

NEW AML REGULATIONS UNDERWAY

On 31 May 2019, a new bill of Law on Facilitation of Combating Terrorism Financing and Money Laundering and related package of legislative amendments were lodged to the Parliament of Georgia. Under the Association Agreement with the European Union, Georgia undertook to approximate its law with applicable EU legislation, inter alia, in the field of combating money laundering. Further, the package aims to implement FATF recommendations of Council of Europe and sanctions imposed by the UN Security Council resolutions under VII chapter of the UN Charter. Accordingly, the bill envisages to replace existing Law on Facilitation of Prevention of Illicit Income Legalization and aspires to create unambiguous and foreseeable legislative framework. In short, the bill broadens the list of accountable persons to include the insurance brokers, law firms and certified accountants. The bill further requires accounting persons to implement assessment and management system of money laundering and terrorism financing risks, adoption of internal conformity control system and study programs for employees of accounting persons. Most importantly, if adopted, the law will oblige accounting persons to take preventive measures, such as identification/verification of any client, monitoring and determination of objectives and intended character of business relations, ahead of contracting any client, whereas currently the preventive measures are required if the transaction exceeds certain monetary threshold. The bill has not yet reached the first Parliamentary hearing.

NEW LAW ON DERIVATIVE INSTRUMENTS

On 19 August 2019, the new bill was presented to the Parliament of Georgia on Financial Pledge, Netting and Derivatives. The bill introduces new and important legal definitions of derivative instruments, qualified financial contracts, derivative transactions, financial pledge, etc. Derivative is defined as a qualified financial contract the value and cash flow of which, in accordance with this agreement, is reliant upon underlying assets or underlying indicator and payment of which is made by real delivery or cash, including netting/final netting. Moreover, National Bank will be vested with an authority to define additional types of qualified financial contracts and extend or define the list of underlying assets or underlying indicators. According to the explanatory note to the bill, the derivatives market is not well-developed in Georgia but the preconditions for such development already exist on financial market, thus increasing the demand for relevant legal regulations. Netting and financial pledge regulations aim at creation of more legal guarantees and protection for arrangements that are made on the financial market, including in the course of insolvency proceedings.

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LONG AWAITED ANTI DUMPING REGULATIONS ARE UNDERWAY

No doubt, "prevention is better than cure". With this in mind and with an aim to avoid anti-competitive trade practice more effectively, ensure sufficient implementation of competitive policy and maximize the welfare of consumers, on 2 July 2019, a new set of amendments to the Law of Georgia on Competition were lodged to the Parliament of Georgia. The amendments were mostly caused by the draft law on Establishment of Anti-Dumping Measure in Trade which was presented to the Parliament in parallel. The anti-dumping law aims to protect the local industry from damages caused by dumping import on the customs territory of Georgia. The bill determines general terms and conditions for establishment of anti-dumping measures, such as an initial and/or a special anti-dumping tariff on dumping imports on the customs territory of Georgia in accordance with the principles and standards of the World Trade Organization. The Law defines "dumping" as placement of product on the local market at a lower price than its normal value, i.e. a price of the similar product designated for local use in an exporting country. The Government of Georgia will be entitled to establish special anti-dumping tariff on the basis of a report provided by the Competition Agency. The special anti-dumping tariff shall be established for up to 5 years individually for each exporter or producer and shall not exceed the dumping margin. Herewith, considerable alterations are made to the Competition Agency's governing structure and if the changes are implemented, instead of a chairman, the board comprised of 5 (five) members elected for the tenure of 5 years, shall become the management body of the Competition Agency. Neither of the above bills have yet reached the first session of Parliamentary hearings.

CONSTRUCTION LAW

On 19 June 2019, a group of Members of the Georgian Parliament initiated a new package of legislative amendments in the construction regulations. Following terrible accident of 16 January 2019, when gas leakage in the building not put into operation caused an explosion that took the lives of 4 people and injured 8, it became apparent that strict control over the construction business was necessary. In pursuant of the aforementioned goal, a new package of legislative amendments prohibits functioning of buildings under construction, both residential as well as of any other occupancy, until the issuance of the act of occupancy by the relevant supervision agency. Furthermore, until the issuance of such act, supplying the building with electricity and natural gas shall also be prohibited, other than for the purposes of constructional activities. For the smooth transition and as an incentive for construction companies to finish the pending constructions, the amendments also introduce amnesty for buildings that are built but not yet put into service. The amendments entail harsh, perhaps even too harsh, sanctions for violation of the new regulations, such as fines, suspension of construction or even criminal liability, instead of administrative reprimand. While the draft law is still in its early stage, its importance for the construction business cannot be overstated.

