

The European and British regimes

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The European Union chose a broader approach. The Fifth Anti-Money Laundering Directive of 2018 added two categories of obliged entities that matter for the art market. The first comprises persons trading or acting as intermediaries in works of art, including galleries and auction houses, where a transaction or a series of linked transactions amounts to ten thousand euros or more. The second comprises persons storing, trading or acting as intermediaries in works of art within free ports, at the same threshold. Member states had to transpose these rules by January 2020. Germany implemented them through amendments to its Money Laundering Act, which treats art dealers as obliged entities above the threshold regardless of the means of payment.¹

The new European framework adopted in 2024 continues this approach in a directly applicable regulation. Regulation (EU) 2024/1624 lists traders in cultural goods and persons storing them in free zones among the obliged entities, with uniform application in all member states from July 2027. The same package created the Anti-Money Laundering Authority (AMLA) in Frankfurt am Main, which will coordinate the national supervisors. Swiss dealers with branches or clients in the Union will therefore be held to the European standard by their counterparties and banks, irrespective of the narrower scope of Swiss law.²

The United Kingdom implemented the same standard before its departure from the Union took full effect. The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 introduced the category of "art market participants" with effect from 10 January 2020. It covers persons who trade in, or act as intermediaries in the sale or purchase of, works of art where the transaction or a series of linked transactions amounts to ten thousand euros or more. Art market participants must register with HM Revenue and Customs, which supervises them. Once registered, they must apply customer due diligence, conduct a risk assessment and train their

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staff. The British rules matter for Basel because many of the dealers exhibiting at Art Basel are based in London.³

In the United States, the Anti-Money Laundering Act of 2020 extended the Bank Secrecy Act to dealers in antiquities and mandated a study on the trade in works of art. Congress has so far left the general art trade outside the regime, although proposals to include it have been made repeatedly. These differences between the American, European and Swiss approaches have practical consequences for an international fair. A dealer from New York, a gallery from Paris and an auction house from Zurich may be subject to three different sets of rules in transactions concluded on neighbouring stands in Basel.⁴

1 Notes

1. Art. 2 para. 1 point 3 lit. i and j of Directive (EU) 2015/849 as amended by Directive (EU) 2018/843 (AMLD5); § 2 para. 1 no. 16 GwG (Germany) on dealers in goods, art intermediaries and art storers. To be verified. ↩
2. Regulation (EU) 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, application from 10 July 2027, and Regulation (EU) 2024/1620 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism. Status to be verified. ↩
3. The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (SI 2019/1511), inserting the definition of "art market participant" into regulation 14 of the Money Laundering Regulations 2017, in force from 10 January 2020; HMRC guidance for art market participants. To be verified. ↩
4. Section 6110 of the Anti-Money Laundering Act of 2020 (part of the National Defense Authorization Act for Fiscal Year 2021) on dealers in antiquities and the study on the art trade; subsequent rule-making by FinCEN. Status to be verified. ↩

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