

# EY TAX AND LAW BRIEF

October 2020

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## The regulation on how the cooperation program with the National Competition Agency applies to entities

- ▶ On 23 October 2020, the Order No. 33 of the Chairman of the Competition Agency was published on the website of the Legislative Herald of Georgia.
- ▶ The regulation defines the rule of applying the cooperation program to entities and full or partial exemption of entities from the penalty imposed for participation in an anti-competitive agreement.
- ▶ According to the rule, the cooperation program exempts entities fully or partially from legally binding responsibility if the entity admits participation in an anti-competitive agreement and, at the same time, meets the requirements of the law and this regulation.
- ▶ The rule defines 3 exemption categories under the cooperation program:
  - ✓ 1st category exemption means 100% release of an entity from responsibility.
  - ✓ 2nd category exemption means 20% to 50% release of an entity from responsibility.
  - ✓ 3rd category exemption means up to 20% release of an entity from responsibility.
- ▶ Any entity who admits participation in an anti-competitive agreement in writing and who meets legislative requirements can apply for the cooperation program. However, the rule defines exceptions as well: the relief does not apply to the sole organiser and/or initiator of the agreement as well as the individuals who have coerced other individuals into participation.
- ▶ This Order became effective on 4 November 2020.
- ▶ The source and the date of publication: the Legislative Herald of Georgia, 23/10/2020.

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## Methodological guidelines for market analysis

- ▶ On 26 October 2020, the Order No. 37 of the Chairman of the Competition Agency was published on the website of the Legislative Herald of Georgia on approval of methodological guidelines for market analysis.
- ▶ The market analysis methods defined by the guidelines may be used during consideration of the notice on statutory concentration, case examination, market monitoring and other procedures.
- ▶ The guidelines, among others, define:
  - ✓ Relevant market analysis principles and identification criteria.
  - ✓ Relevant market analysis stages.
  - ✓ Market analysis parameters.
  - ✓ Information requirement procedure.
  - ✓ Consequences of failure to provide information.
  - ✓ Assessment of the competitive environment on the market.
  - ✓ Monitoring by the Competition Agency of Georgia.
- ▶ According to the Order, any failure to provide the required information to the Agency in due time or any erroneous or incomplete information provided by an economic agent shall result in the fine of GEL 3,000 for legal entities and GEL 1,000 for individuals.
- ▶ This Order became effective on 4 November 2020.

The source and the date of publication: the Legislative Herald of Georgia, 26/10/2020.

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## Filing a complaint with the Competition Agency

- ▶ On 26 October 2020, the Order No. 38 of the Chairman of the Competition Agency was published on the website of the Legislative Herald of Georgia.
- ▶ The procedure established by the Order prescribes the complaint form to be submitted to the Competition Agency, submission requirements, eligibility procedures and terms.
- ▶ According to the Order, the complainer is the entity who believes that the violation of law has caused them direct material damage.
- ▶ This Order became effective on 4 November 2020.

The source and the date of publication: the Legislative Herald of Georgia, 26/10/2020.

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## Concentration notice submission and consideration rule

- ▶ On 26 October 2020, the Order No. 39 of the Chairman of the Competition Agency was published on the website of the Legislative Herald of Georgia on approval of the concentration notice submission and consideration rule.
- ▶ The rule establishes criteria for the concentration subject to preliminary mandatory written notice to the Competition Agency.
- ▶ The rule prescribes both notice submission requirements and the consideration procedures.
- ▶ According to the rule, concentration must be reported to the Competition Agency if the participants' total annual turnover in Georgia, for the financial year preceding the year when the reporting obligation originated, exceeds GEL 20 million. Besides, the annual turnover of each of at least two concentration participants must exceed GEL 5 million.
- ▶ This Order became effective on 4 November 2020.

The source and the date of publication: the Legislative Herald of Georgia, 26/10/2020.

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## Case examination by Competition Agency of Georgia

- ▶ On 30 October 2020, the Order No. 40 of the Chairman of the Competition Agency was published on the website of the Legislative Herald of Georgia on case examination rule and procedure approval.
- ▶ The rule prescribes how the cases of legal violations must be examined by the Competition Agency, as well as the rights and obligations of the individuals involved in the examination process.
- ▶ The rule allows the Competition Agency to apply to court with the request of temporarily suspending the agent's certain activities until the Agency makes the final decision.
- ▶ According to the rule, the decisions made by the Competition Agency are public.
- ▶ This Order became effective on 4 November 2020.

The source and the date of publication: the Legislative Herald of Georgia, 30/10/2020.

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## About securities permitted for trade on recognized foreign stock exchanges

- ▶ On 8 October 2020, the Order No. 178/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The Order approves:
  - ✓ The list of recognised stock exchanges of foreign countries.
  - ✓ The rule and the terms for public offering of securities in Georgia for the issuers whose securities are admitted to trading on recognised foreign stock exchanges.
  - ✓ The rule and the terms for public offering of securities in Georgia that are issued by international financial institutions (IFIs).
  - ✓ The rule and the terms for public offering of securities in Georgia that are issued by development institutions with foreign countries as shareholders.
- ▶ This Order became effective on 8 October 2020.

The source and the date of publication: the Legislative Herald of Georgia, 08/10/2020.

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## The rule of reporting public offering and placement of securities

- ▶ On 8 October 2020, the Order No. 179/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia, approving the rule of reporting public offering and placement of securities.
- ▶ The rule defines:
  - ✓ The outline and the content of the prospectus of the securities intended for public offering.
  - ✓ The rule of submission and publication of the prospectus of the securities intended for public offering.
  - ✓ Reporting requirements related to amendment of the prospectus and issue and placement of securities.
  - ✓ The scope of authority of the National Bank in the prospectus consideration and offering.
- ▶ The regulation does not apply to:
  - ✓ Offering of securities issued by international financial institutions and development institutions with foreign state share participation;
  - ✓ Public offering of the securities admitted to one of the recognised foreign stock exchanges;

- ✓ Offering of the securities distributed as dividends to an entity's existing shareholders, belonging to the same class as the securities owned by these shareholders;
- ✓ Offering and/or distribution of securities to an entity's current employees and current or former members of the management through an employee compensation scheme.

- ▶ This Order became effective on 8 October 2020.

The source and the date of publication: the Legislative Herald of Georgia, 08/10/2020.

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## Regulation on insider dealing, unlawful disclosure of inside information and market manipulation

- ▶ On 8 October 2020, the Order No. 180/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The order determines rules about insider dealing, unlawful disclosure of inside information and market manipulation.
- ▶ The rule applies to any securities transaction, commission, relationship, both on and outside stock exchange, if these securities are subject to falsification and market manipulation prohibition requirements.
- ▶ Among other issues, the rule:
  - ✓ Establishes a common regulatory framework on insider dealing, the unlawful disclosure of inside information and market manipulation.
  - ✓ Identifies market manipulation prevention measures.
  - ✓ Defines terms, forms and procedures for reporting insider dealing and market manipulation to the National Bank of Georgia.
  - ✓ Defines the list of actions that will not be considered as insider dealing, unlawful disclosure of inside information and/or market manipulation.
  - ✓ Sets out requirements for the issuers defined by the Law of Georgia on Securities Market regarding disclosure of inside information and management dealings, as well as record-keeping requirements for entities owning inside information.
- ▶ The rule also includes examples of inside information, delay in public disclosure of inside information and market manipulation.
- ▶ This Order became effective on 9 October 2020.

The source and the date of publication: the Legislative Herald of Georgia, 8/10/2020.

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## Regulation on transparency of issuer information and appointment of securities registrar for an issuer

- ▶ On 8 October 2020, the Order No. 181/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The order determines the rule on transparency of issuer information and appointment of securities registrar for an issuer.
- ▶ The Regulation sets out requirements for security issuers regarding transparency of periodic information and publicity of ongoing information including significant acquisitions of shares, as well as appointment of securities registrar for an issuer.
- ▶ The regulation also identifies the entities it does not apply to.
- ▶ The reports submitted by entities are reviewed by the National Bank of Georgia.

- ▶ This Order became effective on 8 October 2020.

The source and the date of publication: the Legislative Herald of Georgia, 8/10/2020.

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## Reporting requirements for lenders regarding money laundering and terrorist financing (ML/TF) risk supervision

- ▶ On 12 October 2020, the Order No. 183/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The order determines the rule on approving reporting requirements for lenders regarding money laundering and terrorist financing (ML/TF) risk supervision.
- ▶ The order approves:
  - ✓ Money laundering and terrorist financing (ML/TF) risk supervision reporting by lenders.
  - ✓ Rules of filling out individual fields in the report.
  - ✓ Additional lender information reporting requirements.
- ▶ The rule also sets out the forms and terms of reporting to the National Bank for the lenders operating in Georgia for the purpose of remote supervision of their activities.
- ▶ According to the rule, the lenders are required to submit an initial report to the National Bank not later than 31 January 2021. The report shall cover the information of the second half of 2020.
- ▶ This Order became effective on 12 October 2020.

The source and the date of publication: the Legislative Herald of Georgia, 12/10/2020.

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## Regulation on examination of client's structure of corporate ownership and control

- ▶ On 21 October 2020, the Order No. 189/04 of the President of the National Bank of Georgia was published on the website of the Legislative Herald of Georgia.
- ▶ The order determines the rule on examination of client's structure of corporate ownership and control as well as identification and verification of the beneficiary owner by a reporting entity.
- ▶ The rule determines the following with regard to reporting entities subject to the NBG supervision:
  - ✓ the identification data, information and documents to be obtained;
  - ✓ how to record, update, verify and store the obtained information.
- ▶ According to the rule, it is forbidden to start or continue a business relationship, enter into or perform a one-off deal:
  - ✓ without examination of the client's structure of corporate ownership and control, and identification and verification of the beneficiary owner;
  - ✓ if there is a reasonable doubt that the client's beneficiary owner is included in the list of sanctioned entities.
- ▶ The rule defines that all the identification data, as defined under this regulation, must be based on a reliable source, and lists the types of such reliable sources.
- ▶ According to the order, reporting entities must ensure compliance of the internal controls and regulations with the requirements of this order until 1 January 2021.
- ▶ This Order became effective on 21 October 2020.

The source and the date of publication: the Legislative Herald of Georgia, 12/10/2020.

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## Confidentiality of the information stored with the Georgian National Energy and Water Supply Regulatory Commission

- ▶ On 15 October 2020, the Ordinance No. 52 of the Georgian National Energy and Water Supply Regulatory Commission was published on the Legislative Herald of Georgia.
- ▶ The ordinance approves the rule of treating information stored with the Georgian National Energy and Water Supply Regulatory Commission as confidential and releasing such information.
- ▶ The ordinance determines the rule of releasing public information in the Georgian National Energy and Water Supply Regulatory Commission, as well as treating information as confidential.
- ▶ The list of confidential information is approved by the Commission's decision.
- ▶ The ordinance became effective on 22 October 2020.

The source and the date of publication: the Legislative Herald of Georgia, 22/10/2020.

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## Minimum requirements for information security approved

- ▶ On 19 October 2020, the Order No. 4 of the Chair of the LEPL Digital Governance Agency on the approval of minimum requirements for information security was published on the website of the Legislative Herald of Georgia.
- ▶ The Order determines that the minimum requirements for information security, which are mandatory to be performed by the information system entities as determined by the Ordinance of the Government of Georgia.
- ▶ The Order establishes the requirements to be performed by the information system entities during the first, the second and the third years.
- ▶ The Order became effective upon its publication.

The source and the date of publication: the website of the Legislative Herald of Georgia; 19/10/2020.

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## The procedure for carrying out audit of information security approved

- ▶ On 19 October 2020, the Order No. 6 of the Chair of the LEPL Digital Governance Agency on the approval of the procedure for carrying out audit of information security was published on the website of the Legislative Herald of Georgia.
- ▶ According to the Order, the audit of the information security is carried out within the critical information system entities as determined by the Ordinance of the Government of Georgia.
- ▶ The procedure determines the entities authorized to carry out audit at the organization:
  - ✓ the entities having appropriate authorization completed at the LEPL Digital Governance Agency.
  - ✓ LEPL Digital Management Agency.
- ▶ The Order became effective upon its publication.

The source and the date of publication: the website of the Legislative Herald of Georgia; 19/10/2020.

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## Information assets management rules were approved

- ▶ On 19 October 2020, the Order No. 7 of the Chairman of the Digital Governance Agency was published on the Legislative Herald of Georgia on approval of the information asset management rules.
- ▶ As defined by these rules, an information asset is a body of information or knowledge that is valuable for an entity's critical information system, in particular, the technologies of storing, processing and transferring information, employees and their knowledge of processing such information.
- ▶ According to the rules, asset management implies stock taking, classifying, providing access to, changing and destroying assets.
- ▶ Among other issues, the order sets out:
  - ✓ rules for asset counting.
  - ✓ rules for asset evaluation.
- ▶ The Order became effective upon its publication.

The source and the date of publication: the website of the Legislative Herald of Georgia, 19/10/2020.

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