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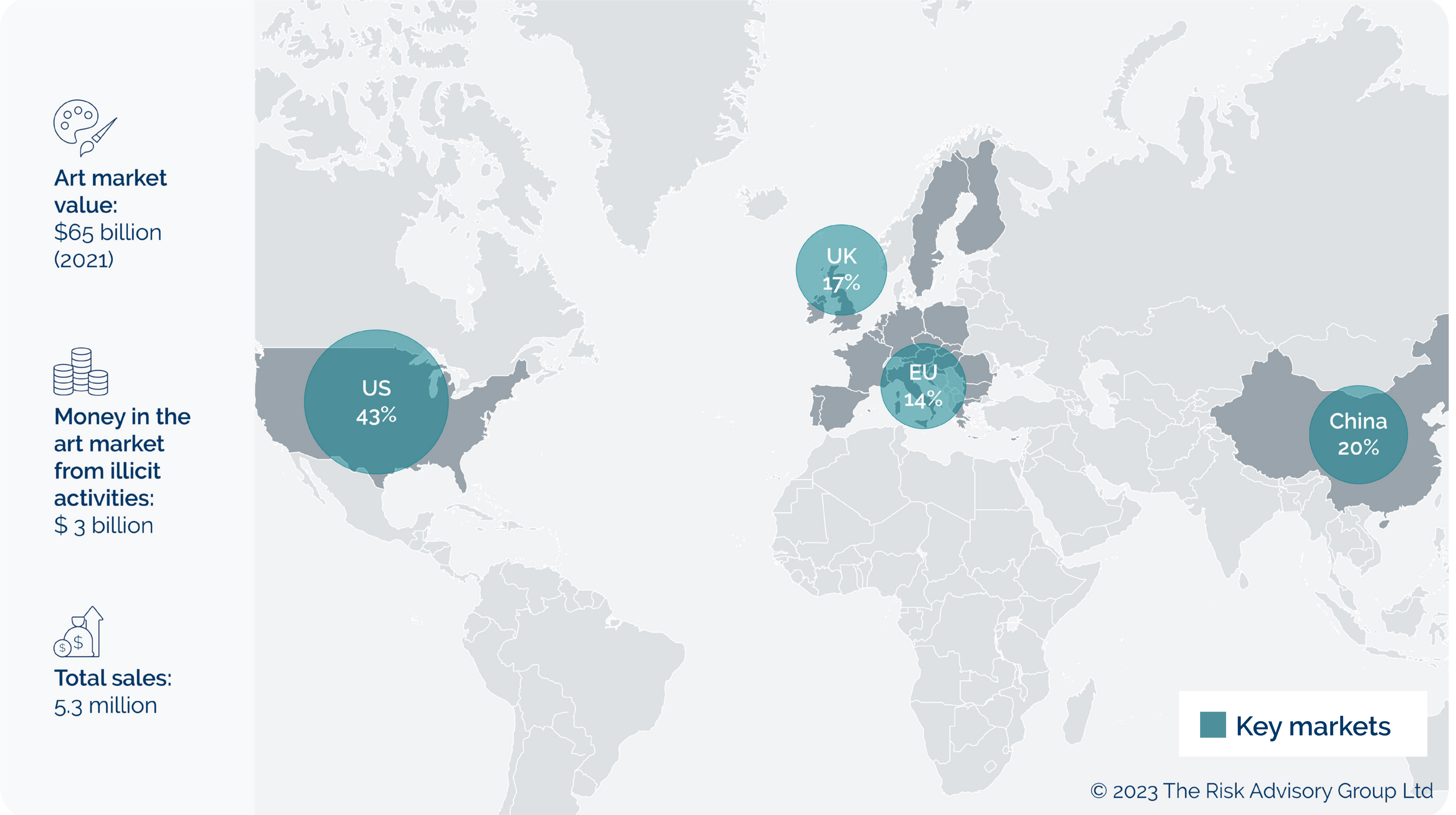
# The art of laundering money

Money laundering is a serious and increasingly challenging problem in the art industry. In response, the EU, UK and US have all tightened regulations in recent years. This means that art market participants must be proactive in analysing customer information or face the risk of financial penalties and serious reputational damage.

The art market is highly vulnerable to illicit activities. The total worldwide market was valued at over $65 billion in 2021 and the UN Office on Drugs and Crime estimates that some 5 percent of this market (worth $3 billion) is being used to launder money obtained through crime.




Criminals are attracted to the art market by the high volumes, international sales, high price volatility, and anonymity of transactions. These characteristics enable criminals to use the market to launder the proceeds of crime from drug trafficking, modern slavery and theft, among other areas. More simply, the market can be used to sell valuable objects that have been stolen

The characteristics of the art industry mean that it can be challenging for art market participants such as auction houses, dealers and galleries to identify and report illicit activity. The increasing use of cryptocurrencies and the introduction of non-fungible tokens, which are not yet well regulated, add additional risk.

## EU, US and UK tackle the problem

Authorities in the leading art markets, recognising the scale of the challenge, have recently tightened anti-money laundering regulations, placing greater responsibility on market participants and increasing the financial penalties that can be imposed on those who do not conform. These regulations include measures focused on establishing the ultimate beneficial ownership of pieces, understanding the source of wealth of buyers, and encouraging wider awareness throughout the market. The most important recent initiatives are:

**The US Anti-Money Laundering Act of 2020**

Which requires art businesses to identify the ultimate beneficial owners, keep provenance and transaction records, and adopt and audit appropriate compliance policies.

**The Sixth EU Anti-Money Laundering Directive** (implemented in June 2021)

Which made anti-money laundering screening and customer due diligence compulsory for all art market participants and introduced sanctions for violators in the EU.

**The UK Money Laundering and Terrorist Financing Regulations 2019**

Which outline similar measures to the EU legislation and require art market participants handling transactions worth £10,000 or more to register or face fines of up to £100,000.

**The Financial Action Task Force** (FATF)

Issued a report in February 2023 highlighting the risks in the art market. The report similarly pushed for market participants to implement anti-money laundering programmes and undertake customer due diligence on suspicious operations.

Non-compliance now comes with the risk of substantial fines, with the penalties for money laundering including jail sentences. The risk of reputational damage has also increased, which overlooked could lead to the disruption of business relationships for many years.

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## Significant risks

The risk of involvement in illicit activities is well illustrated by the case of Jean-Luc Martinez, former president and director of the Louvre in Paris. A French appeals court recently upheld fraud charges against him in an indictment for money laundering and complicity in the smuggling of artefacts for the Louvre Abu Dhabi: the artefacts had allegedly been looted and had fraudulent certificates of provenance as well as fake export licences.

The Martinez case demonstrates the need for art market participants to understand as much as possible about the origin of the assets being sold, as well as the identities and sources of wealth of those funding the purchase. And these checks must be undertaken proactively: once a sale has been completed, it may be too late to check where the funds for the purchase came from. Art market participants must therefore prioritise effective customer due diligence, including know your customer (KYC) checks.

Nevertheless, identifying the ultimate beneficial owner of funds is rarely straightforward. In the art market in particular ownership often passes through complex corporate structures in multiple jurisdictions that are designed to hide the true identity of those behind the transaction.

Tracing the links in the chain may require substantial work and specialist knowledge. Tasks include identifying the various corporate entities in the chain, which may be registered in offshore locations; mapping the links between them; ascertaining who is behind them; and ultimately establishing if there are any questions over the sources of their wealth (including pending investigations).

## A daunting task

The extent of the work involved in such KYC checks and the specialist knowledge required may be daunting for in-house teams, particularly in organisations with limited resources and when time is short ahead of a planned sale or auction.

Art market participants should therefore consider working closely with due-diligence specialists who have experience in anti-money laundering investigations and are better equipped to identify potential risks. Engaging in such work early will help ensure that potential issues are identified in good time and appropriate action can be taken, so as to avoid unwanted penalties. And when things do go wrong, art market participants and their legal counsel can still call upon the assistance of such specialists in dealing with potential violations of the newly introduced legislation, or disputes centred around the art itself.

The Risk Advisory Group has experience conducting complex investigations in the art industry across the globe. We have undertaken multiple investigations into the asset profiles and sources of wealth of individuals with whom our clients are transacting, as well as into counterparties to legal action. Below we highlight two recent investigations that dealt with the complexities presented by the art industry.

## Case study 1: Investigation on behalf of UK art gallery

We were instructed by our client to investigate the director of a major UK art house. Specifically, our client sought to understand the director's ties to an art dealer accused of fraudulently selling art without the owner's consent and withholding the proceeds from them.

We spoke to a range of sources in the UK art community, including directors of art houses, lawyers focusing on art litigation, and individual art dealers. We found that the director maintained long-standing business ties to the art dealer accused of fraud and was aware of the art dealer's fraudulent activities. Our sources told us that while the director had not directly participated in the fraud, ongoing lawsuits against the art dealer could be expanded to include the director.

## Case study 2: Source of wealth assessment of a high-net worth individual

Our client, a global investment bank, was interested in assessing the wealth of a high-net worth individual who had amassed his wealth over two decades of activity in the art and antiques industry in Europe and the Middle East.

Throughout our investigation, we gathered information relating to the value of the individuals' art collection, as well as the circumstances through which he acquired the items. This included conversations with appraisers who were able to estimate the value of the assets and transactions. As a result of these we were able to put together a detailed source of wealth story and provide an accurate estimate of their net worth.

To discuss this article or any other art related challenges, please get in touch with one of our experts - Senior Associate, David Martin Santidrian or Director, Ariana Issa.