



# COMPLIANCE IN THE ARTWORKS MARKET

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*The world of art has always been about showing the more beautiful side of life.*

**T**hroughout millennia artists have built bridges between nations in forms that no statesmen have achieved. Art trade is not like buying and selling other commodities because of the cultural and historic value works of art have. But like traditional trade, it is not immune to the risks of exposure to malign intentions and criminal practices. Certain features of the art industry make it vulnerable to subjects who may exploit it to channel their illicit activities. First, it is the culture of discretion which often allows for the buyer and seller not to know each other and intermediaries are commonly used. Art trade usually takes place in an international setting involving parties from multiple countries, including opaque jurisdictions, where information is scarce and real intentions are masked behind a wall of vagueness and mystery. Artworks, artefacts and antiquities are items with high value, which converts them into assets for criminals who want to transform their

obscure wealth into legitimate funds with no time limitations. Unfortunately, recent political developments in Europe and the Middle East have brought to light cases where artworks have been stolen, and sold and the proceeds have been used to finance activities like terrorism.<sup>1</sup> Thousands of archaeological treasures from war-torn Iraq and Syria have been looted by anonymous individuals or terrorist groups like the ISIS, and then smuggled to foreign countries, including European ones. In Iraq alone at least 170,000 artefacts were stolen during the very first days of the US-led invasion in the country in 2003.<sup>2</sup> In Syria, many historic sites have been pillaged too since 2011. Traffickers have set up complex networks that offer the illegally obtained antiquities to Western art collectors even on social media websites like Facebook.<sup>3</sup> Dealers have also fabricated false documentation for the illicitly obtained items, part of which are kept in storage, with some experts expecting them to remain hidden for years before being reintroduced to the art market.<sup>4</sup>

## What is new and how it can affect the art market?

In December 2019 the UK Parliament adopted regulations that transposed the provisions of the 5th European Union AML Directive. They entered into force on 10 January 2020 and will have serious consequences for the UK art market.

This step makes sense because according to The Art Market 2019 report, published by Art Basel & UBS, the UK art market is ranked second in the world and is the largest in the European Union, accounting up for 66% of market share.<sup>5</sup>

According to the new rules, people trading, storing or acting as intermediaries in the trade of works of art, where the value of the transaction or a series of linked transactions amounts to or exceeds 10,000 euros, fall under the scope of anti-money laundering and counter-terrorist legislation. The subjects affected are not only individuals, but also art galleries, auctions houses and free ports.

The guidance published by the British Art Market Federation on 24 January 2020, clarifies that subjects from the art industry must take a number of steps, including registering with Her Majesty's Revenue and Customs (HMRC), carrying out risk assessment of their business, training staff, appointing a nominated officer and reporting suspicious transactions.<sup>6</sup> Customer due diligence checks are also mandatory and they include screening against Politically Exposed Persons (PEPs) databases and sanctions, terrorist financing, law enforcement and financial regulators lists.

When government and official sources do not provide relevant information, media searches using the names of the clients must be conducted, if necessary, in multiple languages.

## What art market participants should be careful about

There are many red flags that may alert art businesses about potential risks falling within the scope of their anti-money laundering and counter-terrorist financing obligations.



The Responsible Art Market, a non-profit, cross market initiative has published a document detailing some of the warning signs – lack of provenance documents and suspiciously good price for the artworks, clients with operations in high-risk jurisdictions, multiple intermediaries involved in the transactions without an obvious reason, etc.<sup>7</sup> The Antiquities Coalition, another non-governmental organisation, has launched the #Buyerbeware Awareness Campaign, which is dedicated to informing art traders how the looting and trafficking of ancient artefacts is used to fund crime, conflict and terrorism. Its

website even features a video showing how a consumer unknowingly buys a piece of looted ancient art online.<sup>8</sup> The new rules are pushing art businesses out of their comfort zone by requiring more transparency in the relationship between buyers and sellers. Auction houses and other obliged subjects will have to dedicate more resources to identifying their clients and acquiring information about their background and funds. Cross-industry organisations can help with guidance on good practices that can ease the bureaucratic burden and technical complications reporting companies may face.

<sup>1</sup> <https://www.un.org/press/en/2015/sc11775.doc.htm>  
<sup>2</sup> <https://www.nytimes.com/2003/04/13/world/a-nation-at-war-looting-pillagers-strip-iraqi-museum-of-its-treasure.html>  
<sup>3</sup> <https://www.bbc.com/news/world-middle-east-47628369>  
<sup>4</sup> <https://malingallery.com/art-news-1/tag/Benoit+Faucon>  
<sup>5</sup> [https://d2u3kfw92fz7.cloudfront.net/The\\_Art\\_Market\\_2019-5.pdf](https://d2u3kfw92fz7.cloudfront.net/The_Art_Market_2019-5.pdf)  
<sup>6</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/864253/BAMF.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864253/BAMF.pdf)  
<sup>7</sup> [http://responsibleartmarket.org/wp/wp-content/uploads/2017/01/RED-FLAG-LISTS\\_web.pdf](http://responsibleartmarket.org/wp/wp-content/uploads/2017/01/RED-FLAG-LISTS_web.pdf)  
<sup>8</sup> <https://theantiquitiescoalition.org/developing-implementing-solutions/buyeraware-awareness-campaign/>