



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO



FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO

Ministry of Finance

**AML/CFT/CPF GUIDANCE FOR  
ART DEALERS  
UPDATED 11 APRIL 2024**

**Purpose**

This Guidance is intended to provide assistance to persons engaged in the buying and selling of works of any category of Art in Trinidad and Tobago with their AML/CFT/CPF obligations.

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## 1. INTRODUCTION

This Guidance is intended to provide assistance to persons or entities, engaged in the buying and selling of works of any category of art and supervised by the Financial Intelligence Unit of Trinidad and Tobago (the FIUTT), in complying with their Anti-Money Laundering, Counter Financing of Terrorism and Counter Proliferation Financing (“AML/CFT/CPF”) legal obligations.

In accordance with the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 (“FIUTTA”) and the Proceeds of Crime Act, Chap. 11:27 (“POCA”) the FIUTT is the Supervisory Authority for all listed businesses. These listed businesses are itemised in the First Schedule of the POCA, within which Art Dealers are included.

Every individual or entity conducting the business of real estate, as described in the First Schedule of the POCA, is required to honour his/its AML/CFT/CPF obligations set out in the following Acts and Regulations:

1. The Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01 (“FIUTTA”)
2. The Financial Intelligence Unit of Trinidad and Tobago regulations, 2011 (“FIUTT Regulations”)
3. The Proceeds of Crime Act, Chapter 11:27 (“POCA”)
4. The Financial Obligations Regulations, 2010 (“FORs”)
5. The Anti-Terrorism Act, Chapter 12:07 (“ATA”)
6. The Financial Obligations (Financing of Terrorism) Regulations, 2011 (“FOFTRs”)
7. Economic Sanctions (Implementation of United Nations Resolutions on the Democratic People’s Republic of Korea) Order, 2018 (“ESO”)
8. Economic Sanctions (Implementation of United Nations Resolutions on the Islamic Republic of Iran) Order, 2023 (“ESO”)

*N.B. This Guidance is a general, informative document and is not intended to replace any of the above mentioned AML/CFT/CPF Acts and Regulations. This Guidance should not be construed as legal advice and should be read in conjunction with the said laws.*

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## 2. WHY SUPERVISE ART DEALERS?

An Art Dealer is a Listed Business described in the First Schedule of the POCA as ***‘an individual or company that buys and sells works of any category of art’***. Entities and individuals who engage in these activities as a business may be vulnerable to abuse by criminals seeking to launder the proceeds of crime or finance illegal activities. This vulnerability can be attributed to the fact that most types of art can be classified as high value goods, some of which may also gain value over time. Art can be bought using the proceeds of crime, which effectively converts such proceeds to a legitimate asset, which can then be sold at an equivalent or a higher price at a later date. This process can be used to conceal the illegitimate origins of the funds used to purchase the artwork and may even result in a profit making enterprise for the criminal.

Other vulnerabilities inherent to Art Dealers include their access to international market and networks, the common use of intermediaries or proxies for transactions with their clients, and the general culture of discretion where buyers and sellers are often unknown to each other.

As a result, Art Dealers may unwittingly be misused by criminals for Money Laundering, Terrorist Financing, Proliferation Financing (“ML/TF/PF”) and even for illicit trade in stolen art. It is therefore vital that Art Dealers should therefore be aware of their ML/TF/PF and illicit trade risks and adopt the right measures to mitigate these risks.

The requirement for Art Dealers to register with the FIUTT and comply with AML/CFT/CPF obligations enables them to effectively mitigate these risks and ultimately avoid potential misuse.

***For scenarios demonstrating the misuse of Art Dealers for money laundering, please see [Appendix 1](#)***

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### 3. DO THESE OBLIGATIONS APPLY TO YOU?

These obligations apply to you if you are an individual or company, partnership or firm carrying on the business of buying and selling works of any category of art (an “Art Dealer”).

Accordingly, this guidance applies to you if you are a buyer, vendor, or intermediary involved in the sale of art works as professionals and includes for example auction houses, galleries, museums and art fairs and other art market operators.

***Art includes works of drawing, painting, sculpture, engraving, lithography, photography and tapestry.***

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## 4. WHAT ARE YOUR AML/CFT/CPF LEGAL OBLIGATIONS?

The AML/CFT/CPF laws of Trinidad and Tobago impose the following obligations:

- I. [Registration with the FIUTT](#)
- II. [Appoint a Compliance Officer and Alternate Compliance Officer](#)
- III. [Assessing AML/CFT/CPF Risks](#)
- IV. [Develop and implement a Compliance Programme](#)
- V. [Conducting Customer Due Diligence](#)
- VI. [Training](#)
- VII. [Internal and External Audits](#)
- VIII. [Submission of Reports to the FIUTT](#)
- IX. [Keep Records](#)

Please note that this is not an exhaustive list of obligations and each entity is required to consult the AML/CFT/CPF laws referred to at the Introduction of this Guidance to ensure compliance.

### I. REGISTRATION WITH THE FIUTT

You **must** register with the FIUTT if you are an Art Dealer as explained at [section 3](#) herein. Your application for registration must be received within three months of commencing this business activity or of your incorporation as a company or registration as a business under the laws of Trinidad and Tobago, whichever is the **earlier** date. (See *Section 18B of the FIUTTA and Regulation 28(1) of the FIUTT Regulations*).

To register with the FIUTT, you may visit the FIUTT's website to access the [FIUTT Registration of Supervised Entities Form](#) and [relevant instructions](#).

***Please note that pursuant to Regulation 28(2) of the FIUTT Regulations, failure to register with the FIUTT within the time stipulated is an offence for which you will be liable on summary conviction to a fine of \$50,000 and to a further fine of \$5,000 for each day the offence continues.***

- **Change of address or change of Directors**

You are required to notify the FIUTT where there is a change of Directors, Owners, Partners or Compliance Officer within thirty (30) days of such change.

You must also notify the FIUTT of a change of address of your registered office or principal place of business within thirty (30) days of such change. (See *Regulations 29A and 29(1) of the FIUTT Regulations*)

Art Dealers supervised by the FIUTT are required to complete the Compliance Officer Fit and Proper Questionnaire, where there is a change of the Compliance Officer and Alternate Compliance Officer.

Submissions of such changes can be made manually or electronically.

To make a manual submission, visit the FIUTT at Level 25, Tower D, International Waterfront Complex, 1A Wrightson Road. Electronic submissions can be made via [fiucompliance@gov.tt](mailto:fiucompliance@gov.tt)

***Failure to notify the FIUTT of a change of address of your registered office or principal place of business within thirty (30) days is an offence and you will be liable on summary conviction to a fine of twenty thousand dollars (\$20, 000).***

***Additionally, failure to notify the FIUTT of a change of Directors, Owners, Partners or Compliance Officer within thirty (30) days is an offence and you will be liable on summary conviction to a fine of twenty thousand dollars \$20,000. (See Regulations 29(2) and 29A (2) of the FIUTT Regulations).***

- **De-registration**

In the circumstances where your entity is no longer performing the business activities of an Art Dealer as described above, it is advised that an application for de-registration is made to the FIUTT (*See Section 18BA of the FIUTTA*). In order to deregister with the FIUTT, you must first ensure that your business is **not** engaged in **any** business activity listed on the FIUTT's **List of Supervised Sectors**.

To deregister with the FIUTT, you must submit:

- ✓ a completed Deregistration Form to the FIUTT ([click here to access the De-registration of Listed Business Form](#)); and
- ✓ evidence that you are no longer performing the activities which required you to be registered with the FIUTT.

Such evidence may include, in the case of a Company, your letter of request to the Registrar General's Department to be struck off the Companies Registry, or, request for an amendment to the nature of business on your Articles of Incorporation.

In the case of a Registered Business, you are required to submit copy of your Notice of Cessation (Form 9), as the legal presumption is that the business is being carried on, as long as the business name remains on the Register of Business Names<sup>1</sup>. Submissions for deregistration can be made manually or electronically. To make a manual submission, visit the FIUTT at Level 25, Tower D, International Waterfront Complex, 1A Wrightson Road. Electronic submissions can be made via [fiucompliance@gov.tt](mailto:fiucompliance@gov.tt)

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<sup>1</sup> See guidance from the Registrar General's Department under the heading "Businesses Registered Under the Registration of Business Names Act Chap. 82:85" at the following link: <http://legalaffairs.gov.tt/faqs.php>.

Once the FIUTT is satisfied that you are no longer performing the activities which requires you to be registered, your application for deregistration will be accepted and you will be issued with a Notice of De-registration. In addition, your entity's name will be removed from the FIUTT's List of Registrants, inserted to the FIUTT's List of De-Registration, and uploaded on our website.

## II. APPOINT A COMPLIANCE OFFICER AND ALTERNATE COMPLIANCE OFFICER

Regulation 3(5) of the FORs requires you to designate a Compliance Officer for the purpose of securing compliance with AML/CFT/CPF obligations. Regulation 3(8) of the FORs requires you to also appoint an alternate compliance officer who will be required to undertake the functions of the Compliance Officer should the Compliance Officer be absent from duty for both short and extended periods of time.

In accordance with Regulations 3(6) of the FORs, the Compliance Officer and alternate Compliance Officer of the business shall be a senior employee of the business or such other competent professional.

Please note that Regulations 3(8) and 3(10) of the FORS mandates that you seek the written approval of the FIUTT after designating persons as the business' Compliance Officer and Alternate Compliance Officer, respectively.

**For guidance on designating a Compliance Officer and Alternate Compliance Officer, and receiving approval from the FIUTT, please [click here](#).**

## III. ASSESSING RISK

Regulation 7 of the FORs requires you to adopt a risk-based approach to monitoring financial activities within your business. Essentially, you are required to take steps to identify, assess, understand and document the ML/TF/PF risks of your business to determine those clients/transactions that are of low, medium or high risk.

FATF advises in its guidance, updated July 2022, that a risk assessment will aid in identifying the ML/TF/PF risks that your business is potentially exposed to during the course of its activities. Further, a documented assessment should include current and emerging ML/TF/PF trends while considering how such issues may impact the business.

Your risk assessment ought to follow an approach that considers, amongst other things, the size of your business, the financial value of transactions involving your business and the nature of such transactions

When identifying potential risks to your business, the primary risk categories may include:

1. **Geographical factors**- this includes noting the country/jurisdiction where your clients, parties to the transactions and/or the property involved, are from. You must consider the effectiveness of that country's AML/CFT/CPF regime, identified deficiencies, whether the country is subject to sanctions by international organisations. This can be done through conducting checks on the FATF's list of High-Risk Jurisdictions subject to a Call for Action and jurisdictions under increased monitoring. The FIUTT regularly publishes FATF public statements of jurisdictions who have been added to or removed from these lists [here](#).

Geographical risk should also be considered when the funds to be used in the transaction have been generated from abroad and the transaction is conducted without face-to face contact.

2. **Client risk**- this includes considering the degree of ML/TF/PF risk posed by your client and the parties involved in the transaction including any beneficial owners.

Higher risk circumstances for clients include, but are not limited to, whether the parties are from a higher risk jurisdiction, as identified above, whether they are listed on any list of targeted financial sanctions, whether they have any connection to industries associated with higher ML/TF/PF risks, use an unverifiable source of funds, and whether they may use foreign companies to conduct the transaction.

3. **Transaction risk**- This type of risk considers the methods of financing used by clients and other parties to a transaction. In assessing this risk, you should take into consideration your regular business practices and encourage use of the regulated financial system to when conducting transactions. Cash transactions for high value transactions should be discouraged.

Circumstances which may indicate higher transaction risk includes, but are not limited to, the use of third parties, oversees accounts or persons/entities from higher risk jurisdictions to send or receive funds, the use of unusual means to finance the transaction, or unexplained and abrupt changes in financing arrangements.

The following circumstances may pose a higher risk of ML/TF/PF for Art Dealers:

1. **Large cash Transactions**

Cash is the mainstay of much organised criminal activity. For the criminal, it has the obvious advantage of leaving no discernible audit trail. Cash is also a weakness for criminals. Whilst they hold cash they are more at risk of being traced to the crime from which the cash was obtained. They will therefore often seek to dispose of cash into high value goods.

2. **High Value goods**

Money launderers normally want to move funds quickly in order to avoid detection. This is more easily done in one-off transactions. The purchase of high value goods, paid for in cash, with good portability represents an attractive area for money launderers. Goods purchased with cash that can easily be sold on (even for a loss) for 'clean money' are especially

attractive. High value goods are also a useful store of value and may form part of a criminal lifestyle. Goods purchased would generally be luxury items that could be potentially sold on through the black market, for example, jewellery, antiques and high performance cars.

### **3. Customer's behaviour**

Risk can be indicated by a customer's behaviour. For example, where a customer initially proposes to pay for goods by credit/debit card/cheque and then at the last minute presents cash as the means of payment prior to taking ownership of the goods.

### **4. Provenance/Origin**

Unclear or doubtful or incomplete provenance of the goods.

### **5. Requests for non-disclosure to third parties.**

See [Appendix II](#) for a list of red flags and suspicious indicators of which you should be cognizant.

Upon completion of your risk assessment, your [compliance programme](#) should be tailored to provide for the specific policies, procedures and controls to mitigate against the risks identified. These include documenting the appropriate Customer Due Diligence measures which ought to be applied for large transactions (TT\$50,000.00 or higher) and in higher and lower risk circumstances.

Please also visit our website for further guidance on [adopting a risk based approach](#).

## **IV. DEVELOP AND IMPLEMENT A COMPLIANCE PROGRAMME**

Regulation 7 of the FORs requires you to develop a written Compliance Programme ("CP") to include specific policies, procedures and controls necessary for meeting the entity's AML/CFT/CPF obligations.

The CP is a written document which should include the risk assessment that you have conducted for your particular business, as well as your system of internal policies, procedures, and controls which are intended to mitigate the vulnerabilities and inherent risks identified in your risk assessment, which can be exploited by money launderers and terrorism financiers.

After development of your CP, you must ensure that the CP is approved by senior management, effectively implemented and that the appropriate procedures are followed in a timely manner. As the AML/CFT/CPF Supervisory Authority, the FIUTT is empowered to examine the effectiveness of the implementation of the measures outlined in your Compliance Programme.

Please click here for the FIUTT's guidance on [Compliance Programme](#).

## V. CONDUCTING CUSTOMER DUE DILIGENCE

Your CP should contain policies and procedures for conducting Customer Due Diligence (“CDD”) in the appropriate circumstances. This includes setting out the specific procedures which must be followed when conducting transactions with higher and lower risk customers.

Art Dealers should aim to ensure they conduct business solely with customers they can reasonably confirm are engaging in legitimate business. In meeting such obligation, Art Dealers should implement adequate and reasonable measures to establish the identity of their customers and ensure the funds utilized to purchase any category of art are provided by the purchaser of the art and not by a third party purchaser.

Part III of the FORs sets out the necessary approach to conducting CDD which supervised entities must follow when entering into a business relationship with a customer or when conducting transactions with customers.

Additionally, the FIUTT has issued detailed guidance on measures which should be taken when conducting CDD. This guidance can be found [here](#).

Please note that in addition to the general ML/TF/PF risk factors contained in the CDD guidance, risk factors specific to the business of Art Dealers should be considered when risk rating clients for the purposes of CDD.

## VI. TRAINING

Training is an essential component in combatting of money laundering, the financing of terrorism and financing of proliferation of weapons of mass destruction.

Regulation 6 of the FORS mandate that arrangements be made for training and ongoing training of the Directors and all members of staff to equip them to:

- (a) perform their AML/CFT/CPF obligations;
- (b) understand the techniques for identifying any suspicious transactions of suspicious activities; and
- (c) Understand the money laundering threats posed by new and developing technologies.

It is the responsibility of the Art Dealer to develop on-going training programmes for the Compliance Officer, alternate Compliance Officer, owners/Directors and members of staff at the appropriate levels of the business.

Please [click here](#) to visit the FIUTT’s website for further information on training.

## VII. INTERNAL AND EXTERNAL AUDIT

Regulation 10 of the FORs requires you to engage the services of internal and external auditors to review the CP for your business.

In reviewing the CP, the external auditor is required to evaluate your business' compliance with relevant AML/CFT/CPF legislation and guidelines; and submit reports generated and recommendations annually to the relevant Supervisory Authority. The internal auditor must ensure that your policies, procedures and systems are in compliance with the FORs and that the level of transaction testing is in line with the risk profiles of your clients.

Please note that in the circumstances where you fail to engage the services of an external or internal auditor, the FIUTT will assign a competent professional, at your cost, to perform the relevant functions highlighted above.

Further guidance on engaging auditors to conduct the internal and external audits can be found [here](#).

## VIII. SUBMISSION OF REPORTS TO THE FIUTT

As a supervised entity, you are required to submit three (3) types of reports to the FIUTT:

- **Suspicious Transactions Reports or Suspicious Activity Reports (STRs/SARs);**
- **reports of Terrorist Funds in your possession (TFR); and**
- **reports of Property/Funds for Proliferation Financing in your possession (ESR)**

The relationship between reporting entities and the FIUTT is a key one given that the FIUTT can only perform its analytical function to produce financial intelligence if the various reporting entities report critical information they may have.

- Reporting Suspicious Transactions and Activities

You **MUST** submit a Suspicious Transaction Report or Suspicious Activity Report (STR/SAR) to the FIUTT where ***you know or have reasonable grounds to suspect that:***

- i. funds being used for the purpose of a transaction are the proceeds of a criminal conduct (*See S55A of the POCA*);
- ii. a transaction or an attempted transaction is related to the commission or attempted commission of a Money Laundering offence;
- iii. an attempted transaction is related to a Terrorist Financing (*see Section 22C(2) of ATA*) or Proliferation offence (*see Clause 9 (2) of ESOs*); or

- iv. funds within the entity are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism (*See S22C (3) of the ATA*).

The STR/SAR must be submitted to the FIUTT within fourteen (14) days of the date the transaction was **deemed** to be suspicious (*See S55A (3) of the POCA and S 22C (6) of the ATA*)

- **Reporting Terrorist Property/Funds**

A Reporting Entity is required to screen its customers/clients against the following lists:

- (a) [United Nations Security Council Resolution \(UNSCR\) 1267/1989/2253 Sanctions List](#) and [United Nations 1988 Sanctions Committee List](#) (together referred to as the “List of Designated Entities” in accordance with section 2(1) of the ATA<sup>2</sup>); and
- (b) [Trinidad and Tobago Consolidated List of Court Orders](#);

Screening of your clients should occur at the following two (2) stages:

- (a) At the on-boarding stage; **and**
- (b) *Immediately and without delay* upon receipt of a notification from the FIUTT that the List of Designated Entities and/or Consolidated List of High Court Orders has been updated.

If you identify that your client’s name appears on either of the above-mentioned lists, you are required to submit a TFR **immediately** to the FIUTT.

For Guidance on reporting Terrorist Property or Funds as it relates to the relevant form and procedure please click [here](#).

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<sup>2</sup> Please note that both the ISIL (Da'esh) & Al-Qaida Sanctions Committee List - UNSCR 1267/1989/2253, and the UN Security Council Sanctions Committee Established Pursuant to Resolution 1988 (Taliban) List are contained in the [United Nations Security Council Consolidated List](#). If you have consulted the United Nations Security Council Consolidated List, you would have consulted both the ISIL (Da'esh) & Al-Qaida Sanctions Committee List - UNSCR 1267/1989/2253, and the UN Security Council Sanctions Committee Established Pursuant to Resolution 1988 (Taliban) Lists, together with all other lists maintained by the UN Security Council.

- Reporting Property/Funds for the Proliferation Financing of weapons of mass destruction.

You are required to immediately complete and submit an Economic Sanctions Report (“ESR”) to the FIUTT if upon screening your client against the List of Entities subject to a freezing High Court Order under the ESOs which is circulated by the Attorney General, you have acquired knowledge or reasonable suspicion that the client’s property/ funds is that of such listed entity. *(See Clause 9 of the ESOs)*

For Guidance on reporting Property or funds for Proliferation Financing as it relates to the relevant form and procedure please click [here](#).

#### ○ *Defining Knowledge and Suspicion*

The first criterion above provides that, before you become obliged to report, you must **know** or **have reasonable grounds for suspecting**, that some other person is engaged in ML/TF/PF.

If you actually ‘know’ that your client is engaged in such a criminal activity, then your situation is quite straightforward – the first criterion is met.

#### **Reasonable grounds to suspect**

Having ‘reasonable grounds to suspect’ requires you to have more than mere suspicion, meaning that there is a possibility that a ML/TF/PF offence has occurred.

To have ‘reasonable grounds to suspect’, you are expected to have considered the facts, context and ML/TF/PF indicators related to a financial transaction and, having reviewed this information, you concluded that there are in fact reasonable grounds to suspect that the particular financial transaction is related to the commission of an ML/TF/PF offence. You need not verify the facts, context or ML/TF indicators that led to your suspicion.

You do not need to prove that an ML/TF/PF offence has actually occurred. Your suspicion however must be reasonable and not biased or prejudiced.

#### **Attempted Transactions**

If a client attempts to conduct a transaction, but for whatever reason that transaction is not completed, and you think that the attempted transaction is suspicious, you must report it to the FIUTT, and you must discontinue the business transaction or relationship with the entity.

An attempt is only when concrete action has been taken to proceed with the transaction.

o *How to identify a Suspicious Transaction or Activity*

Determining whether a transaction or activity is suspicious is based on your knowledge of the customer and of the industry. You and your employees, if any, are better positioned to identify transactions which lack justification or do not fall within the usual methods of legitimate business. While there may be general indicators of suspicious transactions, there are also indicators specific to Art Dealers which would help you and your employees to better identify suspicious transactions whether completed or attempted.

**For examples of Suspicious Indicators as it relates to Art Dealers, see [APPENDIX 2](#).**

For further guidance on Reporting STRs/SARs as it relates to procedure and associated offences, [click here](#).

## IX. RECORD KEEPING

As a supervised entity you are required to retain records, including those related to transactions and client identification, for a period of six (6) years in electronic or written form. Retention of these records and the exercise of proper record keeping practices enable you to comply with lawful requests for information from auditors, other competent authorities and law enforcement authorities that request these records for the purposes of criminal investigations or prosecutions (*See Regulation 31 of the FORS*).

For further information on your record keeping obligations please see the FIUTT's [Guidance to Supervised Entities on Record Keeping](#).

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## 5. GENERAL OFFENCE FOR FAILURE TO COMPLY WITH THE REGULATIONS AND FORS

Non-compliance with your obligations under the AML/CFT/CPF laws and regulations may result in criminal and or administrative sanctions.

### **Contravention of the POCA**

A FI or LB which does not comply with Sections 55, 55A and 55C or any regulations made under Section 56 of the POCA, commits an offence and is liable on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for a term of two years and on conviction on indictment, to a fine of three million dollars and to imprisonment for a term of seven years. *(See Section 57 of the POCA)*

### **Contravention of the FORS**

A FI or LB which does not comply with the FORs, commits an offence and is liable on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for a term of two years and on conviction on indictment, to a fine of three million dollars and to imprisonment for a term of seven years. *(See Section 57 of the POCA and Regulation 42 of the FORs)*

### **Contravention of the FIUTT Regulations**

Where a FI or LB commits an offence under the FIUTT Regulations where no penalty is specified, it shall be liable on summary conviction, to a fine of twenty-five hundred thousand dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; and on conviction on indictment, to a fine of one million dollars and to a further fine of fifty thousand dollars for each day that the offence continues. *(See Regulations 36 and 37 of the FIUTT Regulations)*

### **Contravention of the ATA**

A FI or LB which fails to comply with Section 22AB or Section 22C (1), (2) or (3) of the ATA commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment of two years and on conviction on indictment, a fine of three million dollars and imprisonment for seven years. *(See Section 42(1) of the ATA)*

Where a company commits an offence under Section 22AB or Section 22C (1), (2) or (3) of the ATA, any officer director or agent of the company who directed, authorized, assented to, or acquiesced in the commission of the offence or to whom any omission is attributable, is a party to the offence and is liable in summary conviction or conviction on indictment in the same manner as the above paragraph. *(See Section 42(2) of the ATA).*

### **Contravention of the ATA Regulations**

A FI or LB which does not comply with the ATA Regulations commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment of two years.  
*(See Section 42(1) of the ATA and Regulation 7 of the ATA Regulations).*

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## APPENDIX 1 - CASE STUDIES<sup>3</sup>

### Case 1: Fake Auction

The process involves a launderer putting a work up for auction which will be bought by an accomplice paying the auctioneer in cash using dirty money. The launderer/seller then receives a cheque from the auctioneer, and the money has thus been successfully laundered. The same technique can be used to the benefit of a dealer.

In August of 2000, the client entered a contract with a Swiss art dealer to buy and sell a well-known piece of art. The art dealer obtained the painting from a renowned European gallery for USD 10 million. The art dealer then sold the painting to an overseas company for USD 11.8 million. This company was acting as the exclusive agent of yet another overseas company. The two end buyers of the painting were the beneficial owners of that company. For their services rendered, the persons involved in the deal were to share the difference between the purchase price and the sales price; the client should receive USD 1.5 million, and the art dealer USD 100,000. Those involved in the deal did not know each other, nor were they aware of how much money each would receive. A few days after it had been bought, the painting was turned over to an auction house for further sale.

In May 2001, the Swiss art dealer learned that one of the end-buyers was allegedly entangled in an international corruption and money-laundering scheme. A high-ranking dignitary and fellow countryman of the person were reportedly also involved in this affair. Considering these circumstances, it was likely that the money used to buy this painting was of criminal origin. The Swiss art dealer notified MROS about his suspicions. The case has been passed on to law enforcement.

*Source: Egmont Group, The Role of Financial Intelligence Units in Fighting Corruption and Recovering Stolen Assets, An Egmont Group White Paper.*

### Case 2: Gallery Curator sells counterfeit works of art and transfers profits to himself

Over the course of several years Mr. T, a gallery curator sold more than 60 never-before exhibited and previously unknown works of art that he claimed were painted by some of the most famous artists of the 20th century. Mr. T sold these works of art to two prominent galleries for approximately \$10 million. In selling some of the paintings to the two galleries, he purported to represent a client with ties to France who had inherited the paintings and wanted to sell them, but who also wished to remain anonymous (the “purported French client”). For the remainder of the paintings, he purported to represent a Spanish collector (the “purported Spanish collector”). Mr. T

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<sup>3</sup> FATF (2022), Guidance for a Risk-Based Approach to the Real Estate Sector

also claimed that a portion of the price paid by the Manhattan galleries would be his commission for selling the paintings and that the remainder would be passed along to his clients.

In fact, as an investigation would later reveal:

- The paintings Mr. T sold were fake, that is, not by the hand of the artists that he represented them to be;
- Mr. T knew that the paintings were counterfeit and that the statements she made about their provenance were false;
- The purported French client on whose behalf he purported to sell most of the paintings to the Manhattan galleries never existed;
- The purported Spanish collector on whose behalf he claimed to sell the remainder of the paintings to the Manhattan galleries never owned the paintings;
- Instead of passing along a substantial portion of the proceeds of the sale of the various paintings, he kept all or substantially all the proceeds and transferred substantial portions of the proceeds to an account maintained by his family relative; and
- Mr. T concealed and disguised the nature, location, source, ownership, and control of the proceeds of sales of the fake works by causing the galleries to transfer substantial portions of the proceeds of the sales to foreign bank accounts, and by transferring, and causing to be transferred, proceeds of the sales from foreign bank accounts to accounts maintained in his country of origin.

*Extracted with minor alterations from: Long Island Art Dealer Indicted in Massive Art Fraud, Money Laundering, and Tax Scheme Glafira Rosales Charged with Knowingly Selling Fake Artworks Purportedly by Renowned Artists in \$30 Million Scheme – The Federal Bureau of Investigation, U.S.*

*Attorney's Office, July 17, 2013*

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## APPENDIX 2 - AML/CFT/CPF SUSPICIOUS INDICATORS FOR THE ART SECTOR

Money launderers normally want to move funds quickly in order to avoid detection. This is more easily done in one-off transactions. The purchase of high value art, paid for in cash, with good portability represents an attractive area for money launderers. Goods purchased with cash that can easily be sold on (even for a loss) for 'clean money' are especially attractive. Art which are high in value are also a useful store of value and may form part of a criminal lifestyle. These purchases would generally be luxury items that could be potentially sold on through the black market. There are no genuine reasons for paying large sums of money in cash.

1. Customer identification issues such as -
  - i The customer refuses or appears reluctant to provide information requested;
  - ii There appears to be inconsistencies in the information provided by the customer;
  - iii The customer purchases are inconsistent with other profile details such as employment, area of residence;
  - iv The customer is in a hurry to rush a transaction through, with promises to provide the information later.
2. The goods purchased, and/or the payment arrangements are not consistent with normal practice for that type of transaction Businesses where the level of cash activity is higher than the underlying business would justify.
3. The customer is paying in used notes or in small denominations.
4. The customer will not disclose the source of cash or there appears to be inconsistencies in the information provided by the customer
5. In the case of regular or established customers, there is a sudden increase in the frequency/value of transactions of a particular customer without reasonable explanation
6. The customer is buying from an unusual location in comparison to their location.
7. The method of delivery is unusual, for example, a request for immediate delivery, delivery to an address other than the customer's address, or the loading of high volume/bulky goods immediately into the customer's own transport.
8. Cash payment is only mentioned by the customer at the conclusion of the transaction.
9. Instruction on the form of payment changes suddenly just before the transaction goes through.

10. Customer's behaviour; for example, where a customer initially proposes to pay for goods by credit/debit card/cheque and then at the last minute presents cash as the means of payment prior to taking ownership of the goods.
11. Goods that are purchased and subsequently returned. (Returning high value goods paid for in cash and obtaining a refund by way of cheque enables the laundering of 'dirty money' by exchanging it for a legitimate retailer's cheque).
12. In the case of refunds, the customer:
  - i Enquires about the business's refund policy;
  - ii Seeks a refund for spurious reasons;
  - iii Seeks the repayment in the form of a cheque.

***Please note that this is not an exhaustive list of suspicious indicators.***

-END OF DOCUMENT-