



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

September 2020



Detail from Claude Monet's "Nympheas avec Reflets de Hautes Herbes," which was seized by Swiss authorities in 2016, as apart of a U.S. investigation into alleged money laundering and misappropriation by 1Malaysia Development Berhad

RECOMMENDATIONS OVERVIEW



Congress

- Congress should explicitly apply the Bank Secrecy Act (BSA) to dealers
 in cultural property, requiring them to assist the U.S. government in
 preventing and detecting financial crimes, as it has done for all other
 sectors of comparable risk and scale.
- Congress should designate cultural property crime as a predicate offense for money laundering, placing it on an equal footing with other unlawful activities like counterfeiting, forgery, embezzlement, and theft.
- Congress should request a report on financial crimes and the art market from the Government Accountability Office (GAO) to better understand risks and opportunities facing the United States.
- As appropriate, Congress is encouraged to enable additional information sharing between financial institutions in order to better identify and report potential money laundering or terrorist activities through art and antiquities.
- Congress should appropriate funds to the IRS for auditing tax deductions related to high-value art or antiquities and conducting Anti-Money Laundering (AML) audits of dealers and others involved in such transactions.



The White House

 The National Security Council (NSC) should assign the appropriate Senior Director with responsibility for the U.S. policy regarding transnational crimes via cultural property, including trafficking, money laundering, and terrorist financing, recognizing the importance of a whole-of-government approach and seamless coordination across agencies.



Department of the Treasury

- In the National Strategy for Combating Terrorist and Other Illicit Financing and Risk Assessments, the Department of Treasury should highlight the key illicit finance threats and vulnerabilities facing the United States from criminal misuse of the art market, as well as how to strengthen the relevant U.S. anti-money laundering and counterterrorist financing framework.
- The Financial Crimes Enforcement Network (FinCen) should conduct extensive outreach to the art market and financial sector, including nationwide conference calls, local and regional meetings, and online webinars.

The Internal Revenue Service (IRS) should require proof of legal title
and known ownership history in support of tax deductions for highvalue charitable donations or purchases of art or antiquities to or by a
museum, other tax-exempt organization, business, or private collector.



Department of Justice

- The Deputy Attorney General should include cultural property crimes within the purview of the Task Force on Market Integrity and Consumer Fraud, given the threat such crimes pose to the U.S. government, financial system, and public.
- The Department of Justice should establish an office of cultural heritage crimes prosecutors to bring cases against individuals and organizations who commit crimes through the art market, such as antiquities trafficking, money laundering, and fraud.
- The Department of Justice should develop and provide training for U.S. Attorneys' Offices and the Federal judiciary on cultural property crimes, which highlights their financial impact and national security risk, building on the excellent capacity building programs already in place for Federal agents.
- The Department of Justice should develop a written toolkit and/or other guidance for investigators and prosecutors to develop and pursue cultural property cases, including strategies that can be used to target the assets and financial networks of cultural racketeers.
- The Department of Justice should develop a methodology to track funds generated from administrative, civil, and criminal penalties and forfeitures related to cultural property and publicize such information in order to quantify the impact of its work.



Federal Law Enforcement

- The Federal Bureau of Investigation and Homeland Security
 Investigations should increase the focus on financial crimes in their
 existing law enforcement training on art theft and antiquities
 trafficking. Likewise, all law enforcement agencies that conduct training
 on financial crimes awareness and investigations should also
 incorporate the unique risks and opportunities presented by the art
 market.
- When pursuing cultural property theft and trafficking cases as predicate offenses, Homeland Security Investigations (HSI) and the Federal Bureau of Investigation (FBI) should also consider recommending charges of money laundering, if supported by the evidence.
- The FBI, HSI, and other relevant agencies should issue advisories as appropriate to alert local, state, and national law enforcement about fugitives wanted for cultural property crimes or other specific threats.



Department of State

- The State Department should expand the mandate of the interagency Cultural Heritage Coordinating Committee (CHCC) to combat financial crimes via art and antiquities.
- The State Department should encourage foreign nations to combat financial crimes via art and antiquities, including through the use of bilateral agreements under the Convention on Cultural Property Implementation Act (CPIA).



United States Government

 The United States Government should adopt all eight recommendations from the report, The Art Industry and U.S. Policies that Undermine Sanctions, published in July 2020 by the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs.

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Financial Industry

- The financial sector should increase awareness of the vulnerabilities facing it from criminal misuse of the art market, as well as how to combat them. This includes highlighting relevant threats in their risk analyses and incorporating them in existing staff training.
- As they have done for human trafficking, banks and credit card companies should develop systems for identifying and acting upon financial crimes via cultural property, which could be triggered by suspicious patterns of payment, spending, deposits, travel, and other ways of moving money.
- Compliance software already in use by banks should be adapted for identifying and preventing financial crimes via art and antiquities.
- Financial institutions should use existing suspicious activity reporting (SAR) mechanisms to provide the appropriate government agency with intelligence related to cultural property crimes via art and antiquities as permitted by law.
- The financial industry is encouraged to create risk-based "Know Your Importer/Exporter" models to address the unique challenges posed by trade-based money laundering (TBML). These could draw from recent TBML, highlighting known risk factors such as geography, ownership structure, product lines, and transactional activity.



Foreign and International Law Enforcement

- Interpol should develop a new "Purple Notice" to share alerts and requests for information about financial crimes committed via art and antiquities.
- Interpol member countries should request that the organization issue "Red Notices" to alert police worldwide about international fugitives wanted for cultural property crimes.

- Interpol member states should be vigilant in reporting missing cultural property for immediate inclusion in the organization's Stolen Works of Art Database.
- National customs and law enforcement agencies should contribute data on their cultural property seizures to the World Customs Organization (WCO), for inclusion in its annual Illicit Trade Report.



Financial Action Task Force (FATF)

- FATF should generate a typology report to identify money laundering and terrorist financing vulnerabilities related to the art and antiquities trade.
- FATF should specifically identify dealers in cultural property as
 Designated Non-Financial Businesses and Professions (DNFBPs) (a
 term of art for 'non-financial' sectors that are highly susceptible to
 money laundering and terrorist financing).



Art and Antiquities Market Participants

- Art market actors should adapt a risk-based approach to assess and limit their exposure to financial crimes, which would involve determining present exposures to risk and an acceptable level of risk, designing and implementing controls to mitigate these assessed risks, monitoring the effectiveness of these controls, and recording what has been done and why.
- Art market actors should identify and verify clients as part of effective customer due diligence. This should include a form of identification, as well as details of beneficial owners and controllers for cultural objects and legal entities alike.
- Art market actors are encouraged to adopt an anti-money laundering statement to protect their businesses from a wide range of financial crimes and reputational harm, as well as resulting civil and criminal government penalties and related sanctions by the government.
 Businesses should consider appointing a Money Laundering Reporting

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Officer (MLRO) as a point of contact for all anti-money laundering compliance activities and concerns.

 For Customer Due Diligence (CDD) considerations at art fairs and gallery events in the United States, guests should be required to preregister and receive pre-approval before purchasing a piece. (For those operating internationally, this is already required).



Art Industry Associations

- Art industry associations are encouraged to develop a training program establishing common professional standards to educate businesses about the risks of financial crimes, as well as how to mitigate them, including guidelines, red flags, and typologies.
- Art industry associations should consider establishing a collaborative consortium that securely pools data and technology to advise on the implementation and management of Anti-Money Laundering (AML) compliance programs, including centralized tracking of beneficial ownership, so that art specialists can train their efforts on art rather than policing financial crime.
- A group modeled after the Jewelers Vigilance Committee could be created, which would provide guidance to art dealers in understanding compliance obligations, creating an AML risk assessment program and policy, and educating staff.
- Auction houses, art dealers, and art industry associations should explore adopting blockchain technologies, which store histories of sale, ownership, and movement, as well as authenticating and validating art. A blockchain register would ideally be handled by an independent party, who adds to a collection of data that can be made available to members of the consortium upon request. The proposed consortium (above) could create such a registry.



Online Art and Antiquities Marketplaces

- Online marketplaces of art and antiquities are encouraged to build specific algorithms to identify and prevent criminal misuse of their platforms, while also protecting their consumers from purchasing illicit, faked, or forged cultural objects. These algorithms would automatically raise red flags for listing content and behaviors that are indicative of suspicious sellers, transactions, or misleading and/or inaccurate descriptions of art and antiquities. It should then trigger action by the marketplace, which could range from removing the listing to reporting a suspicious seller to the authorities.
- Online marketplaces should authenticate all sellers and buyers, requiring proof of identity before any high-value transaction ("preregistration"), and keep these records of their client's identification securely. Additionally, like all market players, online platforms should perform effective vetting and due diligence, including following appropriate Know-Your-Customer (KYC) protocols for customers and clients.
- Online marketplaces should discourage purchases of high-risk cultural objects—those that are known for being chronically looted, forged, or faked—through a consumer awareness campaign (ie: You Can't Fake Fashion) as well as provide additional consumer buying guidelines (ie: "How to Buy a Warhol Print").
- For sales of cultural objects, online marketplaces should be required to display in clear view an unambiguous disclaimer warning consumers of the risks and how to mitigate them.



Museums

 Museums associations should develop guidelines, reporting requirements, and a registry for their members who deaccession objects—especially those that will be entering the stream of commerce
—in order to identify and prevent problems over issues such as title or authenticity.

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