The Responsible Art Market Initiative

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Art: a passion investment

- 2018: estimated **USD 67.4 billion** market
- Increase of **6%** from 2017; already an increase of **12%** from 2016
- US (44%), UK (21%), China (19%)
- Online sales: 72% increase over 5 years

*Source: The Art Basel and UBS Global Art Market 2019*
Art & finance

- Wealth management services
- Art funds
- Art-secured lending

Source: Deloitte and ArtTactic Art & Finance Report 2018
Challenges & risks in the art market

- High value & moveable goods
- Culture of discretion / lack of transparency
- International market
- Lack of supervision / specific regulation
- Passion
Art & money laundering?
Factors of change (1/2)

New world
- Litigation / mediatisation
- Tax pressure
- Art as a financial investment

Interests at stake
- Reputation
- Artwork value

Great Wave off Kanagawa, Hokusai
Factors of change (2/2)

Rybolovlev v. Bouvier

Wildenstein case
The tide of AML / CFT regulation

- **2012 FATF recommendations**: serious tax offence becoming predicate offence to money-laundering

- **2015 UN resolution 2199**: underlining Member States’ obligations to take steps to prevent terrorist groups in Iraq and Syria from benefiting from trade in oil, antiquities and hostages

- **2016 Luxembourg**: all entities operating in the Luxembourg freeport (including e.g. transporters) subject to AML regulation

- **2018/2020 5th EU AML Directive**: anyone trading or acting as an intermediary in an art transaction, where the value of the transaction is greater than EUR 10,000 (irrespective of method of payment), will be subject to the same strict duties of risk-based assessment
The Responsible Art Market Initiative

Raising awareness of risks faced by the art industry and providing practical guidance on establishing and implementing responsible practices to address those risks.
What is the Responsible Art Market Initiative?

The Responsible Art Market Initiative (“RAM”) is a cross industry initiative formed in Geneva in 2015. RAM’s members span the entire spectrum of the art market from galleries, dealers, auction houses, advisors and service providers, to lawyers, academics and public prosecutors specialising in art related matters.
Who?

CHRISTIE’S

SGS

PORTS FRANCS ET ENTREPRISES DE GENÈVE SA

FDA - FONDATION POUR LE DROIT DE L’ART

SEYDOUX & ASSOCIÉS - FINE ART

UNIVERSITÉ DE GENÈVE - FACULTÉ DE DROIT

Jean-Bernard Schmid

Professor Ursula Cassani

Galerie Grand Rue
Advantages

- **Flexibility and speed in developing and adapting**
  - Greater efficiency
  - Lower compliance costs

- **Bespoke**
  - Meet the industry technical requirements

- **Participatory process**
  - Mitigate conflict of interest
  - Increase support

- **Transcend national boundaries**
  - Avoids jurisdictional conflicts
RAM’s projects: responsibleartmarket.org

Building an Art Market for the Future
Guidelines for Countering Money Laundering and Terrorist Financing Threats
Thursday, 26 January 2017 | 14:00 - 17:30

Building an Art Market 2.0
Art Transaction Due Diligence Toolkit
Friday, 2 February 2018 | 08:30 - 12:30
artgenève, Salon d’art - Palexpo, Geneva
An aide-mémoire

- Non-exhaustive
- Risk-based approached
- No uniform standard

Please note:

- The following client, artwork and transaction due diligence checklists serve as an "aide-mémoire" of the various checks which can be considered and/or carried out when conducting art transaction due diligence.
- They are a compilation of best practices and are not exhaustive.
- The checklists do not purport to set a standard to be applied in all situations.
- They should be used applying a "risk-based" approach to determine the level of due diligence required. Enquiries should be tailored to any risk factors (red flags) which are present.
- When collecting and holding personal data, data protection obligations should be considered and respected.
- The checklists should be read together with the Explanatory Notes.
Building an Art Market for the Future

Guidelines for Countering Money Laundering and Terrorist Financing Threats

Thursday, 26 January 2017 | 14:00 - 17:30
Money laundering & terrorist financing

- Targeted at Art Businesses
- Risk-based approach & best practices
- Aim to facilitate art transactions
- General guidelines & country profiles
8 Guidelines

1. Know & understand risks
2. Comply with the laws
3. Client check
4. Artwork check
5. Transaction check
6. Keep records
7. Training & monitoring
8. Know how to act
**Guideline 1** – Do a risk assessment of your business and apply risk based measures

- Risk-based approach
- Establish the Art Business profile
  - What AML measures has the Art Business already adopted?
  - What types of transaction does the Art Business undertake?
  - What information about clients is gathered and recorded?
  - What due diligence on artworks is undertaken?
  - What controls are in place regarding cash payments and checking the source of funds?
  - What awareness of the risks exists amongst staff? What ongoing training is provided?
  - Are processes and procedures reviewed regularly? Could improvements be made?
Guideline 2 – Know and comply with the laws where you are doing business and be alert to red flags

- Check all local regulations
- Client red flags → Enhanced due diligence
Exemple: Transaction Red Flags

1. Clients who knowingly wish to sell at an artificially low or inflated price
2. Clients who ask detailed questions about the Art Business’ procedures for reporting suspicious activity and/or financial matters to tax authorities
3. Seller / Consignor is unable or unwilling to provide adequate proof of ownership for items that they are wishing to consign

- Exercise enhanced due diligence over the transaction
Building an Art Market 2.0

Art Transaction Due Diligence Toolkit

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The Art Transaction Toolkit

Check lists
- Client
- Artwork
- Transaction

Red flags

Explanatory notes

Risk-based approach
Art transaction due diligence

Client
- Identity
- Role
- Authority

Artwork
- Ownership
- Provenance
- Authenticity
- Condition

Transaction
- Purpose
- Form
- Source of funds
How to use the toolkit

1. Ask questions
2. Identify red flags
3. Collect information and where necessary document
   → Consider data protection issues
Art Basel believes that trust is the essential element underlying the sales that are crucial to the success of our exhibitors, both at our shows and on an ongoing basis. Thus, we firmly believe that the integrity of the gallerists participating in the Art Basel shows should be a primary criterion for their inclusion. And therefore, we must take seriously any case involving acts that could harm the broader trust essential to a sound art market.
Get involved

- Foster dialogue & debate on risks & issues affecting the art market
- Share existing best practices
- Non-binding & evolutionary
- Practical guidelines & tools
- Contributions welcome
RAM in NY

- 23 May, 1.30-5.30pm
  Columbia University
Better safe than sorry

Responsible art market practices help:

- Manage litigation risks
- Protect reputation
- Preserve value
responsibleartmarket.org

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