

# MINISTER OF FINANCE OF GEORGIA

## DECREE №188

June 8, 2017 Tbilisi

### On Approving the SARAS Board Charter and the Appeal Review Procedure

Pursuant to Article 21 (1) and Article 27 (6) of *the Law of Georgia on Accounting, Reporting and Auditing*, I decree:

#### Article 1

Approve the Board Charter of the Service for Accounting, Reporting and Auditing Supervision (SARAS) and the Appeal Review Procedure.

#### Article 2

The present Decree shall come into force upon its promulgation.

Dimitry Kumsishvili

The Minister

### Board Charter of the Service for Accounting, Reporting and Auditing Supervision (SARAS) and the Appeal Review Procedure

#### Chapter I

#### General Provisions

#### Article 1. General Provisions

1. Charter of the SARAS Board shall define powers and activities of the Service for Accounting, Reporting and Auditing Supervision (SARAS), procedures for review and resolution of issues at the Board meeting, as well as procedure for appeal review and communication with an appellant.
2. The Board shall be a body, which reviews the issues related with the Service for Accounting, Reporting and Auditing Supervision (SARAS), a subordinated agency of the Ministry of Finance of Georgia, and makes respective decisions.
3. The Board in its activities shall be guided by the Constitution, international treaties and agreements of Georgia, EU directives regulating accounting, reporting and auditing, *the Law of Georgia on Accounting, Reporting and Auditing* (hereinafter the Law), the other legislative and normative acts and the present Charter.

#### Article 2. Board Composition

1. The Board consists of 7 members.

4. The Board members represent the Ministry of Finance (1 member), the National Bank's Board (1 member), Ministry of Economy and Sustainable Development (1 member), LEPL Insurance State Supervision Service of Georgia (1 member), Professional Organizations (1 member), Business Associations (1 member) and Academia (1 member).
5. Board member from the Ministry of Finance is simultaneously the Board Chairman, who leads the Board meetings, ensures adequate operations thereof and exercises the other powers provided for in this Charter.
6. Apart from the case referred to in Paragraph 2 of this Article, employees of the Service and invited persons can be included in the Board based on its decision. In such case the persons included in the Board shall not take part in decision - making process.
7. A Board member shall be non-practitioner, who is a qualified professional, experienced and competent in the areas of accounting and reporting, auditing, economics, finance, business administration or Law, with at least 7-year experience in the respective field.
8. Board membership candidate/ Board member shall not be a person who has been convicted of terrorism financing or/ and legalization of illicit income or the other economic offence, as well as of serious or especially aggravated crime.
9. Member of the Board, as well as his/ her family members shall not be entitled to hold stock or capital share, voting right in the audit firm that is subject to supervision by the Service.
10. Candidacies for the Board membership, defined under Article 2 of this Charter, shall be submitted to the Minister of Finance of Georgia. The Minister shall present the candidacies to the Prime Minister of Georgia who will approve those within 2 weeks following their nomination.
11. Professional organizations, business associations and academia referred to in Paragraph 2 of this Article, shall nominate three candidates each, of whom the Minister of Finance will select one candidate on the basis of independence and transparency principles.
12. Board member selection process shall be independent and transparent. Transparency of the selection process shall be ensured by the Ministry of Finance through publicity of candidates' nomination and accessibility of documents related to candidate selection.
13. The term of office for the Board members shall be 5 years.
14. Work of the Board member shall not be remunerated.

### **Article 3. Grounds for Suspending and Terminating Powers of the Board Member**

1. The authority of the Board member shall be terminated:
  - a) Based on the personal application;
  - b) Under decision of the Prime Minister of Georgia;
  - c) If his/ her authority in the institution/ agency he/ she represents is terminated;
  - d) If a guilty verdict against him/ her for the crime referred to in Article 2 (6) comes into force;
  - e) In case he/ she passes away;
  - f) Based on the other grounds provided for in the legislation.
2. Authority of the Board member may be terminated in the event of his/ her absence at the Board meetings three times in a row due to an unjustifiable reason;

3. Board member's authority shall be suspended in the event of suspending his/her labor/ work relations;
4. In the event of terminating the Board member's authority, the respective agency/ sector shall ensure nomination of a new candidate to the Minister of Finance for the Board membership within a reasonable timeframe.

#### **Article 4. Powers of the Board**

1. The Board shall be authorized to:
  - a) review the drafts of normative acts defined under the *Law*, ensure their sectoral – professional evaluation and submission of respective recommendations within 10 working days;
  - b) submit proposals to the Head of SARAS on amendments to the normative acts;
  - c) provide consultations to the Minister of Finance of Georgia with respect to the candidacy of the Head of the Service and submit the Board's position in the form of a recommendation;
  - d) review appeals related to decisions made by the Service on accounting, reporting and auditing issues;
  - e) perform the other activities provided under this Law and normative acts adopted on its basis.
2. The Board shall cooperate with international and local organizations in order to exercise its powers effectively with consideration of major principles stated in the Law.
3. The Board shall be entitled to introduce performance evaluation mechanism to ensure effective fulfillment of its functions.

#### **Article 5. Convening the Board Meetings**

1. The Board, for the purpose of exercising the authority granted under the legislation, shall hold meetings, as required, under the decision of the Chairman.
2. Head of the SARAS shall be entitled to apply to the Board Chairman with a recommendation to hold the Board meeting.
3. Apart from the case provided for in Paragraph 1 of this Article, the Chairman of the Board shall convene the Board meeting when requested in writing by at least two board members. In such a case, the Board meeting shall be held within a reasonable period following the receipt of the request, though within a month.
4. In the event of absence of the Board Chairman, the Board meeting can be held based on the decision of at least 3 members;
5. Attendance at the Board meeting shall be mandatory. In the event of violating this requirement based on an unjustifiable reason three times in a row, a Board member is authorized to raise an issue at the Board meeting on early termination of the absentee member's office term.

## **Article 6. Organization of the Board Meeting**

1. Board meetings shall be organized by the SARAS Staff Office (hereinafter the Staff Office).
2. Agenda and materials on the agenda items shall be provided by the Staff Office to the Board in an electronic or/ and documentary form at least 10 working days before the meeting date.
3. An issue may be included in the agenda under the Board's decision, at the Board meeting, without observance of the procedure provided for in Paragraph 2 of this Article.

## **Article 7. Review of an Issue**

1. Board meeting is led by the Board Chairman. In case of absence of the Board Chairman, his/ her authority shall be fulfilled by one of the Board members.
2. The Board meeting shall not be authorized if attended by less than 4 members.
3. Board decision shall be made by majority of attending Board members. In case of equal split of votes, the Chairman's vote shall prevail (while in case of his/ her absence the vote of the acting Chairman of the Board).
4. Each Board member shall take part in the meeting personally. One Board member shall have one vote.
5. The Board member in the course of a decision making process shall represent respective agency / sector and ensure its awareness.
6. The Board member shall not take part in review and resolution of discussion topic if there is conflict of interest or any other objective circumstance with respect to the disputable issue, which may affect impartiality of a Board member.
7. A person whose case is being reviewed shall be entitled to challenge the Board member if the latter has personal interest in the discussed issue.
8. Board member shall inform the Board about the ground for recusal and request recusal.
9. The issue of recusal shall be reviewed solely by the Board (meeting) Chairman.
10. Given significance, specifics or complexity of the discussion point, including quality control related issues, the Board Meeting Chairman shall be entitled to invite an expert, specialist, representative of the other administrative agency or/ and the other respective person.
11. The expert, specialist, representative of the other administrative agency or/ and the other respective person shall observe the secrecy of information received at the meeting. An independent expert/ specialist, representing the person who has interest in the discussion point, may attend the meeting on the basis of the Board's decision.

## **Article 8. Exercising the Board's Authority without Oral Session**

The Board shall be entitled to exercise its authority through electronic means without holding an oral session, except for the appeal review.

## **Article 9. Minutes of the Board Meeting**

1. The Board meeting progress, reviewed issues and made decisions shall be documented in the meeting minutes drafted by the SARAS Staff Office.
2. Board meeting minutes shall be signed by the Chairman and Secretary of the meeting.
3. The Staff Office employee simultaneously represents the Secretary of the Board meeting.
4. The member who disagrees with a decision made by the Board shall be entitled to express different opinion, which is to be entered in the meeting minutes.
5. Documents and materials submitted for review at the meeting shall be enclosed with the meeting minutes and kept together.
6. An interested party shall be entitled to present its own opinion, get acquainted with the meeting minutes, agree or in case of necessity indicate at existence of incorrect or incomplete information in the minutes.
7. Meeting minutes shall state:
  - a) Title of the minutes;
  - b) Date of the meeting (date, month, year) and number;
  - c) Names of the board chairman, secretary as well as of board members;
  - d) Invited persons and stakeholders;
  - e) Discussion points;
  - f) List of those documents that are to be presented in the course of case review.
  - g) Positions expressed with respect to discussion points;
  - h) Made decisions.
8. Staff Office employee shall confirm presence of attendees at the meeting.

## **Chapter II**

### **Review of Proposals with Respect to Draft Normative Acts**

#### **Article 10. Submission of an Issue for Discussion**

Draft normative acts for review at the Board meeting can be submitted by:

- a) SARAS
- b) Board member with a decision – making right on behalf of the respective agency/ sector.

#### **Article 11. Organize a Meeting to Review Draft Normative Acts**

1. Draft normative act submitted for a review at the Board meeting shall be forwarded to the SARAS Staff Office to prepare for discussion.
2. The Staff Office sends draft normative act along with the enclosed materials to the respective structural unit of the SARAS for obtaining information. The structural unit, within 10 working days following submission of materials, prepares information and sends to the Staff Office.

3. The Staff Office shall ensure preparation of an issue for discussion at the Board meeting, draft the agenda for the next Board meeting and coordinate it with the Chairman.
4. Draft normative act to be discussed at the Board meeting along with the enclosed materials in an electronic or/ and documentary form shall be submitted by the Staff Office to Board members at least 10 days before the meeting.
5. The Staff Office shall send notification on date and venue of the Board meeting to members at least 10 working days before the Board meeting. The notice can be submitted through any technical facility available to the Office.

#### **Article 12. Review of the Draft**

1. The Board shall review draft normative act defined under the Law and ensure sector – professional evaluation of the matter.
2. Information on draft normative act to be discussed at the Board meeting shall be prepared by the SARAS Staff Office and respective employee of the Service shall submit it to the Board meeting.
3. Draft normative act shall be reviewed at the Board meeting regardless appearance at the meeting of an invited person who submitted the issue for discussion.
4. The Board shall be entitled to suspend discussion of a draft normative act for no more than 10 calendar days, for the purpose of requesting an opinion or/ and the other information from the respective structural unit or/ and the other agencies/ persons.
5. In the event referred to in Paragraph 4 of this Article, the time count provided for in Article 4 (1a) shall be suspended prior to submission of an opinion or/ and the other information on the draft normative act to the Board meeting.

#### **Article 13. Making Decision on the Issue**

1. The Board on the basis of a review of draft normative act, respective materials and opinions and sectoral – professional evaluation of the draft shall issue respective recommendation.
2. Recommendation provided for in Paragraph 1 of this Article shall be issued by the Board within 10 working days following its submission.
3. Recommendation of the Board, as a rule, shall be announced at the Board meeting.

### **Chapter III**

#### **Discussion of an Issue Related to Nomination of a Candidate for the Position of the Head of SARAS**

#### **Article 14. Review of the Issue and Summarizing Decision**

1. The Board shall be authorized to provide consultations to the Minister of Finance of Georgia with respect to the candidacy of the Head of the Service.
2. The Board's position shall be submitted to the Minister of Finance of Georgia in the form of recommendation in writing.

3. Information on the discussion point shall be prepared by the Staff Office and submitted to the Board meaning by respective employee of the Service.
4. The position provided for in this Article shall be documented in the form of meeting minutes.
5. Position of the Board shall be announced, as a rule, at the Board meeting.
6. Recommendation in writing shall be issued within 3 working days following the decision date.
7. Recommendation issued in accordance with the Paragraph 6 of this Article shall be sent to candidates and Board members by the Staff Office within 2 working days following its receipt.

#### **Article 15. Organize a Meeting to Review Candidacy for the Position of the Head of the Service**

1. The issue to be addressed at the Board meeting with respect to nomination of the candidacy for the position of the SARAS Head shall be submitted to the Staff Office for preparation.
2. The SARAS Staff Office shall prepare an issue for discussion at the Board meeting. The Staff Office shall compile the agenda for the next Board meeting and coordinate it with the Board Chairman.
3. The issue to be addressed at the Board meeting along with enclosed materials shall be submitted electronically by the Staff Office to Board members at least 10 working days before the meeting date.
4. In addition to documents referred to in paragraph 3 of this Article, the Board members and stakeholders shall be sent also a notice about the meeting date and venue at least 10 working days before the meeting date. The notice can be sent through any technical facility available to the Staff Office.

### **Chapter IV**

#### **Review of Appeals Related to Decisions made by SARAS in the areas of Accounting, Reporting and Auditing**

#### **Article 16. Filing an Appeal**

An appeal may be filed for review at the Board meeting with respect to decisions made by SARAS in the areas of Accounting, Reporting and Auditing.

#### **Article 17. Relations with an Appellant /its Representative**

1. An appellant shall communicate with the Staff Office/ Board in person or/ and through its representative;
2. Personal communication with the Staff Office/ Board does not deprive the appellant of the right to have a representative, the same way as participation of a representative does not deprive the appellant of the right to take part in person in such communication.
3. An appeal shall be deemed submitted within the timeframe specified under the Law even if it is submitted to an unauthorized administrative body within such timeframe.

## **Article 18. Organize Appeal Reviewing Session**

1. An appeal with respect to decisions made by SARAS in the areas of Accounting, Reporting and Auditing along with the enclosed materials shall be submitted to the Staff Office for examination and preparation for the Board review.
2. The Staff Office shall send an appeal along with enclosed materials to the Service for opinion/ information receipt. The Service, within 5 working days following submission of correspondence, shall prepare information and respective materials (including proofs) and send to the Staff Office.
3. Whenever necessary, the Staff Office shall be entitled to hold preparatory meeting with the parties to clarify the circumstances related to the appeal prior to its review at the Board meeting.
4. In case of detecting deficiency by the SARAS Staff Office in an appeal, the appellant shall be given at least 7 working days for its elimination.
5. The Staff Office rejects an appeal if it does not meet the following procedural requirements:
  - a) Subject of an appeal is not clear;
  - b) An appeal or enclosed documents are not readable;
  - c) An appeal is not signed;
  - d) The appeal and enclosed documents are not prepared in an official language.
6. The period given by the Staff Office for elimination of a deficiency may be extended for no more than 7 working days based on a grounded request of an appellant/ its representative.
7. Refusal to allow the request provided for in Paragraph 6 of this Article shall be appealed in the Board.
8. The Appellant shall be entitled to request information or/ and documents kept in the Service system about him/ her prior to the Board session. Issuance of information/ documents to the third parties without appellant's consent shall not be permitted unless provided otherwise in the Georgian legislation. This restriction shall not apply to the Board members and the Board Office.
9. In the event all potential attempts to deliver correspondence to an appellant/ its representative fail, the Staff Office shall submit this issue to the Board meeting and notify the Board members about impossibility to find an appellant.
10. After collecting information, documents, positions and opinions defined in this Article, the Staff Office ensures preparation of an issue for review at the Board meeting, drafting agenda for the next Board meeting and its coordination with the Board Chairman.
11. If an appeal to be reviewed by the Board is deemed as an acceptable, it shall be submitted to the Board members along with the enclosed materials by the office in an electronic or/ and documentary form at least 10 working days before the Board meeting.
12. In addition to documents referred to in paragraph 12 of this Article, the Board members and stakeholders shall be sent also a notice about the meeting date and venue at least



10 working days before the meeting. The notice can be sent through any technical facility available to the Staff Office.

#### **Article 19. Appeal Review and Timeframe**

1. The Board as an appeal reviewing body shall ensure review of appeals related to decisions made by the Service in the areas of accounting, reporting and auditing within 30 days.
2. A person who took part in preparation or issuance of an appealed administrative – legal act shall be invited to attend the appeal review. In addition, it shall not be permitted that a person who participated in preparation or issuance of an appealed administrative – legal act takes part in appeal resolution.
3. Information on the appeal to be reviewed at the Board meeting shall be prepared by the SARAS Staff Office and submitted to the Board meeting by a respective employee of the Service or/and a person who participated in preparation or issuance of an appealed administrative – legal act.
4. An appellant shall be entitled to attend Board meeting in person or/ and through a representative. At the Board meeting the appeal review starts with a speech of the Staff Office employee who introduces the appeal contents to Board members. After getting acquainted with the appeal content, the parties are given time to present their own arguments.
5. Board members are entitled to ask questions to the parties.
6. The Board Chairman is entitled to expel from the meeting a person who violates the order.
7. Impossibility to contact an appellant or failure of an appellant to attend the appeal review shall not prevent the review process.
8. An appeal shall not be reviewed if one of the following occurs:
  - a) Appellant refuses to proceed with the dispute;
  - b) The subject of an appeal goes beyond the scope of the Board's authority;
  - c) An appeal is filed with violation of the timeframe set under the legislation;
  - d) Appellant has not corrected a violation within the set timeframe;
  - e) There is a decision made against the appellant on the same disputed matter issued by the same body;
  - f) An appeal/ application is submitted by unauthorized person;
  - g) Appellant applied to the court on the same disputed subject;
  - h) Appellant has passed away;
  - i) Appellant cannot be identified.
9. The Board reviews an appeal within the scope of a claim specified in the appeal;
10. The Board is authorized to suspend review of an appeal for no longer than 30 calendar days for the purpose of requesting position or/ and the other information/ documents from an appellant, respective structural unit or/ and the other bodies/ persons.
11. In the event provided for in paragraph 10 of this Article, the appeal review time gets suspended.
12. In the event of failure to review an appeal due to large number of appeals or the other objective reasons, the Office sends notice to the parties.

## **Article 20. Making a Decision on an Appeal**

1. The Board, after examination of the filed appeal and enclosed materials, makes respective decision.
2. The Board shall be entitled to:
  - a) Allow an appeal;
  - b) Allow an appeal in part;
  - c) Disallow an appeal;
  - d) Not to review an appeal in cases provided for in Article 19 (8) of this Charter.
3. Decision of the Board, as a rule, shall be announced at the Board meeting.
4. In the event of making decision provided for in Paragraphs 2 ((a) – (d)) of this Article, in accordance with the made decision, the Board, within 5 working days following the decision date, shall ensure issuance of a respective individual administrative – legal act.
5. Individual administrative – legal act, provided for in Paragraph 4 of this Article, shall be drafted by the Staff Office within 5 working days following Board decision date.
6. Individual administrative – legal act issued in accordance with Paragraph 4 of this Article shall be sent to an appellant and the Service within 2 working days following its issuance.

## **Article 21. Transitional Provisions**

Pursuant to Paragraph 19, Article 28 of the Law, the powers of the Board members defined under the present Charter shall apply to invited Board members except for the right to participate in a decision - making process.