



**REFRAMING U.S.  
POLICY ON THE  
ART MARKET**

# EXECUTIVE SUMMARY

A Comprehensive Report by the Financial Crimes Task Force of the Antiquities Coalition

September 2020



Detail from Lyonel Feininger's "Brucke II," which according to a bipartisan Congressional investigation, was part of a successful multi-million dollar scheme by Russian oligarchs to launder money and evade sanctions through the American art market.

# Reframing U.S. Policy on the Art Market

## Recommendations for Combatting Financial Crimes

### EXECUTIVE SUMMARY

The \$28.3 billion American art market is the largest unregulated market in the world, making it vulnerable to a wide range of financial crimes. This ongoing exemption from standard laws and oversight, which now cover all industries of comparable risk and size, is a documented and growing threat to our national security and integrity, as well as the vast majority of legitimate collectors, dealers, auction houses, and museums. Unless and until the U.S. public and private sectors close these loopholes, they will leave wide open the world's biggest economy to money launderers, artifact traffickers, drug smugglers, kleptocrats, oligarchs, terrorists, and the many other criminals proven to have exploited the art market's weaknesses.

The Antiquities Coalition's nonpartisan think tank convened the Financial Crimes Task Force to explore solutions to this growing challenge and serve as an ongoing resource to policymakers. In this report, the Task Force puts forward its 44 recommendations for new policies, practices, and priorities that can be implemented by the U.S. government, art market, financial industry, and international community. These specific steps will help the American art market to protect itself from money laundering, terrorist financing, sanctions violations, tax evasion, fraud, forgery, and other related crimes.

The Task Force, the first of its kind, is an interdisciplinary initiative uniting allies from the art, financial, and legal communities, as well as former law enforcement and government officials. In compiling this report, they drew on centuries of combined experience, dozens of interviews with outside experts and stakeholders, and extensive legal and scholarly research. Their work comes at a critical time. COVID-19 is presenting the art market, both licit and illicit, with new challenges and opportunities. The pandemic has shuttered brick and mortar establishments, inflicted unprecedented losses and layoffs, and may force many businesses and museums to close their doors forever. Yet, online sales and "art financing" are skyrocketing, auction prices continue to break records, and transactions may be increasing—as individual collectors and even museums are sadly forced to sell off their works for hard cash.

Whether bad actors profit at the expense of legitimate businesses now hinges on how governments, law enforcement, and responsible market players rise to this occasion. As the world's largest art market, making up forty four percent of the global total, the United States faces its own challenges and opportunities. We hope that these recommendations and accompanying resources, developed by leading experts over the last year and a half, will help to cement America's standing as a leader in the fight against financial crimes.

### For the United States government, the Task Force calls on:

- The **U.S. Congress** to apply the Bank Secrecy Act to dealers in cultural property, auction houses, and art dealers; to designate art and antiquities crime as a predicate offense for money laundering; and to require reports and subsequent strategies on the relevant risks and opportunities to address these vehicles for illegal activity.
- The **White House** to assign a Senior Director at the **National Security Council** to drive U.S. policy in the fight against transnational crimes via cultural property.
- The **Treasury Department** to evaluate criminal misuse of the art market in the National Strategy for Combating Terrorist and Other Illicit Financing and Risk Assessments; the **Financial Crimes Enforcement Network** to conduct extensive outreach to the art world and financial sector; and the **Internal Revenue Service** to require proof of legal title and known ownership history in support of tax deductions for art and antiquities.
- The **Department of Justice** to establish an office of cultural heritage crimes prosecutors, as well as join with **Federal law enforcement** to strengthen training and other support for investigations and prosecutions, and to quantify the impact of their work by tracking funds generated from forfeitures and other penalties.
- The **State Department** to combat crimes via art and antiquities through the interagency **Cultural Heritage Coordinating Committee** and encourage foreign nations to take their own measures.

### For the financial sector, the Task Force calls on:

- The **industry as a whole** to increase awareness of the vulnerabilities facing it from criminal misuse of the art market, highlight these threats in its risk assessments, and incorporate efforts to counter them in existing staff

training; to use existing suspicious activity reporting (SAR) procedures to provide the appropriate government agency with related intelligence where appropriate; and to consider adding to their systems in order to identify and act upon detected financial crimes via cultural property.

### For the art and antiquities community, the Task Force calls on:

- **All parties** to adopt a risk-based approach to assess and limit their exposure to financial crimes; to identify and verify their clients as part of their effective customer due diligence (including beneficial owners and controllers for both cultural objects and legal entities); and to consider adopting an anti-money laundering statement and appointing a money laundering reporting officer.
- **Art industry associations** to develop and implement training programs and professional standards; to consider establishing a collaborative consortium to pool data and technology or a group like the Jewelers Vigilance Committee; and to explore adopting blockchain technology.
- **Online marketplaces** to perform effective vetting and due diligence, including authenticating all sellers and buyers of art and antiquities; to educate consumers about high risk cultural objects; and to consider building specific algorithms to prevent and identify criminal misuse of their platforms.
- **Museums associations** to develop guidelines, reporting requirements, and a registry for their members who deaccession objects, especially those that will be entering the stream of commerce.

### For the global community, the Task Force calls on:

- **Interpol, foreign law enforcement and customs agencies**, and the intergovernmental **Financial Action Task Force** to take further coordinated action in support of the above recommendations in partnership with the U.S. government, art world, and financial industry.

*It is alarming and completely unacceptable that common sense regulations designed to prevent money laundering and the financing of terrorism do not apply if someone is purchasing a multi-million dollar piece of art. — U.S. Senator Tom Carper*