



Two Ways the Art World Could Get Swept into the Sanctions Orbit

Governments expanding sanctions to target, among others, Russian individuals and entities, meshed with anti-money laundering measures, will directly impact players in the art market. We explain two triggers that could ensnare art market stakeholders in sanctions risk.

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Sanctions targeting, among others, Russian individuals and entities, layered over anti-money laundering measures, are likely to have a direct impact on the art market.

Below are two potential “triggers” that could result in art market players becoming unwitting targets of government sanctions:

Trigger #1: Becoming a Target Under the U.S. Enablers Act

Recent developments signal that the U.S. government is poised to require greater transparency and take a more aggressive stance towards the art industry than it has in the past.

In June 2022, the U.S. House of Representatives voted to include the Enablers Act in the larger National Defense Authorization Act. If passed, the act will add “*persons who trade in works of art, antiques, or collectibles*” to the category of those who must assist the U.S. government in preventing and detecting financial crimes. This is likely to bolster efforts to freeze art market assets related to Russian sanctioned individuals and entities.

Trigger #2: Falling Under the UK’s Broadened Scope of Banned Services to Russia

The United Kingdom instituted multiple sanctions throughout the summer of 2022 which broadened the scope of scrutinized services to Russian individuals and those associated with them.

Amendments were added in July providing for new financial sanctions and broadening the scope of activities that qualify individuals for association with sanctioned individuals. Two months later, following Russia’s announcement that it had annexed four regions of Ukraine, the UK Foreign Secretary announced the expansion of banned professional services to Russia, including transactional legal advisory services and auditing services.

These sanctions and bans also layer onto existing anti-money laundering regulations applicable to art market participants. It remains to be seen how these service bans will be interpreted and whether they will extend, for example, to art advisory or valuation services.

Mitigating the Risks

While industry players routinely add sanctions regimes into ongoing due diligence of counterparties, they could further mitigate the risks of exposure by taking proactive measures such as assessing works for potential litigation vulnerabilities and/or preparing a game plan should a private dispute or even law enforcement issue arise, considering key offshore jurisdictions such as Cayman Islands, BVI and elsewhere.

Litigation risks and enforcement issues might arise despite your company or clients’ best efforts to comply. The current regulatory landscape is especially aggressive and inclusive of parties who are often clean actors but still encounter unwelcome news implicating them as enablers. Those transacting in the art market should remain ahead of the curve to protect both themselves and their clients against potential exposure.

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