Chapter 14

Private Art Businesses and Organized Crime

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Introduction

Private art businesses rarely see themselves as being susceptible to manipulation by organized criminal groups (OCGs). Even in the area of organized white-collar crime, (crimes such as financial fraud, tax evasion, and money laundering committed by multiple actors working in concert) art businesses specifically, and the art market more generally tend to downplay or outright deny the risk of criminal activity, while actively resisting regulation (see CINOA 2018; 2021). This internal assessment of risk is in stark contrast to external experts and government-level regulators who increasingly see the art market as susceptible to many forms of organized white-collar crime (Bowley 2021; Brady 2021; Kinsella 2021; Neville 2021; Rea 2021). Although the art market is forced in many circumstances to comply with increased regulatory oversight in this area, initiatives to prevent organized white-collar crime have rarely come from within the market itself. Despite enjoying decades of self-regulation as its overarching regulatory structure, the art market largely has not policed itself in this area. Instead, secrecy and opacity, presented by the art market as protection of privacy, have been historically preserved at the expense of transparent measures that may help insulate a business from money laundering, fraud, and related crimes.

This chapter describes how the structure of the art market allows for the presence of organized crime, particularly illicit profits from its proceeds, either to be tolerated and facilitated or to go undetected. By focusing on how private art businesses manage, or fail to manage, risk related to the possibility of transacting with OCGs, this chapter also discusses how combating the presence and influence of forms of organized crime poses a dilemma to private art businesses.[1]

Art Market Structure and Organized White-Collar Crime

The nature and structure of the global art market makes it particularly susceptible to the crimes associated with OCGs. The high volume of art-related

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transactions, the transnational nature of these transactions, and the availability of art assets at a variety of price points represent a diverse foundation for various forms of manipulation. Cases such as stolen Thai artifacts that were fraudulently appraised at below the reporting threshold of the US Internal Revenue Service as part of a tax avoidance scheme (Yates 2016) to USD 450.3 million for a possible Leonardo work associated with several fraud suits brought by an Russian oligarch (Knight 2016) represent just two of the range of possibilities for financial crimes involving art. Additionally, recent cases of large-scale global financial crime, such as the 1MDB scandal, or the investigations of the Panama Papers (Reyburn 2016), the FinCEN Files (Woodman 2020), and the Pandora Papers (ICIJ 2021), all feature high profile examples of money laundering and tax avoidance and evasion through art.

These incidents are directly linked to the explosion of prices for so-called "blue-chip" artworks and to the provision of financial services offering art-based transactions (such as the possibility of using artworks as collateral for credit), and they suggest that criminals may increasingly be active on the art market (Adam 2014; Adam 2018). In 2020, the US Department of the Treasury confirmed this estimation by issuing an "Advisory and Guidance on Potential Sanctions Risks Arising from Dealings in High-Value Artwork" (US Department of the Treasury 2020) that warns the art trade and the financial community about the risks of art-based money laundering. Yet art market actors rarely report suspicious practices and transactions. Data from the Dutch Financial Intelligence Unit (FIU) confirm that, compared to other sectors in the trade with high-value goods (such as the housing and vehicle markets), few cases of suspected money laundering through the art sector have been reported (Dutch FIU 2017). In fact, art business practices are largely opaque and are specifically designed to obscure the identity and assets of both art sellers and art buyers. These practices are facilitated by powerful intermediaries (e.g., auction houses, art dealers, art valuers, etc.) which often directly stand to profit from a lack of transparency and disclosure.

Despite the risks inherent in this structure, the art market lacks significant regulation in many jurisdictions. Art businesses, and the art world more generally, historically have been shielded from direct regulatory scrutiny. Art is widely seen as the manifestation of human creativity and genius, the exposure to which is believed to provide individual and societal benefit. Because they promote the circulation of art, art businesses occupy a position of social respect and respectability akin to the status of public cultural institutions such as museums, despite their commercial for-profit nature. Until recently then, the art market has been able to resist stricter forms of regulatory control in favor of limited self-regulation based on the premise that market actors are capable of policing themselves. All of this creates significant points of entry for actors in bad faith.

It is reported that organized crime, ranging from mafiosos to violent gangs, has been actively involved in crimes featuring artworks or involving art market participants (e.g., museums, auction houses, art experts, etc.). Artworks stolen from museums, which are unsellable on the open art market, are sometimes recovered in the hands of organized criminals, where they are said to circulate as a form of underworld currency. For example, while this chapter was being prepared, the alleged head of the Italian Camorra mafia, Raffaele Imperiale, was arrested (The Guardian 2021). Although he was arrested on narcotics charges, in 2016 two Van Gogh paintings that were stolen from Amsterdam's Van Gogh Museum in 2002 were recovered from one of Imperiale's properties, linking the Camorra directly to art crime. OCGs also operate within the transnational illicit trade in antiquities, moving looted cultural objects from the ground to the market (see Alderman 2012; Bowman Proulx 2011; Campbell 2013; Chappell and Polk 2011; Lane et al. 2008; Mackenzie 2011; Mackenzie and Davis 2014; McCalister 2005; Watson and Todeschini 2007). But, whereas the presence of violent transnational criminal gangs and mafiosos in aspects of art crime is relatively easy to document in the existing academic literature on the subject, this chapter instead focuses on another form of organized crime: OCGs composed of non-violent white-collar actors operating in elite spaces.

This chapter first elaborates on some points of risk within the art market which allow for the influence or participation of organized white-collar crime. Key among these is the malleability of the financial value of art, which not only allows for direct manipulation of price but also for the repackaging of art assets into further financial products that are themselves susceptible to organized forms of criminal activity. Next, it presents some findings that shed light on the response of the art market to illicit financial transactions related to OCGs. Building on these results, it then discusses existing art market strategies that are used to combat the involvement of organized white-collar crime in the art market, focusing particularly on the prevailing reliance on self-regulation.

Ultimately, the art market has lobbied heavily for self-regulatory approaches and has resisted transparency-based regulation, arguing the traditional structure of the art market necessitates the protection of privacy. Considering the apparent failure of self-regulation, this chapter concludes with a discussion of emerging approaches to art market regulation. This includes an increased burden on art businesses to engage in extensive anti-money laundering (AML) due diligence. However, it remains to be seen if this will be an effective regulatory strategy for discouraging white-collar organized crime. AML does not completely mitigate the structural weaknesses within the art market nor have recent initiatives provided much incentive for art business to promote AML compliance.

Points of Risk in the Art Market: The Malleability of Value

Criminal practices in the realm of art are not limited to stolen or forged objects; works of art potentially lend themselves to laundering large sums of money because they can serve as a malleable and mobile store of financial value. The art market harbors many potential opportunities for money laundering, and art businesses face a significant risk of being subverted or manipulated by organized white-collar criminals. Artworks may have a value comparable to real estate (traditionally a frequently used means of money laundering), but unlike real estate, works of art are portable, simplifying their physical transfer to different jurisdictions. Furthermore, artworks are unique and there is a limited supply of them. As a result, art may have a significant market value, but this value is difficult to estimate independently and therefore is highly susceptible to a strategically low or high appraisal (Karpik 2010; Velthuis 2011; Orleans 2014). Moreover, the volatility of the prices of artworks is high. The presence of criminals in the art market may drive up prices and, in turn, this is conducive to the incidental laundering of large sums of money. In addition, money laundering is facilitated by several other aspects. The art market has a high volume of transactions and the origin and ownership of works of art is easily concealed, which significantly reduces the likelihood of bad actors being caught.

These problems are aggravated by the assetization of art (Birch and Muniesa 2020), when the value of artworks becomes the basis for quasi-financial products, for instance when art is used as collateral against loans from auction houses, banks, or boutique lenders (Rausch 2020). Furthermore, when global wealth management practices meet practices of art and finance – for example, when shell companies, trust funds, and foundations are employed to hide transfers of art ownership vested in tax-exempt economic freezones or so-called freeports, and exchanges of value across borders are thus facilitated out of view of regulators and local tax authorities – this happens on top of, and removed from, traditional art world transactions. Thus, art businesses such as galleries may be unaware that these activities are taking place. In fact, when an opaque art market pairs up with a secretive market in anonymity provided by legal consultancies that are in the business of hiding and obscuring wealth, money laundering risks increase.

Despite the liabilities described previously, the art market facilitates the assetization of artworks which brings with it crime and fraud risks like any other asset (including tax evasion and avoidance), while maintaining that art belongs to an intangible space of human beauty and creativity that sets it apart from other assets as a so-called "passion investment." This cultural significance of art may constitute an added value for white-collar criminals, making money laundering through art even more attractive. Through art philanthropy not only may they be able to secure significant tax breaks (Yates 2016; Harrington 2016), but they may also be able to acquire what the sociologist Pierre Bourdieu calls "cultural capital," (Bourdieu 1986) allowing them to launder their reputation, for example, by donating or lending reputable and expensive artworks to public institutions. After all, while such art donations or loans may be lauded with an honorable mention, it is rarely asked where the money for the purchase of a significant work of art originally came from. This is one of the ways in which investments in art collections may be attractive to white-collar criminals. In from museums, which are unsellable on the open art market, are sometimes recovered in the hands of organized criminals, where they are said to circulate as a form of underworld currency. For example, while this chapter was being prepared, the alleged head of the Italian Camorra mafia, Raffaele Imperiale, was arrested (The Guardian 2021). Although he was arrested on narcotics charges, in 2016 two Van Gogh paintings that were stolen from Amsterdam's Van Gogh Museum in 2002 were recovered from one of Imperiale's properties, linking the Camorra directly to art crime. OCGs also operate within the transnational illicit trade in antiquities, moving looted cultural objects from the ground to the market (see Alderman 2012; Bowman Proulx 2011; Campbell 2013; Chappell and Polk 2011; Lane et al. 2008; Mackenzie 2011; Mackenzie and Davis 2014; McCalister 2005; Watson and Todeschini 2007). But, whereas the presence of violent transnational criminal gangs and mafiosos in aspects of art crime is relatively easy to document in the existing academic literature on the subject, this chapter instead focuses on another form of organized crime: OCGs composed of non-violent white-collar actors operating in elite spaces.

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Money laundering, particularly "organized" money laundering perpetrated by multiple actors working in concert to convert illegitimate funds into art assets, is a key point of risk in the art market. One of the crucial features of the laundering process for illegally acquired assets and the increasing financialization of art is the conversion from cash to cashless funds. Here, the art market tradition of transactional secrecy offers lucrative possibilities. In fact, research on art-related money laundering (De Sanctis 2013; Van Duyne et al. 2015) revealed several obvious points of risk.

First, sellers in the art world may offer the option of paying in cash, even for high-priced artworks. Cash payments provide the opportunity to invest illegal assets directly in an object of value that can then be openly resold, thereby laundering the initial investment. Second, a fictitious financial turnover can be booked through art businesses which face few if any mandates for external audit; a legal art business becomes the cover for illegal activity. The money earned from illegal activity is partly laundered by paying the rent for a building and other costs of the art dealership. Subsequently, because of the subjective and malleable nature of the monetary value of art, and the limited or absent recording or reporting burden for art transactions, inflated or wholly fictitious transactions can also be registered under that business, resulting in more money being laundered. Third, it is possible to launder money through transactions in which art is taken "on consignment." In such a construct, person B takes a number of artworks on consignment from person A. Person B then sells these paintings to Person C for an inflated rate, pocketing the difference as a fee for their intermediary services. This is a common art market business relationship. However, it is one that is open to significant manipulation. For example, in a case prosecuted in the Netherlands, person B sold paintings said to be owned by person A to person C for EUR 50,000. Person B then transferred approximately EUR 40,000 of that money to person A and kept about EUR 10,000 as a "commission." In fact, person A was the same as person C, and neither person A nor person B ever owned or sold the paintings. By mimicking the idiosyncratic art market practice of consignment, person A attempted to launder EUR 40,000 of illegally obtained cash by selling artworks to themself via an intermediary who kept EUR 10,000 for their participation in the scheme. Through the appearance of a legitimate sales structure, person A was able to effectively transform their funds from cash into wire money and thus launder it (IPOL 2011).

In fact, the weakness of the art market's growing use of intermediaries for consignment and sale has been the subject of a number of civil and criminal

fraud cases. For example, those related to the actions of Swiss art intermediary, Yves Bouvier who as of 2021 is facing criminal fraud, tax evasion, and money laundering charges in France, Monaco, and Switzerland. It is alleged that over the course of ten years during which Bouvier served as an art buying and intermediary for Russian billionaire Dmitry Rybolovlev, he misrepresented to Rybolovlev the exact prices that individual artworks were bought or sold for, pocketing the difference as unauthorized "commissions" amounting to more than USD 1 billion (Bregman 2019; Knight 2016).

Indeed, much of the risk of organized white-collar criminal involvement in the art market does not come directly from art dealers but rests within the support and subsidiary art businesses, such as advisories and consultancies, as well as in newly developed financial products that relate to art. For some time now, it has been possible to store art anonymously in specialized storage facilities. These storage spaces are often located in so-called economic free trade zones or themselves have a genuine "freeport" status, which means they can promise tax benefits or even tax exemptions to their clients (European Parliament 2018). In such warehouses, works of art can be stored safely and insured cheaply. It is then possible to use these artworks as collateral to obtain credit from a bank or from a so-called boutique lender, which acts as a shadow bank specializing in art-based loans and is less heavily regulated than ordinary banks. In this way, art in storage – perhaps once paid for in cash – can be transformed into a fully fledged financial asset (Rausch 2020). In fact, boutique lenders currently guarantee art-based loans with an estimated value of approximately USD 1.7 billion (Deloitte 2019).

Normally, it is possible to lend up to 50 percent of the appraised value of a work of art or art collection. This offers additional opportunities for money laundering. While a blue-chip artwork makes it possible to discreetly store large amounts of illegally acquired assets, the underlying financial value can be established by means of an insurance policy and then made liquid via the loan. An additional advantage for criminals is that the periodic costs for insurance and interest payments, which are considerably lower than the value of the artwork, may not meet the AML thresholds that trigger a reporting requirement. Thus, these ongoing costs can therefore be more easily covered from illegal funds. Especially given the progressive regulation of banks and financial instruments around money laundering (after the financial crisis in 2008), such financialization of art is attractive to criminals since there is little or no external regulation of the art market, discussed further in the following.

Art-based financial products often have the same structure as well-known financial instruments but are currently completely unregulated. For example, it is possible to invest in guarantees at art auctions, a form of option trading that is not subject to any regulation except that of the auction houses themselves and therefore offers a lot of room for manipulation (Adam 2018). In 2018, the value of guarantees on auctions was over USD 1.2 billion (Deloitte 2019).

Recent Initiatives against Money Laundering through Art Businesses

In 2006, independent FIUs were set up across the European Union. Furthermore, the European Union introduced Anti-Money Laundering Directives (AMLDs), which recently also explicitly cover the art trade. Meanwhile, the trade in stolen or falsified works of art and illegally excavated cultural objects represents a financially significant and socially destructive global market. But the fact that even the "legal" art trade can be abused for money laundering purposes is now explicitly accepted by the most recent EU AMLD5 (AMLD 5) which makes due diligence on the identity and background of clients and the reporting of suspicious transactions above EUR 10,000 mandatory.

At the same time, the introduction of AMLDs in the European Union is a good example of the difficulty of monitoring and enforcing AML legislation and regulations, especially in the art market. The fact that concepts of money laundering can be interpreted differently (in a broad or narrow sense, for example) hinders the production of comparable data. For example, in cases of tax evasion or tax fraud through art, it is not always immediately clear whether one should speak of money laundering. Also, relevant statistics concerning the reporting of money laundering through art are difficult to compile because standards for the registration of art dealerships do not currently exist or are ambiguous. For example, art dealerships are obliged to report suspicious activities under AMLDs, whereas antiquities dealers may not be. However, such distinctions may not be made easily – or they may even be willfully obscured. Therefore, it is not obvious on which information relevant statistics should be based specifically, and there is ample room for criminals to maneuver out of sight of the authorities. Other ambiguities in existing legislation and regulations also offer opportunities for the evasion of obligations. For example, in cases of rule violations in the field of art-related due diligence, it is possible to argue in prosecution that a law or regulation is not applicable or that a *bona fide* transaction has been assumed (Rausch et al. 2020).

In any case, criminals obviously react quickly and dynamically to changing laws and regulations, and they can embezzle money in adaptive ways. It is therefore even more important that all stakeholders are sufficiently aware of the current state of affairs and that measures are easy to apply in practice so that the art market can respond effectively. However, research shows that this is certainly not always and everywhere the case (Rausch et al. 2020). When it comes to combating money laundering through AMLD5, requirements are set for the art market that are comparable to those applicable to the financial sector. Yet, many art market actors doubt there is enough expertise, let alone enough support, for compliance from within their ranks. They also doubt whether the peculiarities of the art trade always make it possible to meet all obligations properly, even if it is due to a lack of instructions and information. The current obligation to report suspicious art transactions, for example, is based on the principle of risk

assessment. This means that art businesses have a responsibility to evaluate risks themselves and must act solely based on their self-assessment. So, while there is an obligation to report suspicious art transactions, it is far from clear how, where, and under what circumstances this should be done (Rausch et al. 2020).

The author's interviews with art businesses and government agencies in recent years revealed a mutual need for explanation and discussion, and several recommendations were made for the various actors involved to enter into a constructive dialogue. The fact that current AML laws and regulations have only recently been applied to the art trade makes it necessary to establish contact, build mutual understanding, and exchange information. New reporting forms aimed specifically at the art market are being developed so that questions that are only relevant in a banking context are deleted and questions for unnecessary data are omitted. What should further be on the agenda for the future is the digitization of the data provided by art businesses and the integration of that data into relevant databases. For example, to counter artificial price inflation, it is promising to consult with art insurance companies about their experiences in that area and to compare and contrast international practices of appraisal and their respective (lack of) regulation (Rausch et al. 2020).

There are several loopholes in the existing laws and regulations. For instance, freeports have recently become subject to the new AMLDs. This means they are required to keep the details of the ultimate beneficial owners (UBOs) of the artworks stored and are able to share those details on demand. Often these UBOs are hidden behind complex constructions of shell companies, which coupled with the secrecy customary within the art market, provides an opportunity for criminals to disguise their money laundering activities. Moreover, the new obligation to disclose UBOs does not apply to so-called bonded warehouses, which also store artworks and can offer the same tax benefits as official freeports. In fact, bonded warehouses, like freeports, allow for virtual trading of the stored artworks without moving them, and also for the use of art as well-insured collateral for credit, which – as discussed previously – can potentially open doors for money laundering (Helgadóttir 2020; Rausch et al. 2020).

Self-Regulation: Art Market and External Responses Risk

The increasing financialization or assetization of art produces a striking tension regarding the money laundering issue: on the one hand, the transformation of art into financial products is a potential opportunity to launder illegally acquired assets. On the other hand, actors in the financial world know the money laundering problem can stand in the way of larger-scale development of highly profitable legal practices of art and finance. For example, a survey by Deloitte Luxembourg shows that 65 percent of professionals active in art and finance see money laundering as one of the biggest obstacles to the further development of services and products in the field (Deloitte 2017). Yet

54 percent of the same actors say they see no need for tighter regulation of the art market (Deloitte 2019). On the contrary, there is often a plea for "self-regulation." This is, in a sense, the attempt at a preservation of the best of both worlds: the discretion or poor transparency of the art market is important for maintaining a clientele of the "super-rich" who are advised to structure their wealth in such a way as to save as much tax as possible. In this area of tension, a grey area thus arises between asset management, tax evasion, criminal money laundering, and subversion (Harrington 2016; Rausch 2020; Unger et al. 2021).

Despite the points of risk discussed previously, the art market has resisted most forms of external regulation in favor of these self-regulatory approaches under the premise the market will police itself. Although this appears to be changing, until relatively recently governments and policymakers accepted the assertion that market forces incentivize the art market to root out forms of white-collar organized crime. Also, while there is a strong focus on recovering stolen artworks or discovering fakes and forgeries, the emerging field of art and finance, which arguably offers more as well as larger-scale opportunities for criminal activity, has not yet received much attention. In any case, there are few if any financial or social incentives within the art market for self-regulation, and the art market faces paradoxical situations when trying to prevent the involvement of white-collar organized crime while maximizing profits.

The usual transparency strategies employed by businesses that wish to reduce their susceptibility to criminal influence run counter to centuries of opaque art market tradition and structure. Many art businesses exist to prevent art buyers from knowing the exact identity of art sellers. This is a holdover from 18th- and 19th-century notions of protecting individuals who are forced by their financial situation to sell assets such as art from social embarrassment; it is a secrecy policy that has become fossilized as a pillar of art transactions (Velthuis 2007). Along with this comes a reluctance within the art market to discuss money sources at all levels, and really "knowing your customer" (KYC) is experienced as violating conventions of privacy. In practical terms, art dealers and auction houses may be reluctant to ask questions of the buyers and sellers with whom they transact for fear of violating art world social norms and thus losing business. Moreover, they are fearful of alienating art business subsidiary parties, such as art restorers, appraisers, and scientists who assess artworks for the market and who may have little or no information about the owners of the art with which they work. Hence, there is a general impression that art businesses that insist on increased transparency will suffer for it financially.

Further, the nexus between white-collar organized crime and art businesses is not usually physically dangerous to art world actors, with any threats being mediated through layers of white-collar protection; threats from organized crime in the art world are not threats to life or person, but they tend to be rather more diffuse financial threats. Art businesses are usually shielded from direct blame in cases that involve art and organized crime. More importantly, art businesses and the people who work within them rarely see themselves as associating with or being part of OCGs, again calling into question the existence of internal market motivations to self-regulate.

Ultimately, as a market that trades on a promise of privacy, there is little art world motivation for the implementation of increased customer scrutiny. Art businesses can make a significant amount of money by maintaining the very structures that allow organized white-collar crime to enter this market, and rarely face significant consequences when it does.

Conclusion

There is a growing realization, both from art market commentators and within policy development circles, that depending on self-regulation of the art market has not and will not produce a market that reduces pathways for a serious crime. Perhaps the most important change in responses to the involvement of OCGs in private art businesses in recent years was the incorporation of art into AML initiatives and policies in a number of key jurisdictions, such as Europe and increasingly the United States. There has been a trend toward increasing the amount of mandatory customer data collection and reporting that art businesses are required to undertake, creating an impression of increased obligation and oversight. This regulatory method has its detractors who argue it is a framework that encourages loophole finding and creative compliance without changing the art market's social structures and conventions which create opportunities for organized criminal involvement in the first place.

An often-heard comment regarding organized white-collar crimes, such as money laundering, in the art market is that it is a niche market and the volume of turnover in this niche is marginal compared to other sectors. This may be one of the reasons there is a notable lack of political will, and financial and staff commitment to combat this type of crime, and indeed all forms of art and cultural heritage crime, within relevant agencies (Brodie et al. 2019).

Although the long-term effects of increased AML-related reporting obligations on the art market remain to be seen, there is an argument to be made for the development of a more varied regulatory toolkit for the art market. Drawing upon Ayres and Braithwaite's concept of "responsive regulation" which seeks to "transcend the intellectual stalemate between those who favor strong state regulation of business and those who advocate deregulation" (Ayres and Braithwaite 1992, 3), a flexible and escalating selection of regulatory strategies can be developed and used as the context warrants. Providing motivation for compliance to prevent escalation and incorporating Baldwin and Black's "really responsive regulation"[2] could allow for the type of flexibility and deep attention to the environment and context to which such an idiosyncratic market requires and might actually respond.

The potential for policy development in the art market based on these theories has been presented by other scholars (e.g., Mackenzie 2011b; Machado 2019), but to date there exists no cohesive proposal for responsive regulation within the development of art and cultural policy. The development of such regulatory strategies is difficult, expensive, and time-consuming for regulators and policymakers. Meanwhile, the incorporation of the art market into existing regulatory structures, such as AML initiatives, is nominally less onerous a proposition. From all indications, attempts to prevent white-collar organized criminal involvement in the art market, at least in the foreseeable future, will likely oscillate between forms of light-touch self-regulation and forced but not incentivized, compliance measures. In the meantime, the ambiguities of these regulatory models will be exploited by the further financialization of the art market and the increased assetization of artworks and art collections.

Notes

1 This chapter draws on two research projects supervised by Christoph Rausch. The projects were conducted at Maastricht University in 2018 and 2020 in collaboration with the Dutch police and several local art businesses. They concluded with several noteworthy publications, including *Whitewashing Art: An Investigation of Money Laundering in the Art Market* (Gladstone and van der Meulen 2018) and *Dirty Money, Pretty Art: Fighting Money Laundering in the Age of Art Financialization* (Jones et al. 2020). The chapter is also partially based on a translation of the article "Dirty Money, Pretty Art. Witwassen en ondermijning in tijden van financialisering van kunst" written by Christoph Rausch and his colleagues in Dutch and published in *Trends in kunstcriminaliteit* in 2021 (Rausch et al. 2020).

2 "Really responsive regulation seeks to add to current theories of enforcement by stressing the case for regulators to be responsive not only to the attitude of the regulated firm but also to the operating and cognitive frameworks of firms; the institutional environment and performance of the regulatory regime; the different logics of regulatory tools and strategies; and to changes in each of these elements. The approach pervades all the different tasks of enforcement activity: detecting undesirable or non-compliant behaviour; developing tools and strategies for responding to that behaviour; enforcing those tools and strategies; assessing their success or failure; and modifying them accordingly" (Baldwin and Black 2008, 59).

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