

LAW ON PUBLIC AND PRIVATE PARTNERSHIP FINALLY ADOPTED

With the aim of establishing unified legislative and institutional framework for public and private partnership (PPP) in Georgia, a long awaited PPP law was finally adopted by the Parliament in May 2018. Effective from 1 July 2018, the new law sets out the rules governing PPP process starting from evaluation and announcement of the project up until selection of the investor and monitoring the compliance with its PPP commitments. The law differentiates between concessions and non-concession PPPs, institutional and non-institutional, small and regular PPP projects. The law further acknowledges the role and interests of lenders financing a PPP project and provides for the possibility of granting step-in rights and other guarantees to the lenders through direct agreement with the public partner. Finally, a new PPP agency shall be created by the Government of Georgia to oversight PPP projects, while fiscal effect of each such project will be evaluated by the Ministry of Finance of Georgia.

LAWYERS AND LAW FIRMS ARE FINALLY ALLOWED TO MAINTAIN NOMINEE ACCOUNTS

On 21 May 2018, the Order of the President of the National Bank of Georgia regulating holding of specific types of bank accounts by various entities was amended to allow lawyers and law firms to hold, both joint and segregated, nominee accounts. As a result, lawyers and law firms will finally be allowed to hold funds on behalf of their clients on separate account, which will be bankruptcy-remote and ring-fenced against personal liabilities of the account-holder lawyer or a law firm.

INITIAL STEPS FOR REGULATING TAXI BUSINESS

From 24 May 2018, transporting passengers on the territory of Tbilisi via vehicle (category 1), i.e. provision of taxi services

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has formally become a regulated activity. In particular, effective from 9 July 2018 individuals willing to provide taxi services in Tbilisi shall obtain respective permit from the local municipality. The relevant procedure for obtaining a taxi permit, term of its validity, possible fees charged by the municipality for the permit, technical and safety requirements to be complied with by taxi drivers are yet to be determined. All we can tell at this point is that the Government has made first steps towards regulation of the taxi business, albeit within Tbilisi only. Stay tuned for more updates on this regulation.

DRAFT REGULATIONS GRANTING THE INDIVIDUAL DEBTORS PRIVILEGED PROTECTION VIS-A-VIS IMPOSING OBLIGATION OF RESPONSIBLE CREDITING TO LENDERS

In our previous Newsletters, we covered various legislative measures implemented by the Government to tackle the problem of excessive indebtedness of individuals in Georgia. The Ministry of Finance of Georgia (MFG) and the National Bank of Georgia (NBG) continue to fight the unbalanced bargaining power between the lenders and individual debtors. To this end, on 7 May 2018, NBG published the draft of Regulations on Issuing Loans to Individuals applicable to all lending organizations subject to supervision of NBG, whereas on 31 May 2018 the bill of amendments to the Civil Code of Georgia was submitted to the Parliament by MFG.

Draft regulation of the NBG defines criteria for issuing loan and aims to improve lending standards and quality of credit portfolios, promote socially responsible credit relations in order to protect rights of borrowers from risks caused by buildup of excessive debt. Further, the bill of amendments envisages several major reforms granting privilege to individual debtors (including individual entrepreneurs). For instance, according to the bill, loans issued to natural persons by other individuals/entities not supervised by NBG cannot be secured with immovable property (other than loans issued in exchange for the right to use the property) or vehicles. Where security for the loans issued to individuals is permitted and thus applied, foreclosure of the security shall be considered to have fully satisfied the claim of the lender, irrespective of the amount recovered by the lender through such foreclosure. Any secured loan shall be issued to an individual borrower through a wire transfer to its bank account. The rationale behind such restrictive regulations is to fight easy access to debts for the individuals with low financial awareness and inadequate evaluation of their prospects and also to tackle the situation where primary interest of the lender has become default of the debtor, resulting in takeover of security, rather than due payment of the loan. None of the above regulations have been adopted so far.

