

# MANCHESTERCF ANALYTICS

**BOLD BLUFF** | JANUARY 2020

*Art is making something out of nothing and selling it.*

– Frank Zappa, US musician (1940-1993)

Effective January 10th 2020 is new legislation for the United Kingdom and the European Union that governs anti-money laundering regulations within the market for art and antiquities. New and existing clients must produce identification when purchasing works of art in excess of €10,000. Galleries will require a compliance program to ensure all reasonable measures have been taken to prevent payment by illegally obtained funds. The provenance of the funds involved will become just as important as the provenance of the artwork.

Is the international art market capable of laundering massive sums of illicit funds throughout the world? Are such measures necessary? Seasoned financial intelligence professionals will answer with a resounding “Yes”. For the professional money launderer, the international art market offers an enormous palette of transactions, geographies, players and industry conventions for placement, layering and integration.

The professional money launderer will exploit the following characteristics of the international art market:

## Price

In 2017 the “Salvator Mundi” painting by Leonardo da Vinci sold for USD450m<sup>1</sup>. A replica of “A Bold Bluff” from the Dogs Playing Poker series by C.M. Coolidge is available on the

Wayfair website for less than USD100<sup>2</sup>. While both works are approximately the same size, there is a vast difference in the perception of value between the two. Money launderers can exploit the perception of value by undervaluing or overvaluing a work of art. Crossing the border with a “Salvator Mundi” valued at the level of a print of “A Bold Bluff” would shift tremendous value from one jurisdiction to another without raising suspicions of customs or law enforcement. Since pricing artwork is a subjective determination, money launderers can play with the valuation of various artworks in order to achieve their goal of transmitting or receiving value from various jurisdictions under the air of commercial legitimacy.

## Expert

Anyone can be an “expert”. Individuals accredited by major auction houses, galleries and academic institutions are able to convince buyers that a work of art is worth a specific price.

A fast-talking huckster with a big smile and several smartphones may be able to convince people that the same work of art is worth a different price. Money launderers might justify the price of a work of art based on the advice of someone whose credentials may be somewhat ethereal. Accountants and lawyers are administered by professional oversight bodies. Bankers are employed by regulated financial institutions. An art history degree

can be purchased online<sup>3</sup>.

## Barter

Why buy and sell artworks with currency as a means of settlement when a barter transaction can be arranged? Since no funds change hands, no financial institution is involved and no financial intelligence unit (FIU) is engaged to track any associated payment. For collectors,



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barter involves an efficient process to refresh their collections. For the professional money launderer, barter creates opportunities within the layering and placement stages of the money laundering process that do not involve payments.

### Counterfeits

To the naked eye, millions may be transferred between jurisdictions to purchase a valuable piece of art. Yet the painting in question may be a counterfeit version of “A Bold Bluff”. It may have been manufactured to justify the customs declaration, invoice and/or payment by SWIFT MT103. The entire transaction may have been fabricated by a professional money launderer to justify payment from one jurisdiction to another. The sale of counterfeits can produce the proceeds of crime, yet for the money launderer a counterfeit can serve another, perhaps more important, purpose.

### Transportation

A suitcase of \$1m in \$20 bills weighs approximately 120lbs. A Fabergé egg weighing a few ounces can be worth more than USD30m<sup>4</sup>. Better yet, the Fabergé egg can be sold to a collector who will pay cash in another jurisdiction and keep it hidden from prying eyes in his office safe. A painting by Monet can be rolled up and couriered in a cardboard tube. Moving valuable artworks around the world is limited only by the imagination of the professional money launderer and their tolerance for the risk of lost packages. The physical transportation of artwork can suit a professional money launderer more than the wiring of funds via international payments. The logistics data concerning international art shipments rarely arrives into the hands of a national FIU.

### Discretion

The international art market thrives on discretion. Pricing can become cloaked in expert opinions and private sales. Dealers offer artworks to a restricted list of their friends and those they are attempting to access. For the professional money launderer, a market that prizes discretion creates vast opportunities to move illicit funds without attracting attention. The greater the camouflage offered by a market,

the more suitable for the professional money launderer.

### Reporting

Financial institutions report transactions they deem suspicions to national FIUs. In most jurisdictions, auction houses, galleries and art dealers are excluded from a nation’s anti-money laundering compliance regime. Given the size of some auction houses, they may settle transactions on their own without requiring the issuance or receipt of payment from one or more financial institutions. The lack of reporting prevents financial

investigators from mapping out accurate financial flows. With little transparency, a money launderer can be assured that their commercial activity is unlikely to be reported to a national FIU.

### Ownership

Shell companies in offshore financial havens can own artwork. If beneficial ownership regulations are lax, professional money launderers can trade in artwork and antiquities without true transparency. The identity of the money launderer becomes protected by the laws in an offshore financial haven governing the disclosure of the beneficial owners of the company. The more layers, the more complicated it becomes to reveal the actual players involved. Shell companies can be purchased

off the shelf from company formation agents. No professional money launderer worth their salt would ever create a money laundering transactional chain without the assistance of shell companies at some point in time.

### Freeports

In Luxembourg, Geneva, Singapore and New York, freeports provide anonymity, security and tax-free storage of artworks and antiquities. Freeports are bonded areas whereby the contents of the secure warehouse are effectively in “international waters” and not yet declared to domestic customs agents. It is estimated that freeports currently hold billions-of-dollars-worth of art and antiquities that do not see the light of day. For the professional

“FOR THE PROFESSIONAL MONEY LAUNDERER, THE FREEPORT CREATES AN ENVIRONMENT WHERE ARTWORK CAN BE BOUGHT, SOLD OR BARTERED IN A STATE OF LIMBO FROM TAX AND REVENUE AUTHORITIES.”

“ANTIQUITIES SOLD TO COLLECTORS BY UNSCRUPULOUS DEALERS WITH CONNECTIONS TO CONFLICT REGIONS CAN FUND TERRORIST GROUPS THAT THREATEN THE HOMELAND OF THE COLLECTOR.”



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money launderer, the freeport creates an environment where artwork can be bought, sold or bartered in a state of limbo from tax and revenue authorities. With state-of-the art security systems and innovative air quality management, artworks used by professional money launderers can stay out of the public eye indefinitely.

### Terrorism

Throughout conflict zones, terrorists must raise funds from their theatres of operations. Countries plagued with terrorism in the 21st century are often located in regions with rich cultural histories that can date back thousands of years. Antiquities sheltered in temples, graves and museums are looted by terrorist cells to fund the acquisition of firearms, ammunition, explosives and medical supplies. Under normal circumstances, the purchase or sale of such antiquities is prohibited without specific licences and permissions from competent governments. In the chaos of global terrorism, such restrictions are meaningless. Antiquities sold to collectors by unscrupulous dealers with connections to conflict regions can fund terrorist groups that threaten the homeland of the collector.

Financial institutions unaware of the money laundering and terrorist financing risks within the international art market run the risk of leaving large gaps within their anti-money laundering compliance programs that may lead to regulatory action and debilitating penalties. A financial institution must implement a risk-based approach towards all traditional banking businesses. Banking the art and antiquities market is no exception to that rule.

There are but a handful of international organisations aiming to bring an air of compliance to the international art market. The Responsible Art Market (RAM) “aims to raise awareness amongst Art Businesses of risks faced by the art industry in Switzerland and abroad and to provide practical guidance and a platform for the sharing of best practices to address those risks<sup>5</sup>.” RAM’s Guidelines on combatting Money Laundering and Terrorist Financing aim to “raise awareness in the art market of the threats and risks of money laundering and terrorist financing<sup>6</sup>”.

In 2018, the Basel Institute on Governance published the Basel Art Trade Anti-Money

Laundering Principles<sup>7</sup>. The report outlines various obligations for art market operators in establishing risk profiles for their business. Financial institutions should pay heed to the advice offered by both organisations and others in mapping out the various risks within any commercial relationship with art dealers, galleries, auction houses, insurance companies and investment funds specialising in the international art market. After all, no international bank seeking a reputation for sophistication would ever want their ignorance of art to be revealed by the investigation of a professional money launderer.

In mid-2020, ManchesterCF will be releasing an online financial intelligence training program called FIU CONNECT (Art & Antiquities). For more information, visit [www.manchesterfcf.com](http://www.manchesterfcf.com).

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<sup>1</sup> <https://www.youtube.com/watch?v=3orkmMISpmI>

<sup>2</sup> <https://www.wayfair.com/decor-pillows/pdp/red-barrel-studio-bold-bluff-dogs-playing-poker-by-cm-coolidge-framed-graphic-art-rdbt5938.html>

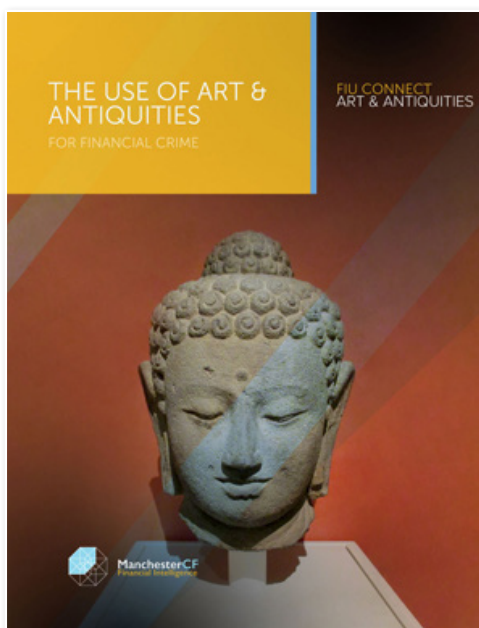
<sup>3</sup> <https://www.bestcolleges.com/features/top-online-art-and-art-history-programs/>

<sup>4</sup> <https://observer.com/2019/04/worlds-most-expensive-easter-egg-russian-faberge-egg-flea-market/>

<sup>5</sup> <http://responsibleartmarket.org/about-us/>

<sup>6</sup> <http://responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/>

<sup>7</sup> <https://www.baselgovernance.org/publications/basel-art-trade-anti-money-laundering-principles>



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