did not impede exchange of information since most of these jurisdictions were already party to the Multilateral Convention with the exception of only six jurisdictions. Ever since that report, the Multilateral Convention has entered into force in two[34] out of the six jurisdictions. Therefore, these two jurisdictions have an established EOI relationship with Georgia that is in line with the standard. The situation with the remaining four[35] jurisdictions depends on the interpretation and application of the EOI provision.

352. By the time of the 2016 Report, Georgia reported that it would not decline to answer a request because of the absence of this wording and had not declined any request in practice. Moreover, the absence of this paragraph does not automatically create restrictions on exchange of banking information. The commentary to Article 26(5) indicates that whilst

34. Armenia and Kuwait.
35. Egypt, Iran, Turkmenistan and Uzbekistan.

paragraph 5 represents a change in the structure of the Article, it should not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information.

353. However, Georgia has now introduced the court-based procedure to obtain banking information, as described in section B.1. Under this procedure, it is a requirement for the legal basis of the request to be presented to the Court. Georgian authorities indicated that under the new procedure, if a request is received on the basis of a DTC that does not have the wording akin to Article 26(5) of the Model Tax Convention, Georgia may be constrained to answer such a request, since the Court may rule that the legal basis has not been established. This situation has not been tested yet in practice.

354. Georgia should work with Egypt, Iran, Turkmenistan and Uzbekistan to ensure that its EOI relations with these partners are in line with the standard (see Annex 1).

C.1.4. Absence of domestic tax interest

355. A contracting state may not decline to supply information solely because it does not have an interest in obtaining the information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the standard.

356. There are no restrictions in Georgia's domestic law in relation to obtaining information on foreign persons where there is no domestic tax interest, as discussed under section B.1.1.

357. In practice, Georgia has reported that they have not had any challenges to respond to EOI requests because there was no domestic tax interest and peers did not raise any issues. Georgia responded to 33 requests and provided mainly banking and address information concerning persons who were not Georgian taxpayers or where Georgia had no tax interest.

C.1.5 and C.1.6. Civil and criminal tax matters

358. Georgia's EOI agreements provide for exchange of information in both civil and criminal matters, with no condition of dual criminality.

359. Georgia reports that the procedures involved in the collection of information are the same regardless of whether the request involved civil or criminal tax matters.

360. In practice, none of the requests received related to criminal tax matters.

C.1.7. Provide information in specific form requested

361. There are no restrictions in the exchange of information provisions in Georgia's EOI instruments or laws that would prevent Georgia from providing information in a specific form, as long as this is consistent with its own administrative practices.

362. Peer input indicates that Georgia provided the requested information in adequate form and no issues in this respect have been reported.

C.1.8 and C.1.9. Signed agreements should be in force and be given effect through domestic law

363. EOI instruments are negotiated by the Ministry of Finance and the approval process involves the ministries of the Economy, Justice and Foreign Affairs. The time taken to negotiate instruments varies based on the nature of the instrument.

364. Georgia has reported that upon approval by the ministries, a DTC is ratified by the Parliament of Georgia within two to three months.

365. Ratification by the Parliament is not required for a TIEA to enter into force in Georgia. The Prime Minister has enacted a decree providing for the delegation of powers to the General Director of the GRS. After a TIEA is signed it immediately enters into force in the case of Georgia.

366. By the time of the 2016 Report, 4 out of 54 DTCs and 1 TIEA were not yet in force. These were the DTCs with Cyprus,[36] Iceland, Liechtenstein and Russia and the TIEA with Seychelles. DTCs with the three first partners have now come into force. The DTC with Russia was ratified by Georgia on 1 June 2000 but has not been ratified by Russia. The TIEA with Seychelles also remains not in force. Nevertheless, there is an EOI relationship established with Russia and Seychelles on account of the Multilateral Convention.

367. Georgia has in place the legal and regulatory framework to give effect to its EOI mechanisms. No issues arose in practice.

36. Note by Türkiye: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	152
In force	147
In line with the standard	143
Not in line with the standard	4 [a]
Signed but not in force	5
In line with the standard	5 [b]
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	**6**
In force	6
In line with the standard	2 [c]
Not in line with the standard	4 [a]

Notes: a. DTCs with Egypt, Iran, Turkmenistan and Uzbekistan

b. The Multilateral Convention is not in force with Gabon, Honduras, Madagascar, Philippines and Togo. While the United Sates has not deposited its instruments of ratification of the Multilateral Convention, Georgia and the United States have reached a "meeting of the minds" on its application. This arrangement constitutes an understanding between Georgia and the United States that the two States are in treaty relations under the unamended Convention.

c. DTCs with Belarus and Kyrgyzstan

C.2. Exchange of information mechanisms with all relevant partners

The jurisdiction's network of information exchange should cover all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.

368. Georgia has a wide treaty network covering all relevant partners as required by the standard. Georgia's EOI network has increased from 102 jurisdictions at the time of the 2016 Report to 152 jurisdictions, owing to the increasing number of jurisdictions that are joining the Multilateral Convention and new bilateral relationships. Georgia signed and ratified seven[37] new DTCs (including with Kyrgyzstan which was hitherto not covered by any other EOI mechanism) and one TIEA with Bahamas.

369. No Global Forum members indicated, in the preparation of this report, that Georgia refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that Georgia establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship, Georgia should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

37. Hong Kong (China), Japan, Korea, Kyrgyzstan, Moldova, Poland and Saudi Arabia.

370. The conclusions are as follows:

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of Georgia covers all relevant partners.

Practical Implementation of the Standard: Compliant

The network of information exchange mechanisms of Georgia covers all relevant partners.

C.3. Confidentiality

Georgia's information exchange mechanisms should have adequate provisions to ensure the confidentiality of information received.

371. The 2016 Report concluded that the confidentiality provisions in Georgia's EOI instruments and domestic laws, taken together with the statutory rules that apply to officials with access to treaty information in Georgia, regarding confidentiality, were in line with the standard. The legal and regulatory framework remains the same and the new EOI mechanisms entered into by Georgia since that report provide for adequate confidentiality provisions in line with the standard.

372. In practice, Georgia has extensive measures in place to ensure confidentiality of all exchanged information. The Georgia Revenue Service has an active information security management team and all EOI staff are well-trained, experienced and aware about the aspects of confidentiality in their daily work. EOI requests are clearly marked as treaty protected and confidential. Physical and IT security aspects are in place. Policies governing various aspects of confidentiality are in place. All exchanged information, including background documents like correspondence with other Competent Authorities, is treated as confidential.

373. During the review period, no instances of a breach of confidentiality were detected in respect of exchanged information. Further, peers have not raised any concerns in respect of confidentiality of exchanged information.

374. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms and legislation of Georgia concerning confidentiality.

Practical Implementation of the Standard: Compliant

No material deficiencies have been identified and the confidentiality of information exchanged is effective.

C.3.1. Information received: disclosure, use and safeguards

375. The legal and regulatory framework in respect of confidentiality is in place in Georgia.

EOI instruments

376. All the bilateral EOI mechanisms provide for confidentiality of all exchanged information in line with the standard and state that all information exchanged pursuant to the EOI article must be treated as secret and protected by law in the same manner as information obtained under the domestic laws.

Domestic law

377. Georgia's domestic law establishes adequate provisions to ensure the confidentiality of tax information, applying to employees and third-party contractors engaged by the tax authorities. Information received by the tax authority is considered to be tax secret with the exception of information regarding registration as a taxpayer, VAT registration and tax arrears. Employees of the tax authority, an invited specialist and/or expert are obligated to observe the secrecy of information about a taxpayer, learned in the course of the performance of official duties (Art. 39(2), Tax Code). These obligations persist indefinitely, even after the end of employment or contract.

378. There are both administrative and criminal sanctions for violating the rules for protecting tax secret information. Staff who are in breach of the above provisions will face disciplinary proceedings by the GRS and can be punished with suspension or dismissal from the service. Moreover, if criminal conduct is detected or if potential breaches involve contractors, the cases will be forwarded to the State investigations service. Under Article 202 of the Criminal Code, unlawful disclosure of commercial information is punishable by a fine or corrective labour for up to one year or imprisonment of up to four years, and a deprivation to hold an office for up to three years.

Exceptions in domestic law

379. The Tax Code provides for exceptions, where tax information may be disclosed. Tax information can be disclosed to specified persons including (i) court, to determine the tax obligations of taxpayers, ii) members of

the council of tax appeals within the Ministry of Finance. These exceptions are in line with the standard.

380. Some exceptions in Georgia's domestic legal framework are broader than the provisions of Georgia's EOI instruments. For example, the Tax Code provides for the sharing of information for non-tax purposes, with law enforcement authorities, in connection with criminal cases prosecuted by them. The Tax Code also provides that tax information may be provided to the ministry of internal Affairs, when exercising powers provided for in legislation, the state inspector, when performing audit, the state audit office of Georgia, the national statistics office, and the national agency of public registry.

381. These exclusions will not affect treaty exchanged information since international treaties override domestic legislation, and the confidentiality provisions included in the treaties will prevail where there is a difference that is not in accordance with the standard (Constitution, Art. 6 and Tax Code, Art. 2(7)). Moreover, in the latter two scenarios, the shared information will only be aggregated statistics. Further, the EOI manual states that any disclosures outside of the tax administration must be authorised by the unit manager after having checked that such disclosures are allowed under the relevant EOI legal instrument. There was no case during the review period where EOI information was disclosed wrongfully.

382. Further, the Terms of Reference as amended in 2016 clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides that the information may be used for such other purposes under the laws of both contracting parties and the Competent Authority supplying the information authorises the use of information for purposes other than tax purposes. Georgia reported that in the period under review there was one case where the requesting partner sought Georgia's consent to utilise the information for non-tax purposes and this was granted. However, Georgia did not request its partners to use information received for non-tax purposes.

C.3.2. Confidentiality of other information

383. The EOI request and all accompanying information is considered as "Tax Secret". Consequently, the described provisions apply equally to all requests for such information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction.

384. The EOI unit is the sole repository of all correspondence with other Competent Authorities. Georgian authorities do not share the request letter outside of the EOI unit for collection of information. Where information needs to be collected with the help of other GRS departments, a Notice listing the required information is sent to the relevant officials. All these tax departments and their officials are bound by the confidentiality provisions.

Notices for gathering information

385. In order to obtain the requested information, the information holder receives a notice from the GRS that lists the legal basis, requested information and the time within which responses should be provided. No information concerning the requesting jurisdiction is included in the notice.

386. Where information is collected as part of a tax audit or tax control, the notification for the on-site audit must include the date of issuance of the notification, the indication of the control scope (i.e. the tax period under audit, the type of tax to be audited), however there is no indication that the audit is carried out on the basis of a EOI request. Moreover, the Georgian authorities have indicated that audit files do not contain a copy of the EOI request, and that a taxpayer would not be able to access the EOI request when appealing the decision following a tax control/audit.

387. In relation to the access to banking information, under the specified court-based procedure, the petition made by the GRS to the court must contain a statement (from the Georgian Competent Authority) indicating that the request for the information complies with the relevant international agreement (Art. 21[49], APC). The court does not receive a copy of the EOI request. Moreover, the court order to be served to the bank does not refer to any specific terms of the EOI request.

Confidentiality in practice

388. The GRS information security and confidentiality practices have further been revamped since the 2016 Report. Georgia has put in place an overall Information Security Policy, with up to 30 related sub-policies and procedures and has established an Information Security Board. The policies cover human resources, physical and IT security.

Human resources and training

389. The GRS carries out background checks and vetting on its staff before hiring. The background checks for staff recruitment include checking whether a person has previously been dismissed from public service for misconduct, a court has deprived a person of the right to hold public office

or if a person has a previous criminal conviction. Contracts signed by staff and contractors contain confidentiality clauses.

390. Training on information security is mandatory for all GRS staff. Georgia has reported that during the review period, an average of 400 employees of the GRS were trained annually using an online platform. The training module is constructed to ensure that staff cannot skip and must take an exam and pass it. The authorities report that the training has improved the understanding of information security concepts across the organisation.

391. The GRS has a standard procedure for terminating access to confidential information by departing employees. Access to IT systems, is terminated and physical and logical access credentials are withdrawn. Further, the departing employees must handover all IT equipment in their possession.

Physical and digital security measures

392. The EOI unit is housed within the ministry of Finance building. General access to the premises is controlled by access cards granted to staff or visitors and the main entrance is manned by security guards. Visitors must first present their identity cards before they are given visitor's access passes.

393. Within the EOI office, EOIR information is evenly managed in paper or digital forms. Regarding paper information, the EOI unit operates a separate filing system where all hard copy records are stored in burglar proof safes. All copies are stamped with the markings "Confidential – this information is furnished under the provisions of a tax treaty or convention on Mutual Administrative Assistance in Tax matters and its use and disclosure are governed by the provisions of such treaty". To date, all paper records have been stored in these safes.

394. The same confidentiality markings are applied to information when it is received and processed in digital form.

395. An electronic database, E-government is used to maintain a record of all EOI cases. Access to this database is strictly limited to authorised officials and access to the EOI database uses separate credentials from those that give general access to the computer. The status of each EOI case is only accessible to the assigned case officer and the Competent Authority.

396. The EOI unit maintains a clean desk policy. Officers are required to remove from their desks and lock away any documents not in use.

397. Digital records are processed and archived electronically in the "archive" programme of the information system of the tax administration. The information is assigned appropriate coding and can only be accessed by authorised officials.

Breach monitoring and breach response

398. The GRS has implemented mitigation measures to deter confidentiality breaches or detect when they occur. For example the use of external media such as flash drives is restricted, while all IT activity is monitored and logged. The staff monitoring department of the GRS carries out monitoring of potential breaches of confidentiality.

399. Georgia reported that in case of a breach, the staff monitoring department initiates disciplinary proceedings and appropriate disciplinary actions would be taken, including referral to the state investigation service, if criminal misconduct was detected.

400. Further, the Incident Management Policy of the GRS requires that in the event of a breach of confidentiality concerning EOI information, notifications would be sent to the affected Competent Authorities and the Global Forum Secretariat.

401. The Georgian authorities have reported that during the review period, there were no instances of a breach. The GRS information security team, Competent Authority officials and other tax administration and government officials met during the onsite visit were well informed of their obligations regarding keeping information confidential.

C.4. Rights and safeguards of taxpayers and third parties

The information exchange mechanisms should respect the rights and safeguards of taxpayers and third parties.

402. The standard allows requested parties not to supply information in response to a request in certain identified situations where an issue of trade, business or other legitimate secret arises. Among other reasons, an information request can be declined where the requested information would disclose confidential communication protected by the attorney-client privilege. The Multilateral Convention and Georgia's DTCs and TIEAs provide for exceptions to the requirement to provide information that mirror those provided for under the standard.

403. The 2016 Report concluded that the scope of professional secrecy extended to advocates is broader than what is established in the standard as it is not limited to "confidential communication" between a client and an advocate, but it extends to any information which became known to the advocate during the exercise of legal practice (see discussion under B.1.5). The report further discussed that given that international agreements prevail over conflicting domestic legislation (Constitution, Art. 6 and Tax Code, Art. 2(7)), any international agreement that establishes a narrower

scope of legal professional secret would then be applicable for EOI purposes. Nevertheless, none of the EOI agreements of Georgia defines the term "Professional Secret".

404. Moreover, accountants can only share information with the tax authority upon prior approval by their clients. In relation to domestic tax matters, the Georgia Revenue Service has only been able to collect information protected by professional secrecy when the relevant professionals have been authorised by their clients to disclose such information. Consequently, Georgia was recommended to ensure that the scope of professional secrecy is consistent with the standard.

405. The potential risk to EOI is now more limited than it was by the time of the 2016 Report, since the Competent Authority has a variety of sources where information could be obtained from, including online portals where accounting and legal ownership information is submitted, and underlying accounting records maintained in the tax administration databases. Moreover, there are now exceptions where this secrecy cannot be invoked, including those that pertain to beneficial ownership information. Nevertheless, the recommendation issued in the 2016 report has been retained. **Georgia should ensure that the scope of professional secrecy is consistent with the standard**.

406. The conclusions are as follows:

Legal and Regulatory Framework: in place

Deficiencies identified/Underlying factor	Recommendations
The EOI agreements of Georgia do not define the term "professional secret" and the scope of legal professional secrecy found in the domestic legislation would be applicable. This is broader than the standard as it is not limited to "confidential communications" between a client and an advocate, but it extends to any information which became known to the advocate during the exercise of legal practice. The scope of professional privilege applicable to accountants is also broader than the standard. There are exclusions for beneficial ownership information, but in any case, requested information would usually be available from other sources, thereby limiting the materiality of the gap.	Georgia should ensure that the scope of professional secrecy is consistent with the standard.

Practical Implementation of the Standard: Compliant

No issues have been identified in the implementation of rights and safeguards available in the existing EOI instruments. However, once the recommendations on the legal framework are addressed, Georgia should ensure that they are applied and enforced in practice.

C.5. Requesting and providing information in an effective manner

Georgia should request and provide information under its network of agreements in an effective manner.

407. The 2016 Report concluded that Georgia had in place a well-functioning and effective process to manage the EOI function. The handling of EOI requests was well structured and organised and Georgia had provided responses to its peers in 97% of the cases within 180 days. All requests had been answered within one year. Where information could not be provided within 90 days, Georgia had sent status updates to its peers. Taking all this into account, Georgia was rated compliant with Element C.5 of the standard.

408. However, during the current review period, Georgia registered a decline in its timeliness of responses, managing to provide responses in 58% of the requests within 180 days, whilst 21% of the cases were answered after one year. Moreover, Georgia did not provide status updates to its peers in a number of cases where information could not be provided within 90 days.

409. Georgia made changes in its operations of the Competent Authority office by hiring new staff and revamping the operational processes. These changes that took effect in the latter part of the review period have already begun to register improvements. Georgia should continue to monitor these new changes and also ensure to provide status updates when requested information cannot be provided within 90 days in all cases.

410. The conclusions are as follows:

Legal and Regulatory Framework

This element involves issues of practice. Accordingly, no determination has been made.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
At the beginning of the review period, 60% of the requests received by Georgia were answered after one year. Although, the pandemic affected the operations of the Competent Authority office in part, Georgia acknowledges that the office was not functioning properly. Georgia has revamped the operations of the Competent Authority office by hiring new staff and updating the process. These changes have registered some improvements towards the end of the review period.	Georgia is recommended to continue monitoring the improved operations of the Competent Authority office to ensure that requested information is provided in a timely manner in line with the standard.
Georgia did not provide status updates to its peers in all cases where the requested information could not be provided within 90 days. Internal processes have been improved upon, however there are still cases where status updates have not been provided.	Georgia should ensure that status updates to its peers are systematically provided in all cases when requested information cannot be provided within 90 days.

C.5.1. Timeliness of responses to requests for information

411. Georgia received 84 requests for information during the review period (from 1 October 2019 to 30 September 2022). The majority of requests received by Georgia were on accounting information, followed by ownership and banking. They also related to other types of information, mainly taxation information (e.g. residence status, tax returns, confirmation of payment of taxes). The requests received concerning individuals slightly outnumber the requests concerning entities. Georgia's main EOI partners are Armenia, Azerbaijan, Greece, Israel and Türkiye.

412. The number of requests received by Georgia has more than doubled compared to the requests received during the last review period (1 July 2011 to 30 June 2014), increasing from 38 to 84 requests. Generally, there was a decline in the timeliness of responses, although the Competent Authority has carried out re-organisations that have registered improvements for requests received after the end of the current review period.

413. The following table relates to the requests received during the period under review and gives an overview of response times of Georgia in providing a final response to these requests, together with a summary of other relevant factors affecting the effectiveness of Georgia's practice during the period reviewed.

Statistics on response time and other relevant factors

		10/2019-12/2019		01/2020-12/2020		01/2021-12/2021		01/2022-09/2022		Total	
		Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	5	100	15	100	41	100	23	100	84	100
Full response: ≤ 90 days		2	40	1	7	12	30	18	78	33	39
≤ 180 days (cumulative)		2	40	4	27	20	50	23	100	49	58
≤ 1 year (cumulative)	[A]	2	40	6	40	33	83	23	100	64	76
> 1 year	[B]	3	60	9	60	6	15	0	0	18	21
Declined for valid reasons		0	0	0	0	0	0	0	0	0	
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	2	2.5	0	0	2	1
Failure to obtain and provide information requested	[D]	0	0	0	0	0	0	0	0	0	0
Requests still pending at date of review	[E]	0	0	0	0	0	0	0	0	0	0
Outstanding cases after 90 days		3		14		29		5		51	-
Of these, status update provided within 90 days		0	0	0	0	9	32	2	40	11	22

Notes: Georgia counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Georgia count that as 1 request. If Georgia received a further request for information that relates to a previous request, with the original request still active, Georgia will append the additional request to the original and continue to count it as the same request. However, if the requesting country sends a letter containing more than one reference number (if the requesting jurisdiction counts requests as separate), the cases are counted and treated separately.

The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

414. The requests answered within 90 days often relate to cases where the requested information is available in the GRS databases or those government databases where the GRS has direct access. In these cases, the Competent Authority endeavours to provide responses within a few days. Conversely, the requests that took more than 180 days to answer often related to banking information or required complex investigative measures that involved obtaining information from third parties.

415. The Competent authority sought clarification in 12 requests (14%). In most of these cases, Georgia sought additional details in order to identify the persons subject to the request. The responses were provided when requesting jurisdictions provided the additional information.

416. Georgia responded to 39% of the requests received within 90 days, 58% within 180 days and cumulatively, 76% of all received requests were answered within one year. Lastly, 21% of the requests were answered after one year. In two cases, the requesting jurisdiction withdrew requests,

otherwise all the other received requests have been responded to. Georgia did not fail to answer any requests.

417. In comparison to the 2016 Report, there has been a general decline in the timeliness of responses. In that report, 76% of the requests received were answered within 90 days, 97% within 180 days and all the requests were answered within one year. Georgia has explained that COVID-19 restrictions contributed to this decline since the process of gathering information was often delayed during the period of restrictions.

Delays at the beginning of the review period

418. In 2019 and 2020, the time taken to respond to requests was longer. During these years, 60% of the request were answered after one year. Georgia informed that besides the effects of the pandemic during part of this period, the EOI unit was not functioning properly.

419. In 2021, Georgia embarked on a process to revamp the operations of the EOI unit. New staff were appointed to handle the role and the internal guidance and process manuals were updated. Some of the processes improved upon were those targeting the gathering of banking information, which previously was taking longer to obtain (see paragraphs 297 and 299).

420. The changes have led to improvements. In 2022, Georgia provided responses to 78% of the requests within 90 days and all the requests were answered within 180 days. One of Georgia's peers who had raised the issue of delays in receiving responses sent in 2020 and 2021 has since acknowledged that since 2022, there has been improvement in the timeliness of responses from Georgia. **Georgia is recommended to continue monitoring the improved operations of the Competent Authority office to ensure that requested information is provided in a timely manner in line with the standard**.

Status updates and communication with partners

421. During the review period, 51 requests (61%) could not be answered within 90 days. Georgia provided status updates only in 22% of these requests. In the years 2019 and 2020, no status updates were provided to peers despite there being 17 cases where responses could not be provided within 90 days.

422. Georgia has reported that it has now updated the database used to maintain EOI requests to track timelines to facilitate the issuance of status updates. Indeed, Georgia sent status updates in 2021 and 2022, although this was not in all cases where responses could not be provided to peers within 90 days. Therefore, **Georgia should ensure that status updates**

to its peers are systematically provided in all cases when requested information cannot be provided within 90 days.

C.5.2. Organisational processes and resources

Organisation of the competent authority

423. The Minister of Finance has delegated the role of Competent Authority to the Georgia Revenue Service (GRS). The Competent Authority function is performed by the Analytical Department of the GRS and the Competent Authorities are the head and deputy head of the Analytical Department. The EOI unit is placed under the Tax Risk Management Division (TRMD) of the Analytical Department.

424. The head and deputy head of the TRMD are the EOI unit managers. The unit consists of three officials working full time on EOI matters.

Resources and training

425. The EOI unit officials are experienced and well trained. The officials have participated in various trainings organised by the Global Forum and other regional and international bodies.

426. Additionally, the EOI team has trained an additional 30 officials that work closely or facilitate the process of gathering information to respond to requests. These include officials in the dispute resolution department (involved in collecting banking information), audit and large taxpayers office (involved in collecting accounting and other information). The training delivered to these officials covers the importance of timely and effective exchange and confidentiality. Georgia indicated that seven of the trained officials are now EOI contact persons in their respective departments. These contact persons have helped to improve timelines of responses to requests.

427. The EOI unit is housed at the Ministry of Finance premises and has a separate office. TRMD maintains an electronic database (Ms Excel) which tracks the number of incoming and outgoing requests. The database includes the details of the case, including date of receipt, reference number, requesting country, subjects of request, the officer handling the case, all the actions planned and taken on a specific request, date of last action taken, and number of days since the receipt of the request, date of response, details of the final response to the request.

428. The Competent Authorities periodically monitor the electronic database to oversee the progress of requests and to evaluate performance of officers assigned to the cases.

Incoming requests

429. Georgia has detailed and established processes for receiving, handling and responding to incoming requests. The procedure is detailed in the EOI manual. As discussed at paragraphs 418 to 420, these processes were recently updated to ensure smooth running of the EOI function.

Competent authority's handling of the requests

430. One of the EOI unit managers assigns incoming cases to a case officer. The case officer logs the request into the EOI database.

431. All received requests are stamped by a clearly visible confidentiality stamp. The requests are acknowledged within seven days of receipt and where applicable, the acknowledgement email will point out to the requesting jurisdiction that information may be collected from the taxpayer in cases where the request does not state that the person subject to the request should not be made aware of the existence of the request.

432. The case officer examines the validity of the request based on relevant treaty requirements. If the information provided in the request is insufficient to process the request or to demonstrate that the request is foreseeably relevant, clarifications are sent to the requesting jurisdiction.

433. When a request is complete, the assigned case officer will proceed to collect the requested information. Officials are guided to search for the information requested within GRS databases and other government databases that are available to the Competent Authority. Officials must also take note of any urgency requirements that are stated in the request letter and to prioritise such requests.

434. Letters and Notices are issued to other GRS offices, taxpayers or third parties, if it becomes necessary to gather the requested information through such sources. Regarding banking information, letters are sent to the dispute resolution department of the GRS to prepare and present a petition to the district or city Court (see discussion under section B.1).

435. All actions taken in the process of managing a particular request must be recorded in the EOI database.

Verification of the information gathered

436. When the requested information is obtained, it is checked for completeness, by confirming that all questions mentioned in the request have been answered. The case officer then prepares a response for the signature of the Competent Authority. If the information is incomplete, in practice, Georgia sends a partial response to the requesting jurisdiction as the case officer continues to gather all the requested information.

437. The information sent from Georgia is stamped or watermarked (for electronic information) with the confidentiality stamp.

Practical difficulties experienced in obtaining the requested information

438. Georgia reported that they faced challenges in obtaining records relating to liquidated entities. Some liquidators had not maintained information of liquidated entities, or their representatives such as directors and shareholders had left the country, which makes contacting them and obtaining information, or determining if the entities had information, difficult. The law was amended in 2021 to solve this problem (see paragraphs 214 and 215).

Outgoing requests

439. The EOI officials have participated in the "Train the Trainer" programme facilitated by the capacity building and outreach unit of the Global Forum secretariat. Consequently, the trainers have trained 21 GRS auditors on when and how to use EOI to progress their audits. During the review period, Georgia sent 26 requests for information for its own audits and tax investigations.

440. All outgoing requests are sent from the operations units of the GRS to TRMD. The requests are then assigned to EOI case officers who conduct preliminary examinations to establish whether the request would be foreseeably relevant.

441. The EOI officers verify the existence of a sufficient legal basis, if the background information provided is sufficient, if the request is clear and specific, and if the auditor has exhausted all domestic means.

442. Peers have been generally satisfied with the quality of requests sent by Georgia and found them to be generally foreseeably relevant. In one case, a peer mentioned that they had to ask for clarification in one complex case, which was provided by Georgia in a timely manner.

443. Upon receiving the requested information, the EOI unit forwards the received information securely and indicating the treaty nature of the received information to the tax auditors concerned. This is achieved by stamping both the paper or digital copies of the information as discussed at paragraphs 393 and 394. Such information is also kept securely within the EOIR unit.

C.5.3. Unreasonable, disproportionate or unduly restrictive conditions for EOI

444. There are no legal or practical requirements in Georgia that impose unreasonable, disproportionate or unduly restrictive conditions for EOI.

Annex 1. List of in-text recommendations

The Global Forum may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, the circumstances may change, and the relevance of the issue may increase. In these cases, a recommendation may be made; however, it should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be stated in the text of the report. A list of such recommendations is reproduced below for convenience.

- **Element A.1**: Georgia should monitor the availability of legal ownership information for joint stock companies with less than 50 shareholders and co-operatives with limited liability, when such entities are economically inactive (paragraph 107).
- **Element A.2**: Georgia should monitor the application of the requirements on liquidation of entities to ensure that accounting information for entities that cease to exist is maintained for at least five years (paragraph 215).
- **Element A.2**: Georgia should monitor inactive companies to ensure that accounting information on all companies is always available in line with the standard (paragraph 243).
- **Element B.1**: Georgia should monitor its approach to obtain beneficial ownership information from entities in the absence of clear obligations and guidance to these entities on how to identify their beneficial owners, to ensure that accurate, adequate and up-to-date beneficial ownership information is provided to its peers in all cases (paragraph 282).
- **Element B.1**: Georgia should continue to monitor the organisational elements recently put in place to ensure that banking information is provided in a timely manner in all cases (paragraph 303).
- **Element C.1.3**: Georgia should work with Egypt, Iran, Turkmenistan and Uzbekistan to ensure that its EOI relations with these partners are in line with the standard (paragraph 354).

- **Element C.2**: Georgia should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 369).

Annex 2. List of Georgia's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Armenia	DTC	18/11/1997	03/07/2000
		TIEA	14/01/1997	05/07/2001
2	Austria	DTC	11/04/2005	01/03/2006
3	Azerbaijan	DTC	18/02/1997	06/06/1998
4	Bahamas	TIEA	04/11/2016	05/09/2017
5	Bahrain	DTC	18/07/2011	01/08/2012
6	Belarus	DTC	23/04/2015	24/11/2015
		TIEA	16/05/2014	12/01/2015
7	Belgium	DTC	14/12/2000	04/05/2004
8	Bulgaria	DTC	26/11/1998	01/07/1999
9	China	DTC	13/07/2004	10/11/2005
10	Croatia	DTC	18/01/2013	06/12/2013
11	Cyprus	DTC	13/05/2015	04/01/2016
12	Czechia	DTC	23/05/2006	04/05/2007
13	Denmark	DTC	10/10/2007	23/12/2008
14	Egypt	DTC	25/05/2010	20/12/2012
15	Estonia	DTC	25/12/2006	21/12/2007
		Protocol	17/07/2010	11/03/2011
16	Finland	DTC	11/10/2007	23/07/2008
17	France	DTC	07/03/2007	01/06/2010
18	Germany	DTC	01/06/2006	21/12/2007
		Protocol	10/03/2014	01/01/2015
19	Greece	DTC	10/05/1999	20/10/2002
20	Hong Kong	DTC	15/09/2020	01/07/2021

	EOI partner	Type of agreement	Signature	Entry into force
21	Hungary	DTC	16/02/2012	13/05/2012
22	Iceland	DTC	13/05/2015	28/12/2015
23	India	DTC	24/08/2011	08/12/2011
24	Ireland	DTC	15/11/2008	06/05/2010
25	Iran	DTC	03/11/1996	14/02/2001
26	Israel	DTC	17/05/2010	22/11/2011
27	Italy	DTC	31/10/2000	19/02/2004
28	Japan	DTC	29/01/2021	23/07/2021
29	Kazakhstan	DTC	11/11/1997	05/07/2000
30	Korea	DTC	31/03/2016	17/11/2016
31	Kuwait	DTC	13/10/2011	14/04/2013
32	Kyrgyzstan	DTC	13/10/2016	29/05/2023
33	Latvia	DTC	13/10/2004	24/03/2005
		Protocol	01/05/2012	27/11/2012
34	Liechtenstein	DTC	13/05/2015	21/12/2016
35	Lithuania	DTC	11/09/2003	20/07/2004
36	Luxembourg	DTC	15/10/2007	14/12/2009
37	Malta	DTC	23/10/2009	30/12/2009
38	Moldova	DTC	29/11/2017	17/04/2018
39	Netherlands	DTC	21/03/2002	21/02/2003
40	Norway	DTC	10/11/2011	23/07/2012
41	Poland	DTC	07/07/2021	01/04/2023
42	Portugal	DTC	21/12/2012	18/04/2015
43	Qatar	DTC	12/12/2010	11/03/2011
44	Romania	DTC	11/12/1997	15/05/1999
45	Russia	DTC	04/08/1999	
46	San Marino	DTC	28/09/2012	12/04/2013
47	Saudi Arabia	DTC	14/03/2018	01/04/2019
48	Serbia	DTC	20/04/2012	09/01/2013
49	Seychelles	TIEA	29/10/2015	
50	Singapore	DTC	24/11/2009	28/06/2010
51	Slovak Republic	DTC	27/10/2011	29/07/2012
52	Slovenia	DTC	07/12/2012	25/09/2013

	EOI partner	Type of agreement	Signature	Entry into force
53	Spain	DTC	07/06/2010	01/07/2011
54	Sweden	DTC	06/11/2013	26/07/2014
55	Switzerland	DTC	15/06/2010	07/07/2011
56	Türkiye	DTC	21/11/2007	15/02/2010
57	Turkmenistan	DTC	05/12/1997	26/01/2000
58	Ukraine	DTC	14/02/1997	01/04/1999
59	United Arab Emirates	DTC	20/12/2010	28/04/2011
60	United Kingdom	DTC	13/07/2004	11/10/2005
61	Uzbekistan	DTC	28/05/1996	20/10/1997

Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).[38] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by Georgia on 12 October 2010 and entered into force on 1 June 2011 in Georgia. Georgia can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Benin, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina,

38. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention (the Multilateral Convention) which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.

Botswana, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Burkina Faso, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus, Czechia, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Jordan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Qatar, Romania, Russia, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay Vanuatu and Viet Nam.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Gabon, Honduras, Madagascar, Philippines and Togo.

Finally, the United States are party only to the original 1988 Convention, which is in force since 1 April 1995 (the amending Protocol was signed on 27 April 2010). Georgia and the United States can exchange information with respect to the Multilateral Convention after they reached a "meeting of the minds" arrangement. This arrangement constitutes an understanding between Georgia and the United States that the two States are in treaty relations under the unamended Convention.

Annex 3. Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and amended in December 2020, and the Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as on 18 December 2023, Georgia's EOIR practice in respect of EOI requests made and received during the three year period from 1 October 2019 to 30 September 2022, Georgia's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Georgia's authorities during the on-site visit that took place from 29 May to 2 June 2023 in Tbilisi.

List of laws, regulations and other materials received

Administrative Procedure Code of Georgia

Tax Code

Civil Code of Georgia

Constitution of Georgia

Criminal Code of Georgia

Law of Georgia on Accounting, Reporting and Audit

Law Of Georgia General Administrative Code of Georgia

Law Of Georgia on Commercial Bank Activities

Law Of Georgia on Entrepreneurs

Law Of Georgia on Facilitating the Prevention of Money Laundering and the Financing of Terrorism

Law Of Georgia on Investment Funds

Law Of Georgia on Lawyers

Law Of Georgia on Microfinance Organisations

Law Of Georgia on Notaries

Law Of Georgia on Payment Systems and Payment Services

Law Of Georgia on Personal Data Protection

Law Of Georgia on Rehabilitation and the Collective Satisfaction of Creditors' Claims

Law Of Georgia on Securities Market

Law Of Georgia on the Public Registry

Law Of Georgia on Control of Entrepreneurial Activity

Law Of Georgia on Electronic Documents and Electronic Trust Services

Law of Georgia on Insurance

Organic Law of Georgia on the National Bank of Georgia

Order N 169/04 of the President of the National Bank of Georgia

Order N 170/04 of the President of the National Bank of Georgia

Order N 189/04 of the President of the National Bank of Georgia

Order N 198/04 of the President of the National Bank of Georgia

Order N 242/01 of the President of The National Bank of Georgia

Order N 53/04 of the President of the National Bank of Georgia on determining, identifying and verifying beneficial owners

Order 82 / 04 of the President of the National Bank of Georgia on the approval of the guideline on illicit income legalisation and terrorism financing risk assessment.

Order N 206/04 of the President of the National Bank Of Georgia on Approving the Rule of Production of Securities Register

Insurance State Supervision Service of Georgia methodological Recommendation N3 On Money Laundering and Terrorism Financing Risk Assessment by the Obliged Entity Supervised by the Insurance State Supervision Service of Georgia.

Order N 996 of the Minister of Finance of Georgia on Tax Administration of 31 December 2010

Oder N 14 of the Head of the accounting, reporting and audit supervision service

Order N 3751 of the Head of the GRS.

Rules for Exchange of Information for Tax Purposes – EOI Manual

Information Security Policy of the Georgia Revenue Service

Incident Management Policy of the Georgia Revenue Service

Authorities interviewed during on-site visit

Ministry of Finance

Georgia Revenue Service (GRS)

The National Agency of Public Registry (NAPR)

The Service for Accounting, Reporting and Auditing Supervision (SARAS)

National Bank of Georgia (NBG)

Insurance State Supervision Service of Georgia (ISSSG)

Private sector representatives

- Representatives of the Banking sector
- Representatives of notaries
- Representatives of the Bar Association
- Representatives of Accountants
- Representatives of Independent Registrars

Current and previous reviews

This report provides the outcome of the Round 2 peer review of Georgia's implementation of the EOIR standard conducted by the Global Forum, against the 2016 Terms of Reference.

Georgia previously underwent phased reviews (Phase 1 and Phase 2) of is legal and regulatory framework and the implementation of the framework in practice that culminated in 2016.

The Round 1 Phase 1 review assessed Georgia's legal and regulatory framework for exchange of information as of May 2014 and the Phase 2 review assessed the practical implementation of this framework during a three-year period (1 July 2011 to 30 June 2014) while taking into consideration any changes that took place in the legal framework since the Phase 1 report until January 2016. The integrated Phase 1 and Phase 2 assessments resulted in Georgia being rated as Largely Compliant with the requirements of the standard on a global consideration of the ratings for individual elements.

The Round 1 Review was conducted according to the terms of reference approved by the Global Forum in February 2010 and the Methodology used in the first round of reviews.

Information on each of Georgia's reviews is listed in the table below.

Summary of reviews

Review	Assessment team	Period under review	Legal Framework as on	Date of adoption by Global Forum
Round 1 Phase 1	Evelyn Lio, Inland Revenue Authority of Singapore, Suhua Huang, State Administration of Taxation of the People's Republic of China and Francesco Positano from the Global Forum Secretariat	Not applicable	May 2014	August 2014
Round 1 Phase 2	Evelyn Lio, Inland Revenue Authority of Singapore, Suhua Huang, State Administration of Taxation of the People's Republic of China; Wanda Montero Cuello and Kanae Hana from the Global Forum Secretariat	1 July 2011 to 30 June 2014	January 2016	March 2016
Round 2 combined Phase 1 and Phase 2	Simon Kimber, United Kingdom, Kishwar Jamil-Akram, Denmark and Alex Nuwagira from the Global Forum Secretariat	1 October 2019 to 30 September 2022	18 December 2023	27 March 2024

Annex 4. Georgia's response to the review report[39]

Georgia would like to express gratitude for the diligent efforts of the assessment team in evaluating Georgia during the Peer Review of the Global Forum on Transparency and Exchange of Information for Tax Purposes. Furthermore, Georgia conveys its appreciation to the Secretariat of the Global Forum for the remarkable support and to the Peer Review Group for the valuable contributions to the review.

Georgia remains committed to promote tax transparency and adhering to global standards for the exchange of information for tax purposes and will continue its efforts to support the Global Forum in fostering a more transparent environment.

39. This Annex presents the Georgia's response to the review report and shall not be deemed to represent the Global Forum's views.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request GEORGIA 2024 (Second Round)

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 160 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This peer review report analyses the practical implementation of the standard of transparency and exchange of information on request in Georgia, as part of the second round of reviews conducted by the Global Forum on Transparency and Exchange of Information for Tax Purposes since 2016.

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