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Expert voices

PROMOTING RESPONSIBLE PRACTICES: LESSONS LEARNT FROM THE RESPONSIBLE ART MARKET INITIATIVE

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Should the art industry be subject to stricter regulations?
The question remains a key concern for many of those working in the art trade: some argue in favor of greater transparency and accountability, whereas others warn of the added costs and barriers that would be created by further regulation. People with a wide range of viewpoints are slowly but surely coming to accept the importance of an industry worth over US$60 billion, its financialization and associated risks, and the need for more sustainable practices. Maintaining trust and credibility in a market that has discretion at its core without undermining the commercial interests of the industry while also promoting fair and efficient competition for future growth: this is the challenge that faces the art market today. The Responsible Art Market Initiative (RAM) is a direct response to this challenge.

An initiative by the market for the market
RAM is the first of its kind: a non-profit, cross-market initiative launched in Geneva (Switzerland) in 2015, under the auspices of the Geneva-based Art Law Foundation (ALF) and the University of Geneva’s Art-Law Centre (ALC). Its mission is to raise awareness among art businesses of the risks facing the art industry and to provide practical guidance and a platform for sharing best practice to address those risks. RAM’s founding members span the entire spectrum of the art market and include art businesses, academic institutions, and attorneys.

To date, RAM has published two sets of practical guidelines and checklists that are increasingly used and referred to: the Guidelines on Combating Money Laundering and Terrorist Financing130 and the Art Transaction Due Diligence Toolkit131. RAM holds an annual conference in Geneva during the Art Genève art fair. This provides an opportunity for art market professionals to meet and exchange ideas on market practices, challenges, and new initiatives.

From the outset, RAM has endeavored to go beyond the question of whether the art market should self-regulate. Instead, its work involves: (1) gathering industry knowledge and practices through dedicated working groups composed of a diverse array of professionals, (2) synthesizing and structuring the information into practical take-aways and best practice, (3) testing findings through surveys and bilateral discussions with industry stakeholders, and (4) holding public discussions and debates at RAM’s numerous events to discuss the latest ideas. As such, these responsible practices are not exhaustive and are bound to evolve and need to be adapted to the specific context of particular art businesses or industry sectors. They do not purport to set a standard to be applied in all situations; rather, RAM advocates for a risk-based approach to determine the degree of due diligence required in relation to a specific issue.

Lessons learned
Almost five years into the project, RAM is going from strength to strength and its message is resonating more widely. Here are some of the lessons learned so far:

There is a real and sustained appetite for practical guidance on risks in the art market and responsible practices to address them. One of the measures of RAM’s success is the growing number of people attending its annual event and the fact that the audience includes very diverse and international art market professionals such as art dealers, gallery representatives, academics, service providers, and more.

Independence is crucial to RAM’s success—but other certification initiatives may be helpful in the long term. Throughout its expansion, RAM has endeavored to remain fully independent and to avoid all actual or perceived conflicts of interests. It has done so by aiming for equal representation of all art market stakeholders in its working group—now renamed the Advisory Board. This includes large and small galleries, auction houses, dealers, freeports, lawyers, law enforcement officers, art experts, appraisers, insurance companies, insurance brokers, compliance experts, and academics.

From the outset, RAM has also clearly held that it is not, and will not become, a certification body for “diligent” or “responsible” art businesses. However, the fact that this question recurs again and again at RAM events and bilateral discussions with art market stakeholders raises the question of whether some form of certification by an independent body may indeed be helpful in the future to further increase transparency and trust in the market.

The future

Although RAM’s activities have generated positive responses and global interest, more work has yet to be done to ensure that the initiative remains a useful point of reference in the ever-evolving art market. With stricter anti-money laundering and terrorist financing regulations having recently come into force (or coming into force in the near future), RAM will be reviewing its Guidelines on Combating Money Laundering and Terrorist Financing and especially the various country guides summarizing the anti-money laundering regimes that apply in different jurisdictions. To ensure that all its materials remain up to date.

Moreover, having organized events in Geneva, London, and New York so far, and with Advisory Board members coming from all across Europe and the United States. RAM has long since transcended the Swiss borders of its two founding institutions to become an international point of reference in responsible art market practices. This is excellent news but also sometimes complicates discussions and working sessions between the stakeholders involved.

To facilitate smaller group conversations and ensure that national issues and particularities are adequately addressed, RAM is currently working on the creation of regional committees. For the moment, these efforts are focused on the United States and the United Kingdom (in addition to Switzerland). These regional committees will allow smaller groups of interested professionals to organize local awareness-raising events and discuss topics that are especially relevant to their jurisdictions and areas of practice.

In addition, the growing interest expressed by various art market players in getting involved in the initiative has prompted RAM to reflect on ways to further develop and encourage dialogue on a daily basis, outside of its various events and public consultations. In that regard, RAM is currently working on an updated, more interactive website, which it hopes will become a truly interactive platform where all interested stakeholders can engage in further discussion of risk and best practice in the market. Although the exact form is still to be determined, RAM hopes to share as many relevant resources as possible, link to other initiatives and organizations who are playing a role in creating a more responsible art market, invite further comments on the existing guidelines and checklists, and, in the long term, foster online dialogue between all members of the “RAM Community”.

Last but not least, RAM is also working on a new set of guidelines aimed at summarizing best practice for authentications of fine art, in the specific and practical spirit of the two previous publications. These guidelines will be launched at RAM’s next annual conference, which will be held in Geneva, Switzerland, at the beginning of 2020.

The RAM experience shows that the art market needs and wants more dialogue on best practice. Whatever the direction taken as regards (self-) regulation of the art market, dialogue must be the first step to ensure that the relevant information is shared and considered to lay the foundation for a sustainable art market.

For more information: http://responsiveartmarket.org

132 These country guides were drafted by legal professionals from various jurisdictions on a voluntary basis and are available at http://responsiveartmarket.org/guidelines/guidelines-on-combating-money-laundering-and-terrorist-financing/