



DEPARTMENT OF THE TREASURY
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Advisory and Guidance on Potential Sanctions Risks Arising from Dealings in High-Value Artwork¹

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The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is issuing this advisory to highlight sanctions risks arising from dealings in high-value artwork² associated with persons blocked pursuant to OFAC's authorities, including persons on OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List). High-value artwork transactions may play a role in blocked persons accessing the U.S. market and financial system in violation of OFAC regulations. This advisory describes characteristics of the market for high-value artwork that pose sanctions risks; emphasizes to art galleries, museums, private art collectors, auction companies, agents, brokers, and other participants in the art market the importance of maintaining a risk-based compliance program to mitigate such risks; and highlights that what is commonly described as the "Berman Amendment" to the International Emergency Economic Powers Act (IEEPA) and the Trading with the Enemy Act (TWEA) does not categorically exempt all dealings in artwork from OFAC regulation and enforcement.

Vulnerabilities in the High-Value Artwork Market Giving Rise to Sanctions Risks

Certain features of the market for high-value artworks make it attractive to those engaged in illicit financial activity, including sanctions evasion. These characteristics include a lack of transparency and a high degree of anonymity and confidentiality, especially with respect to the sale and purchase of high-value artworks. Shell companies and intermediaries are also frequently used to purchase, hold, or sell such artworks, as well as to remit and receive payments. These avenues for maintaining anonymity allow blocked persons and other illicit actors to obscure their true identities from other market participants, and help to hide prohibited conduct from law enforcement and regulators. The mobility, concealability, and subjective value of artwork further exacerbate its vulnerability to sanctions evasion.

Blocked Persons Have Exploited Vulnerabilities in the High-Value Artwork Market

The Treasury Department has previously warned art and luxury goods dealers to be alert to the schemes of illicit actors who hide funds in high-value assets in an attempt to mitigate the effects of U.S. sanctions. In December 2019, OFAC designated Nazem Said Ahmed, a prominent Lebanon-based diamond dealer and art collector, pursuant to Executive Order (E.O.) 13224, as a

¹ This advisory is explanatory only and does not have the force of law. It does not modify statutory authorities, Executive Orders, or regulations. It is not intended to be, nor should it be interpreted as, comprehensive or as imposing requirements under U.S. law, or otherwise addressing any requirements under applicable law. Please see the legally binding provisions cited for relevant legal authorities.

² For the purposes of this advisory, when considering whether an item is "high-value artwork," OFAC would urge particular caution when dealing with artwork with an estimated market value of more than \$100,000.

Specially Designated Global Terrorist (SDGT) for providing material support to Hizballah.³ Ahmad was one of Hizballah's top donors, and Hizballah utilized Ahmad and his companies to launder substantial amounts of money bound for the terrorist group. At the time of his designation, Ahmad had an art collection worth tens of millions of dollars, including works by Pablo Picasso and Andy Warhol, many of which had been on display in his gallery and penthouse in Beirut. Ahmad stored some of his personal funds in high-value artwork in a pre-emptive attempt to mitigate the effects of U.S. sanctions, and he opened an art gallery in Beirut as a front to launder money. Given the risks associated with such transactions, in 2019 OFAC posted on its website frequently asked questions (FAQs) reminding members of the art community of their sanctions compliance obligations with respect to E.O. 13224, as amended, affirming transactions with SDGTs involving artwork or interests in artwork are prohibited, and that U.S. persons who engage in prohibited transactions may be subject to civil or criminal penalties.⁴

Separately, a July 2020 report by the Permanent Subcommittee on Investigations of the Senate Committee on Homeland Security and Governmental Affairs examined how Arkady and Boris Rotenberg, Russian oligarchs designated by OFAC and listed on the SDN List under E.O. 13661, were linked to shell companies involved in high-value artwork purchases.⁵ In another example, a March 2020 report of the United Nations North Korea Panel of Experts describes galleries and exhibitions in Beijing and Hong Kong hosting works of art produced by the UN-designated Mansudae Art Studio, an art studio in Pyongyang.⁶ According to press reporting, North Korea is also known to have earned an estimated tens of millions of dollars in revenues producing and exporting statuary to foreign nations.

Prohibitions on Dealings with Blocked Persons and the Importance of Risk-Based Compliance Programs

U.S. persons are generally prohibited from engaging in transactions, directly or indirectly, with persons on the SDN List, other blocked persons, and those covered by comprehensive country or region embargoes. OFAC may impose civil penalties for sanctions violations based on strict liability, meaning that a person may be held civilly liable even if it did not know or have reason to know it was engaging in prohibited conduct. OFAC's Economic Sanctions Enforcement Guidelines (Enforcement Guidelines) provide more information regarding OFAC's enforcement

³ <https://home.treasury.gov/news/press-releases/sm856>.

⁴ OFAC, Frequently Asked Questions 812–814, available at <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/2396>.

⁵ <https://www.hsgac.senate.gov/imo/media/doc/2020-07-29%20PSI%20Staff%20Report%20-%20The%20Art%20Industry%20and%20U.S.%20Policies%20that%20Undermine%20Sanctions.pdf>.

⁶ Letter dated 26 February from the Panel of Experts established pursuant to resolution 1874 (2009) to the President of the Security Council, S/2020/151 (March 2, 2020), available at <https://undocs.org/S/2020/151>.

of U.S. economic sanctions, including the factors that OFAC generally considers when determining an appropriate response to an apparent violation.⁷

OFAC encourages companies to implement a risk-based compliance program to mitigate exposure to sanctions-related violations.⁸ Art galleries, museums, private collectors, auction companies, agents, brokers, and other participants in the art market who may face exposure to transactions involving blocked persons should assess the risks they may face and consider implementing measures reasonably designed to reduce such risks, including by conducting risk-based due diligence, as appropriate.

Transactions Involving High-Value Artwork Are Not Categorically Exempt from OFAC Regulation

The Berman Amendment to IEEPA and TWEA generally exempts from regulation “the importation from any country, or the exportation to any country . . . of any information or informational materials, including but not limited to . . . artworks.” 50 U.S.C. § 1702(b)(3); 50 U.S.C. § 4305(b)(4). OFAC does not interpret this exemption to allow blocked persons or their facilitators to evade sanctions by exchanging financial assets such as cash, gold, or cryptocurrency for high-value artwork or vice versa.

Accordingly, OFAC will apply IEEPA- and TWEA-based sanctions to transactions involving artworks in which a blocked person, including a person on the SDN List, has an interest, to the extent the artwork functions primarily as an investment asset or medium of exchange.

U.S. persons involved in the high-value artwork trade should be mindful of this sanctions risk, and OFAC strongly cautions that any U.S. person considering a transaction with a blocked person involving high-value artwork should seek guidance or a license from OFAC. OFAC’s review of a license request will depend on the particular facts and circumstances of the specific proposed transaction.

⁷ 31 C.F.R. part 501, appx. A.

⁸ To assist the public, OFAC has published *A Framework for OFAC Compliance Commitments*, which is intended to provide organizations with a framework for the five essential components of a risk-based sanctions compliance program. The *Framework* is available at https://home.treasury.gov/system/files/126/framework_ofac_cc.pdf.