



20 October 2023

Dear Sir/Madam

On 23rd April 2021 the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021 entered into force. This Act transposed the EU's Fifth Anti-Money Laundering Directive (5AMLD) into Irish law and has amended the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended (the Act).

One of the significant changes in the Act was the inclusion of art traders and intermediaries as a category of designated persons under the Act. This means that traders and intermediaries in works of art are required to take various measures to ensure their business is not being used for money laundering or terrorist financing by criminals.

Under the provisions in the Act, persons trading or acting as an intermediary in the trade of works of art (including when carried out by an art gallery or an auction house) but only in respect of transactions (regardless of payment method e.g. electronic funds transfer, cash, credit or debit card etc.) of at least €10,000 in value (*whether in one transaction or a series of transactions that appear to be linked*) are obliged to take the measures set out in the Act to ensure their business is not being used for money laundering and/or terrorist financing.

We understand your business is involved in art sales and the Anti-Money Laundering Compliance Unit (AMLCU) in the Department of Justice has therefore included your business on our list of designated persons. The AMLCU fulfils the role of the Minister as a competent authority under the Act.

The AMLCU is responsible for the supervision of a number of different business cohorts to ensure they are fulfilling their anti-money laundering compliance and counter terrorist financing obligations under the Act to prevent their business for being used for money laundering or terrorist financing.

You may previously have been the subject of an inspection by the AMLCU and are already aware of your responsibilities under the Act. However, the AMLCU has particular concerns that some traders and intermediaries in works of art are not fully aware of the entirety of their AML responsibilities and we would like to draw your



attention to a recording of a webinar we hosted on 8 December 2021 which was for businesses trading in art. The webinar covers:

- Introduction to the AMLCU
- Explanation of your legal obligations under the Act
- A presentation on the AMLCU's approach to compliance monitoring
- Highlighting some of the risks in the art sector, and
- Demonstration of how suspicious transactions and activity can be reported to the Revenue Commissioners and the Financial Intelligence Unit (FIU).

The webinar recording can be viewed on our website - [Art Trader/Intermediary – Anti-Money Laundering Compliance Unit \(amlcompliance.ie\)](https://amlcompliance.ie).

The AMLCU is issuing this notice as a reminder to all traders and intermediaries in works of art that you are potentially a designated person under the Act and that you have AML compliance legal obligations under the Act (see list below)

If you have any queries please email the AMLCU at antimoneylaundering@justice.ie

Yours sincerely

James Good

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Anti-Money Laundering Compliance Unit



Overview of the Designated Person's obligations under the Act

Section	Obligation on the Designated Person	Offence
Section 30A	Documented Business Risk Assessment - identify and assess the risks of money laundering and terrorist financing in relation to the business	A designated person who fails to comply with this section commits an offence and is liable— (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment to a fine or imprisonment not exceeding 5 years (or both).]
Section 30B	Assessment of risk in relation to a customer or transaction in determining the measures to be applied in relation to customer due diligence	A designated person who fails to document a determination in accordance with a direction under subsection (2) commits an offence and is liable— (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment to a fine or imprisonment not exceeding 5 years (or both).]
Section 33/33A/34 A	Customer due diligence (CDD) - Identification and verification of customers and beneficial owners. Timing of CDD (prior to commencing relationship or carrying out transaction/service). Electronic Money Derogation provisions (where applicable.)	A designated person who fails to comply with this section commits an offence and is liable— (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).
Section 35	Special measures applying to business relationships.	Except as provided by section 36, a designated person who fails to comply with this section commits an offence and is liable— (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).



Section 36A	Examination of background and purpose of certain transactions	A designated person who fails to comply with this section commits an offence and is liable— (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).]
Section 37	Enhanced customer due diligence — politically exposed persons.	A person who fails to comply with this section commits an offence and is liable— (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).
Section 38A	Enhanced CDD for high risk third countries	A designated person who fails to comply with this section commits an offence and is liable— (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).]
Section 39	Enhanced CDD in cases of heightened risk	A designated person who fails to comply with this section commits an offence and is liable— (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).
Section 40	Reliance on other persons to carry out CDD	
Section 42 & Section 49	Requirement for designated persons and related persons to report suspicious transactions and not to tip off or make a disclosure that could prejudice an investigation	s.42 Except as provided by section 46, a person who fails to comply with this section commits an offence and is liable— (a) on summary conviction, to a fine not exceeding €5,000 or



		<p>imprisonment for a term not exceeding 12 months (or both), or</p> <p>(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).</p> <p>s.49</p> <p>A person who fails to comply with this section commits an offence and is liable—</p> <p>(a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months (or both), or</p> <p>(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).</p>
Section 54	Internal policies and procedures and training	<p>A designated person who fails to comply with this section commits an offence and is liable—</p> <p>(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or</p> <p>(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).]</p>
Section 55	Keeping of records by designated persons.	<p>A designated person who fails to comply with this section commits an offence and is liable—</p> <p>(a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months (or both), or</p> <p>(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).</p>