

**Kobre & Kim's Cross-Border
Disputes Team**

JANUARY 26, 2024

**Daniel S. Lee**
Seoul
daniel.lee@kobrekim.com**Elina Sfongali**
Cyprus
elina.sfongali@kobrekim.com**Evelyn Baltodano
Sheehan**
Miami
evelyn.sheehan@kobrekim.com**Nicholas Surmacz**
London
nicholas.surmacz@kobrekim.co.uk**Richard Clarke**
Dubai
richard.clarke@kobrekim.com

Ultra-High-Net-Worth Individuals Can Mitigate Two Hazards Lurking at Free Ports

Free ports allow ultra-high-net-worth individuals to securely store, trade and transport assets, including artwork, while benefiting from favorable tax and customs regulations. However, free ports may still be vulnerable when authorities make allegations of misconduct and move to freeze or seize assets. UHNWIs and their advisors should contemplate proactive steps to protect their global portfolios.

Free ports enable ultra-high-net-worth individuals (UHNWIs) to store, trade and transport assets - including artwork and other collections - often while benefitting from enhanced security, favorable tax and customs regulations and, in some cases, privacy. Free ports cannot, however, mitigate the threats that assets face when authorities make allegations of misconduct and issue freezing or seizure orders. In January 2024, for example, the UK National Crime Agency warned artwork storage facilities to be on the look out for individuals evading international sanctions, demonstrating increasing scrutiny on assets stored in free ports.

Well known free ports are located in Switzerland, Luxembourg, Singapore and UAE. As UHNWIs consider varying options for managing their global art portfolios they should also contemplate proactive steps to preserve legal defenses.

Hazard #1: Data Leaks, Misconception, and Business Disruption

Where private information about an art collector's holdings is leaked or published online, third parties can make assumptions about the provenance of certain works or even the lawfulness of an owner's source of funds based on how the works are held. Those assumptions, particularly when given credence by incomplete reports or adversaries with an interest in spreading misinformation, can have a material impact on a collector's ability to buy and sell other works, interact with financial institutions and carry out business. They can even increase an individual's risk of sanctions designation as government authorities increasingly rely on information in public reporting to make the political decision to sanction private citizens for alleged ties to a geopolitical rival.

Hazard #2: Investigation into Source of Funds

This content provides information on legal issues and developments of interest to our clients and friends and should not be construed as legal advice on any matter, specific facts or circumstances. The distribution of our content is not intended to create, and receipt of it does not constitute, an attorney-client relationship.

If authorities have reason to suspect that an UHNWI's artworks stored in free ports may have been purchased with proceeds of criminal activity, they can initiate an investigation and work to target the art directly. Authorities, including agencies with the resources to investigate allegations across borders in the United States or United Kingdom, may pursue bank records as well as records held by the relevant art market participants relating to the specific piece of art and attempt to build a money laundering case that, unless successfully defended, can empower them to seek judicial orders that the works be forfeited.

Prepare to Confront the Hazards

Those considering or already storing assets in free ports, or working with clients that do, can proactively anticipate these hazards. One way is to maintain clear records of artwork provenance and evidence of the legitimate sources of funds used to acquire works, as these records can, among other benefits, enable clear and timely responses when third parties raise questions. Another way is to evaluate beneficial owners and others with links to a collection for any risk of sanctions scrutiny by government authorities and develop a proactive strategy should any government enforcement issues arise.

Notwithstanding that free ports offer advantages for UHNWIs transacting within them, risks remain, and having proper checks in place allows for collectors to preserve such legitimate assets in the face of potential threats. In this manner, UHNWIs and their advisors can anticipate and manage hazards to minimize exposure to their personal and business interests.

About Kobre & Kim

Kobre & Kim is a global law practice operating across four continents with an emphasis on cross-border disputes and international investigations, particularly involving fraud and misconduct.

To preserve the assets, liberty, and reputation of ultra-high-net-worth individuals (UHNWIs) and HNWIs with global business interests, we:

- Provide offensive and defensive cross-border litigation and crisis management strategies in court and out-of-court;
- Bring together roughly a dozen former U.S. and UK government lawyers across Asia, EMEA, Latin America, and the U.S.;
- Have attorneys with niche experience in the art space, having handled complex art and asset seizure matters, as well as served as legal counsel to the National Gallery of Art in Washington D.C., USA.