

Art Sales Vault Presents:

Journey
into the
Vault

Overview

- Scope of the AML “Problem”
- Current AML Regulations in US & Europe
- Minimizing Risk Best Practices
- Ensuring Information Privacy
- Beta Testing the ASV Vault



US Case Study: Fake Basquiat,
sold by Daniel Bouaziz owner of Galerie
Danieli and Danieli Fine Art

In May 2023, Bouaziz was sentenced to 27 months in federal prison, followed by three years of supervised release, for laundering money derived from his scheme to sell counterfeit artwork.

Keep it Confidential. Put it in the Vault.™

Risks of entering a global marketplace ...

“The estimated amount of money laundered globally in one year is 2% to 5% of global GDP or \$800 billion to \$2 trillion in current US dollars.”

– United Nations Office of Drugs and Crime

One-Two-Three of Money Laundering

STEP 1

Receive dirty money on the black market:

- Drug Trafficking
- Human Trafficking
- Insider Trading
- Embezzlement
- Bribery & Extortion
- Corruption
- Illegal Arms Dealing
- Tax Evasion
- Stolen Goods

STEP 2

Use dirty money to buy:

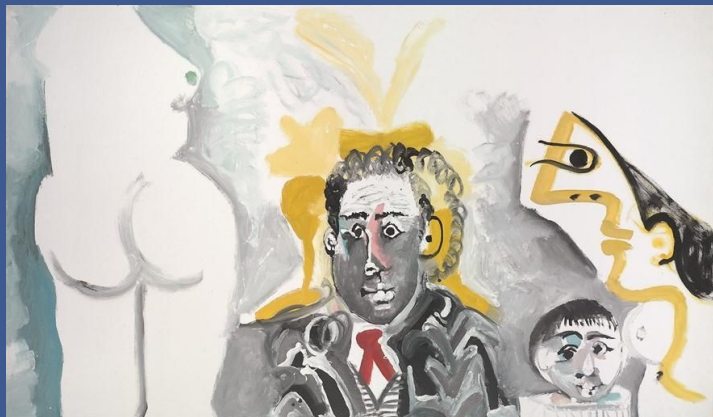
- Art
- Music catalog
- Cryptocurrency
- Real Estate
all-cash purchase

STEP 3

Sell art to convert proceeds of sale to legal tender:

- Groceries
- Gifts
- Ordinary expenses

International Regulations



Case study: Pablo Picasso, *Personnages* (1965)

In 2018, UK dealer, Matthew Green was to sell *Personnages* while concealing the ultimate buyer's information. Then according to the plan he was to purchase the work back from the individual and retain 5-10% of the laundered money as payment for his services.

United Kingdom

Requirement to register with the HMRC before participating in a covered transaction.

HMRC enforcement:

- publishing names & addresses of violators
- suspension / cancellation of right to sell art in UK
- A total of 20 AMPs (including galleries, art consultants, and dealers) have been fined for failing to apply for registration at the required time in 2022. The fines range from: £2,600 - £13,350

European Union

- Each member state implements their own procedures to adhere to the 6th Anti-Money Laundering Directive (6AMLD).
- The primary difference between the UK and EU: no registration is required in EU, however regulations may vary with individual countries.

US Art Industry Regulations Recent Developments



Case Study:

Raoul Dufy, *Carnaval à Nice* (1937)

In 2013, Helly Nahmed was required to relinquish title to this work in a \$6.7M judgment for money laundering and running an illegal sports gambling ring.

The art industry is the largest unregulated legal market, making it attractive to money launderers.

Indicators that fine art transactions will be regulated include:

1. **Bank Secrecy Act** expanded to regulate antiquities as financial institutions - expectation that art industry will be brought under similar regime.
2. **The ENABLERS Act**, which ultimately failed, initially included art industry professionals specifically, along with attorneys, accountants, real estate, cryptocurrency and other risky businesses.
3. **The Corporate Transparency Act** focuses on company beneficial ownership and will impact institutional collectors and companies formed to purchase fine art.

Who Regulations Apply to:

Art Galleries

Art Advisors

Art Consultants

Auction Houses

Online Art Sales

Non-Profits

Art Fairs

Museums

**Universities
& Hospitals**

Art Dealers

**Interior
Designers**

**Other
Intermediaries**

Best Practices for Managing Risk

Key Components of Due Diligence & AML Compliance

1. Establish Policies and Procedures with a Risk Assessment Policy
2. Train Staff on Due Diligence and AML Compliance
3. Verify Identity of Investor / Purchaser
4. Determine Ultimate Beneficial Owner (if company)
5. Identify Source of Funds
6. Check International Governmental & Adverse Media Databases
7. Maintain Secure Record of Transaction Details and Resulting Decisions
8. Submit SARs (Suspicious Activity Reports) where applicable

Creation of a Risk Assessment Policy

Step 1: Internal Assessment

- Client Profiles
- Types of Business Transactions
- Provenance Procedures

Step 2: Establishing Procedures

- Naming of a Compliance Officer
- The Process of Collecting and Storing Client Data
- Outlining how CDD/KYC will be conducted
- Specifying how will decisions be evidenced
- Detailing how will staff be educated

Art Sales Vault Solution: Risk Assessment Policy

Compliance Training

Compliance Officer Trainings

AML regulations in the UK and other jurisdictions require an individual in senior management to be nominated as a compliance officer. ASV offers workshops that enable nominated compliance officers to stay up-to-date with regulatory developments, due diligence obligations and industry standard risk management practices.

Staff Trainings

The compliance officer is responsible for ensuring that all staff involved in covered transactions are trained. Satisfy this training obligation with ASV and help your team understand how the international AML regulations impact art sales and provides practical training on best practices for risk management in the fine art industry.

Art Sales Vault Solution: [Compliance Training](#)

Know Your Customer vs Confidentiality

KYC requires collection of sensitive information for each transaction

- Record information collected
- Record risk factors
- Record decisions
- Keep records for 5 years

Customers Require Confidentiality

- Worldwide data privacy laws restrict usage of information and require safe storage.
- The “compliance officer” is responsible for developing and maintaining systems.

The Risk:

The Pandora Papers

The Challenge:

The information required for KYC compliance is personal and sensitive.

Need to protect privacy of sellers, buyers & transaction data.

Information must be kept secure and where appropriate, encrypted.

Art Sales Vault Solution: Virtual Vault

Know Your Client / Due Diligence Red Flags



US Case Study: Jean-Michel Basquiat, *Hannibal*, (1982)

In 2015, Edemar Cid Ferreira, founder and former president of Banco Santos in Brazil, lied about the value of multiple works to smuggle them into the US in an attempt to prevent their confiscation based on the Brazilian court finding that the acquisition was secured with illicit funds.

- Incomplete identification verification
- Hesitation to provide the requested information
- The individual is or is associated with a Politically Exposed Person
- The buyer is associated with a high risk geographic location
- The source of funds is unregulated, unusual or complicated (e.g. cryptocurrency)
- Clients that randomly or suddenly enter a new and emerging market (e.g. NFTs, cannabis business)

Red Flag #1 – Politically Exposed Persons

A **Politically-Exposed Person (PEP)** is an individual who holds a higher risk of being involved in money laundering, bribery or corruption due to their position in society.

Examples of PEPs include:

- Politicians
- Celebrities
- Board member or CEO of multinational corporation
- High level military officers
- Lobbyists
- Those closely associated (e.g. significant other, brother-in-law) with PEP

Art Sales Vault Solution: COMPREHENSIVE SCREENING (Coming Soon)

Red Flag #2 – Sanctioned Transactions

- Forbidden transactions and persons designated as disfavored by one or more governments
- Sanctions may apply to an entity, person, product, industry, natural resource or entire country
- It is illegal to complete a transaction with anyone or any country that is sanctioned
- Cross-border movement of sanctioned person or product doesn't achieve immunity
- Sanction lists are dynamic and ever-changing

Art Sales Vault Solution: SANCTION SEARCH

Thank you!

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