

# *PwC Georgia Tax & Law Brief*

7 March 2017

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## **The Draft Law on the Mandatory Deposit Insurance**

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### ***Deposit Compensation in case of insurance accident***

The draft law regulates mandatory insurance of deposits of individuals in the commercial banks and other related issues. The draft law stipulates that commercial banks shall provide insurance contributions into the Deposit Insurance Fund (the Fund) and therefore ensure guaranteed compensation of deposit in case of liquidation, insolvency or bankruptcy proceedings in the bank (an insurance accident). Under the draft law:

### ***Deposit Insurance Agency management and functions***

- A deposit is an amount on the depositor's account that commercial bank has to pay under the agreement with the depositor.
- If an insurance accident occurs, an insured deposit should be compensated by the Deposit Insurance Agency (the Agency) within the limits determined by the draft law. The Agency also has the following functions: define and receive the insurance contributions, ensure the accumulation of the contributions to the Fund, manage the Fund etc.
- The Agency is managed by the Head of the Agency and the Council, which has 5 members: the Minister of Finance, Minister of Economy and Sustainable Development of Georgia, National Bank President and 2 independent members.

### ***Deposit contributions by commercial banks***

- The commercial bank is obliged to:
  - Make an initial contribution of 100 000 GEL in the Fund;
  - Make a regular insurance contributions determined by the draft law;
  - Make a special insurance contribution requested by the Agency, if the fund money is not enough to compensate an insured deposit;
- Deposits shall be compensated in national currency, during 20 calendar days from the insurance accident.

*Source: The Parliament of Georgia, 3 March 2017*

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## **The Draft Amendment in the Organic Law on the National Bank of Georgia**

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### ***Supervisory body of the financial sector***

- Under the draft amendment, the National Bank is restored as the supervisory body of the financial sector, instead of the Financial Supervision Agency of Georgia.

*Source: The Parliament of Georgia, 21 February 2017*

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## **The Order #29/04 of the President of the National Bank of Georgia**

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### ***Registration of payment service provider at the National Bank of Georgia***

Under the Law on Payment System and Payment Services, the National Bank of Georgia may define additional requirements for payment service providers if the volume of electronic money issued by the provider or turnover of the other payment services exceeds the limits set by the Bank.

The Order changes registration and regulation rules for the payment service provider, including:

- Conditions and procedures for registration and cancellation at the National Bank;
- Provider's obligations related to the payment service activities, such as:
  - To have a head office in Georgia;
  - To record all the payment transactions in the system;
  - To ensure the National Bank's authorized employees' access to the internal network for monitoring purposes;
- Significant provider's additional obligations, such as:
  - To have an internal policy regarding the Anti-Money Laundering activities;
  - To have a company's organizational structure with clearly defined responsibilities;
- Provider's relations with agents and other third parties, such as administration of complaints, ensure other providers' access to the payment system etc.

*Source: Legislative Herald of Georgia, 28 February 2017*

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## **Decision of the Appellate Court of Georgia**

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***Legal  
consequences of  
joint venture  
termination***

- The case concerned liability of the joint venture partners for the obligations incurred by the joint venture. In particular, the claimant requested damages to be assessed in his favor on other members of the joint venture, due to failure by the joint venture to transfer title on the property in his name.
- The Appellate Court stated that joint venture under the Civil Code of Georgia is formed in order to establish legal relations with third parties and may have its own property and assume rights and obligations on behalf of joint venture.
- Further and more importantly, the Court held that liability of joint venture partners is subsidiary in nature, i.e. liability is assessed only when joint venture property is not sufficient to meet the obligations.
- Therefore, the court ruled that in case of termination of the joint venture agreement, a partner shall be compensated first from the joint venture property.
- Interestingly, a dissenting opinion has been issued by a judge of the chamber, arguing that the relations between the joint venture members is to be deemed as Contract of Work under the Civil Code of Georgia and therefore the parties liability should be joint and several rather than subsidiary.

*Source: The Appellate Court of Tbilisi, case #28/167-15, 1 March 2017*

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## **Let's talk**

For a deeper discussion of how this issue might affect your business, please contact PwC Georgia

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