

TAINTED TREASURES
MONEY LAUNDERING RISKS
IN LUXURY MARKETS

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TABLE OF CONTENTS

GLOSSARY	2
EXECUTIVE SUMMARY	3
RECOMMENDATIONS	3
INTRODUCTION	5
FROM INTERNATIONAL STANDARDS TO NATIONAL LEGISLATION	6
PRIVATE BUSINESSES IN THE LUXURY SECTOR	6
IMPROVING PRACTICE	7
FOCUS OF THIS REPORT	8
THE LUXURY SECTOR: RISK FACTORS	8
LUXURY SUB-SECTORS: RISK FACTORS IN FOCUS	10
THE ART MARKET	10
SUPER-YACHTS	12
PRECIOUS STONES AND JEWELS	14
PERSONAL LUXURY ITEMS	16
REAL ESTATE	18
LUXURY SECTOR ANTI-MONEY LAUNDERING: FROM GLOBAL STANDARDS TO PRIVATE COMPLIANCE	19
INTERNATIONAL STANDARDS: THE FATF RECOMMENDATIONS AND G20 BENEFICIAL OWNERSHIP PRINCIPLES	20
NATIONAL-LEVEL LEGISLATION: LIMITED IMPLEMENTATION OF GLOBAL STANDARDS	21
ANTI-MONEY LAUNDERING IN LEADING LUXURY MARKETS	22
CHINA	23
FRANCE	24
GERMANY	25
ITALY	26
JAPAN	26
UNITED KINGDOM	27
UNITED STATES	28
CONCLUSION	29
METHODOLOGICAL NOTE	30

GLOSSARY

Beneficial Owner: the real person who ultimately owns, controls or benefits from a company or trust fund and the income it generates.

Competent Authority: Person or organization that has the legally delegated or invested authority, capacity, or power to perform a designated function.

Customer Due Diligence (or Know Your Customer): a set of money laundering measures normally mandated by law which are employed by banks and other financial services to document the true identity of a customer/client and his or her source of wealth to make sure it is legitimate.

Enhanced Due Diligence: the term used to refer to Know Your Customer money laundering measures that include validation and documentation by third parties and applies to situations where higher risk clients and politically exposed persons, such as senior politicians, are concerned.

Financial Action Task Force (FATF): an inter-governmental body established in 1989. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

FATF Recommendations: the internationally endorsed global standards against money laundering and terrorist financing.

Grand Corruption: the abuse of high-level power that benefits the few at the expense of the many, and causes serious and widespread harm to individuals and society. It often goes unpunished.

Money laundering: the process of concealing the origin, ownership or destination of illegally or dishonestly obtained money by hiding it within legitimate economic activities to make them appear legal.

Politically Exposed Person (PEP): individuals who hold or held a prominent public function, such as the head of state or government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, or important political party officials. The term often includes their relatives and close associates.

Risk-based approach: A risk-based approach means that countries, competent authorities, and banks identify, assess, and understand the money laundering and terrorist financing risk to which they are exposed, and take the appropriate mitigation measures in accordance with the level of risk.

Suspicious Activity Report (SAR): a piece of information which alerts law enforcement that certain client/customer activity is in some way suspicious and might indicate money laundering or terrorist financing.

EXECUTIVE SUMMARY

From Ukraine¹ to Tunisia² and Brazil³, large-scale cases of grand corruption in recent years have involved the acquisition of luxury property, vehicles and goods.

This report examines the risk of luxury goods and assets being used to launder the proceeds of corruption, including in the art world and the marketplaces for super-yachts, precious stones and jewels, high-end apparel and accessories, and real estate.

In theory, businesses operating in the luxury sector should be well placed to prevent money laundering, as they are highly aware of the reputational risks to their brands and often seek to establish long-term relationships with their customers, which should make it easy to carry out due diligence. However, the available data suggests that compliance by high-value retailers with due diligence and reporting obligations is remarkably low. For instance, across jurisdictions luxury sector suppliers seldom act on any concerns about possible money laundering by filing suspicious activity reports (SARs).

Legislation and policy to prevent money laundering in the luxury sector also have weaknesses. Based on an assessment of existing sources such as regulatory reports and sector-specific studies, this scoping report finds that, while there is some variation across countries, current levels of oversight and enforcement by authorities are limited in leading luxury markets including China, France, Germany, Italy, Japan, the UK and the US.

Several characteristics of the luxury sector itself indicate heightened risks of money laundering. Some high-value goods such as jewellery, precious stones, art and luxury accessories are easily transportable. Others, such as luxury real estate and super-yachts have been associated with the use of anonymous shell companies or intermediaries to purchase and manage these assets, which are significant red flags. To these risks are added the traditions of discretion and confidentiality, which are present across virtually all luxury sectors, and represent a major money laundering risk.

From fixing the gaps in international standards and national legislation to increasing the number of suspicious reports being submitted to authorities by luxury sector businesses, much remains to be done to reduce the scope for individuals using the proceeds of corruption to acquire and enjoy high-value goods and property, and to use these assets as a vehicle for laundering their ill-gotten gains.

RECOMMENDATIONS

Governments

- Those countries that host the largest luxury markets in particular, such as China, France, Germany, Italy, Japan, the US and the UK, should strengthen legislation to ensure dealers in high-value goods and in specific luxury sectors that are considered high-risk have customer **due diligence and reporting requirements that meet best practice international standards**.
- Governments should ensure luxury sectors have a **designated competent authority charged with oversight and regulation**. The competent authorities should have the

¹ See: www.telegraph.co.uk/news/worldnews/europe/ukraine/10656023/In-pictures-Inside-the-palace-Yanukovich-didnt-want-Ukraine-to-see.html

² See: www.washingtonpost.com/wp-dyn/content/article/2011/01/28/AR2011012801921.html

³ See: www.infobae.com/2015/07/16/1742077-cajas-fuertes-millones-reales-ferraris-y-lamborghinis-detras-del-escandalo-petrobras/

mandate, resources and independence necessary to effectively carry out their oversight duties, which would include having the ability to sanction non-compliant businesses.

Leading global companies in each luxury sector

- Leading brands and luxury multinationals should **establish effective customer due diligence and reporting systems** in their retail and customer service chains. These should also be established in countries where they are not yet legally required, in line with the public commitments to ethical behaviour and integrity already made by many companies.

The Financial Action Task Force (FATF)

- As the international standard-setter against money laundering, the FATF should **strengthen its recommendations to ensure high-value luxury sectors** are adequately covered by global standards. Specifically, the FATF should consider revising Recommendation 22, which establishes the sectors considered Designated Non-Financial Business and Professions. In addition, high-value sectors should be required to take a risk-based approach to customer due diligence, in place of a threshold-based approach which applies only to cash transactions.

To inform the process of revising Recommendation 22, the FATF should also commission and publish a Methods and Trends report on money laundering risks and vulnerabilities in high-value goods sectors.



Luxury real estate: a particularly attractive target for money launderers. [Photo: iStock/imaginima]

INTRODUCTION

In December 2016, the Dutch authorities seized super-yacht *Ebony Shine*, worth an estimated US\$120 million.⁴ This was just a month after the Swiss authorities had seized 11 of the world's most expensive cars, including a rare sports car worth US\$2.8 million.⁵ All of these high-value items were reportedly owned by Teodorin Obiang, the vice-president of Equatorial Guinea, one of the poorest countries in the world.

Obiang, also the son of President Teodoro Obiang, has been charged by French authorities with corruption, money laundering and embezzlement of public funds.⁶ These latest seizures came more than six years after a US Senate report found that Obiang Jr had moved millions into the US through shell companies in the early 2000s, using them to buy real estate and a range of luxury items.⁷

This is not an isolated case. Across the world, from Ukraine⁸ to Tunisia,⁹ to Brazil¹⁰ large-scale cases of corruption persistently involve the acquisition of luxury property, vehicles and goods. Luxury goods¹¹ can serve as badges of wealth, becoming a highly desirable consumption target,¹² and they can also be used as bribes.¹³

For individuals engaged in corruption schemes, the luxury sector is significantly attractive as a vehicle to launder illicit funds. Luxury goods, super yachts and stately homes located at upmarket addresses can also bestow credibility on the corrupt, providing a sheen of legitimacy to people who benefit from stolen wealth.

It is estimated that the global luxury market exceeded €1 trillion in 2015.¹⁴ The luxury car market grew by 8 per cent compared to 2014 and is valued at over €405 billion, while luxury hospitality grew by 7 per cent, reaching a market value of €176 billion.¹⁵

Despite its seemingly obvious role in laundering the money of corrupt individuals, our findings suggest that **anti-money laundering legislation, policy and practice in the luxury sector are still underdeveloped**. Systemic weaknesses can be found across all areas ranging from international anti-money laundering standards, through national legislation and regulatory oversight, to compliance by individual luxury goods retailers. Although there are no estimates of the amounts

⁴ See: <http://qz.com/860194/equatorial-guineas-teodorin-obiang-has-had-his-luxury-yacht-seized-in-the-netherlands/>

⁵ See: <http://qz.com/827859/bugatti-ferrari-and-koenigegg-one-were-among-seized-cars-of-equatorial-guineas-vp-obiang/>

⁶ See: www.france24.com/en/20160907-son-equatorial-guinea-leader-teodorin-obiang-faces-french-trial-graft-charges

⁷ See: www.hsgac.senate.gov/subcommittees/investigations/hearings/keeping-foreign-corruption-out-of-the-united-states-four-case-histories

⁸ See: www.telegraph.co.uk/news/worldnews/europe/ukraine/10656023/In-pictures-Inside-the-palace-Yanukovich-didnt-want-Ukraine-to-see.html

⁹ See: www.washingtonpost.com/wp-dyn/content/article/2011/01/28/AR2011012801921.html

¹⁰ See: www.infobae.com/2015/07/16/1742077-cajas-fuertes-millones-reales-ferraris-y-lamborghini-detras-del-escandalo-petrobras/

¹¹ Luxury goods can broadly be defined as “products and services not essential to basic needs, for which demand rises more than proportionally than a rise in income”. See: www.blog.kpmgafrica.com/luxury-goods-in-africa-a-maturing-sector/

¹² Transparency International UK, *Don't look won't find: Weaknesses in the supervision of the UK's anti-money laundering rules* (London: TI UK, November 2015). www.transparency.org.uk/publications/dont-look-wont-find-weaknesses-in-the-supervision-of-the-uks-anti-money-laundering-rules/

¹³ In China, for example, researchers drawing on detailed import data have found evidence of a “Swiss watch cycle”, in which imports of Swiss watches rose during political leadership transitions, when thousands of lucrative government positions became available to be “bought”. See: <http://xiaohuanlan.weebly.com/uploads/1/9/1/3/19133549/watch-1.8-empirical-xl.pdf>

¹⁴ Claudia D'Arpizio, Federica Levato, Daniele Zito and Joëlle de Montgolfier, *Luxury goods worldwide market study* (Milan: Bain and Co., 2015), p.5. www.bain.com/Images/BAIN_REPORT_Global_Luxury_2015.pdf

¹⁵ Ibid., p.6.

being laundered through luxury sectors, this review of existing policy and media reports finds multiple factors pointing to the high risks of money laundering in these markets¹⁶.

From international standards to national legislation

The weaknesses in oversight of the luxury market start with the international standards against money laundering – the Financial Action Task Force (FATF) recommendations.¹⁷ While the FATF standards set out anti-money laundering recommendations for both financial and non-financial businesses and professions, these do not fully cover all relevant luxury sectors, focusing mainly on real estate and precious metals and stones. Major luxury sectors such as personal luxury items, art, and luxury transport (from cars to private jets and super-yachts) fall largely outside their scope.

In addition, for the precious metals and stones sectors, the FATF recommendations only apply to cash-based transactions above a minimum threshold. This threshold-based approach moves away from the risk-based approach that requires businesses and authorities to understand the money laundering risks in their sectors, and is central to effective prevention.¹⁸

At the same time, **national legislation and regulatory oversight** of luxury good sectors are generally poor, with few countries explicitly including vehicles, aircraft and boats,¹⁹ for example, under the sectors that need to comply with anti-money laundering obligations. Across the 34 OECD countries compliance in law with FATF standards for all non-financial professions was rated as between “non-compliant” and “partially compliant” on average by a 2014 OECD report.²⁰

In 2015, Transparency International found the luxury goods sector in 10 of the G20 members is not required by law to identify the beneficial ownership details of customers.²¹ These include top luxury markets such as China, Italy, and the US as well as countries such as Australia and Canada where media reports, official assessments and civil society analysis point to a high risk of money laundering in sectors such as high-end real estate.²² In other countries such as the UK and Germany, anti-money laundering legislation contains broad definitions, such as “dealers in high-value goods”, which would theoretically include luxury goods dealers under the sectors that have to comply with due diligence and reporting obligations. However, the practical implementation of these laws is limited.

Private businesses in the luxury sector

The luxury sector should be uniquely well placed to carry out effective due diligence on its clients, as its business model is to a significant extent based on knowing the customer; an essential principle for any anti-money laundering system. Articles in luxury trade publications emphasize the importance of cultivating long-term relationships with clients, for instance gathering data on each

¹⁶ Please refer to methodological note at the end of this report

¹⁷ FATF 40 Recommendations. www.fatf-gafi.org/publications/fatfrecommendations/?hf=10&b=0&s=desc

¹⁸ FATF, *Guidance for a risk based approach: The banking sector* (Paris: FATF, 2014). www.fatf-gafi.org/publications/fatfrecommendations/documents/risk-based-approach-banking-sector.html

¹⁹ Countries with legislation that does (in some cases partially) cover these sectors include Argentina, the British Virgin Islands, the Cayman Islands, Mexico, the Netherlands and the US.

²⁰ OECD, *Illicit financial flows from developing countries: Measuring OECD responses* (Paris: OECD, 2014).

www.oecd.org/corruption/Illicit_Financial_Flows_from_Developing_Countries.pdf

²¹ Transparency International, *Just for show? Reviewing G20 promises on beneficial ownership* (Transparency International, 2015). www.transparency.org/whatwedo/publication/just_for_show_g20_promises

²² See: www.news.com.au/finance/real-estate/buying/where-chinese-billions-pouring-into-australian-real-estate-really-come-from/news-story/6a6c5a741f618039c2342f81bd03f933; www.cbc.ca/news/canada/british-columbia/fintrac-realtors-realestate-vancouver-1.3497796

individual to tailor future offers, linked to key events such as birthdays.²³ Customer retention rates are estimated at up to 30 per cent for top-tier brands.²⁴ In addition, luxury firms maintain strict control over their distribution channels; for example selecting a limited number of retail points in each city to ensure their exclusivity is not diluted.

Both these factors – knowing the customer and controlling distribution channels – should place the luxury sector in a position to implement customer due diligence throughout production and retail chains with relative ease. Although in some sub-sectors such as luxury accessories, due diligence requirements may be complicated by the growth in international luxury tourism, in others such as customised aircraft or super-yachts there is little doubt that the identity of the buyer is usually known to the supplier.

However, the available data suggests that compliance by high-value retailers with due diligence and reporting obligations is remarkably low. For instance, across jurisdictions luxury sector suppliers seldom act on any concerns about possible money laundering by filing suspicious activity reports (SARs). In the UK high-value dealers submitted just 135 SARs between October 2014 and September 2015, representing 0.04 per cent of the total amount of SARs submitted in that period.²⁵ In Antwerp, the largest diamond exchange in the world, no suspicious activity reports by the precious stones sub-sector had been filed up to 2014²⁶, despite this market being identified as having a high money laundering risk.

Several characteristics of the luxury sector itself indicate heightened risks of money laundering. Some high-value goods such as jewellery, precious stones, art and luxury accessories are easily transportable. Others, such as luxury real estate and super-yachts are often associated with the use of anonymous shell companies or intermediaries to purchase and manage these assets, which pose particular money laundering risks²⁷. To these risks are added the traditions of discretion and confidentiality, which are present across virtually all luxury sectors, and represent a major money laundering risk.

Improving practice

Changing the culture and practices in the luxury sector will require a significant and sustained effort by many actors. International bodies, in particular the FATF, need to strengthen international standards and produce supporting materials, such as guiding documents to assist governments and the private sector. Governments need to take action to strengthen legislative compliance with international standards.

Competent authorities need to be designated to oversee luxury markets, and these need to have the mandate, resources, and capacity to carry out their roles effectively. Effective oversight requires action in multiple areas such as carrying out sector-wide risk assessments, coordinating relevant

²³ See: www.mycustomer.com/service/management/what-can-luxury-brands-teach-us-about-customer-service-and-after-care

²⁴ See: <http://luxurysociety.com/articles/2012/10/10-retail-strategies-for-luxury-brands-to-improve-crm>

²⁵ National Crime Agency, *Suspicious activity reports: Annual report 2015* (London: NCA, 2015).

www.nationalcrimeagency.gov.uk/publications/677-sars-annual-report-2015/file

²⁶ FATF, *Anti-money laundering and counter-terrorist financing measures: Belgium: Mutual Evaluation Report* (Paris: FATF, 2015). www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Belgium-2015.pdf

²⁷ FATF, *Specific Risk Factors in Laundering the Proceeds of Corruption* (Paris: FATF 2012). <http://www.fatf-gafi.org/media/fatf/documents/reports/Specific%20Risk%20Factors%20in%20the%20Laundering%20of%20Proceeds%20of%20Corruption.pdf>

state authorities such as financial intelligence units and tax authorities, performing on-site inspections, and implementing sanctions on businesses where necessary.

Luxury brands also have a duty and responsibility to change their compliance practices – from their employees working on the sale floors to their C-suite staff.

Focus of this report

In this context, what is the role of the producers and dealers in the luxury sector, and the authorities who oversee them? Over the last three decades, international bodies have developed a standard set of anti-money laundering measures.²⁸ These include customer due diligence and record-keeping by businesses; enhanced due diligence for politically exposed persons (PEPs); reporting of suspicious transactions to relevant authorities; and effective oversight by competent regulatory authorities. To what extent are these measures in place in the luxury goods sectors?

This scoping report first examines **emblematic luxury goods sectors**, from fashion accessories and jewels to luxury real estate and super-yachts, and assesses the risks of money laundering associated with each one to the extent the available data allow. Based on a review of publicly available sources such as publications by industry bodies, annual reports of leading companies, media reports, and risk assessments carried out by consulting firms, it also assesses the levels of awareness of and compliance with anti-money laundering obligations in these sectors.

It then looks at **global standards** and the **role of national authorities** in implementing them, drawing on FATF country reports, official anti-money laundering country risk assessments, and civil society briefings, with a particular focus on the major luxury markets such as China, France, Germany, Italy, Japan, the US and the UK. How strong is national level legislation against anti-money laundering in leading luxury goods markets? How effective is regulatory oversight and enforcement of applicable laws?

THE LUXURY SECTOR: RISK FACTORS

The main markets for luxury goods are in developed countries, with the top five consumer markets being in the US, Japan, France, Italy and China, which together represent over 50 per cent of the global market, followed by the UK and Germany in sixth and seventh place.²⁹ The luxury goods market records above-average profit, with a net profit margin of 12 per cent in 2012 compared with 8.2 per cent for consumer products companies.³⁰

However, it is the emerging markets that are largely driving the growth in luxury goods sales, in particular in the Middle East and Africa.³¹ For example, the luxury retail market is reported to be booming in Portugal thanks to a rising influx of the Angolan elite. In April 2013, Filipa Pinto-Coelho, marketing director for Gucci in Portugal, declared a substantial growth of Angolan costumers in 2012–2013. She estimated this growth to be around 90 per cent, making up 58 per cent of the total market share of Gucci sales in Portugal.³² Yet in Angola, 43.4 per cent of the population lives in

²⁸ FATF 40 Recommendations.

²⁹ See: www.slideshare.net/Euromonitor/state-of-the-luxury-goods-market-in-2014

³⁰ Deloitte, *Global powers of luxury goods: In the hands of the consumer* (London: Deloitte, 2014).

www2.deloitte.com/content/dam/Deloitte/ch/Documents/consumer-business/ch-cb-en-global-powers-of-luxury-goods-2014.pdf

³¹ See: www.usfashionindustry.com/resources/euromonitor-international-industry-analysis/2454-euromonitor-international-luxury-market-outlook-for-2016

³² See: www.theafricareport.com/Southern-Africa/trend-hunter-angolan-shoppers-rescue-lisbons-luxury-retailers.html

poverty on less than US\$1.45 a day,³³ and the political class is allegedly engaging in wholesale plundering of state resources. Angola scores just 15 out of 100 on Transparency International's Corruption Perceptions Index.³⁴

Another example is Nigeria, which is one of the world's fastest growing luxury goods markets, where more than a half of the population lives on less than US\$1.45 a day.³⁵ Nigeria scores 26 out of 100 on Transparency International's Corruption Perceptions Index.³⁶ In 2013, it was the second-fastest growing market in the world for champagne, becoming one of the top 20 champagne markets in the world.³⁷ In Lagos's wealthiest district, Victoria Island, luxury shops such as Ermenegildo Zegna, Porsche and Hugo Boss have blossomed,³⁸ alongside a wide variety of jewellery shops.

Beyond the notorious and emblematic grand corruption cases in recent decades, such as those of Yanukovich in Ukraine³⁹ and Ben Ali in Tunisia,⁴⁰ different sources point to the luxury goods market as an attractive sector for corruption and laundering the proceeds of ill-gotten gains. In the UK alone, it is estimated that £100 billion (€115 million) a year of illicit money from abroad finds its way into the country, and is often spent on high-end homes and property, as well as other luxury goods.⁴¹ Following an anti-corruption drive in China in 2013, luxury goods imports to the country fell by 13.3 per cent over the seven months following the reforms,⁴² while a luxury goods fair in Macau had to be cancelled.⁴³ A 2014 briefing on the global luxury goods sector by the consultancy Deloitte stated that, "...the [Chinese] government's recent crackdown on corruption has resulted in a sharp drop in official gift giving. Going forward, this could have a negative impact on the luxury market".⁴⁴

Ben Ali's collection

Zine al-Abidine Ben Ali was the president of Tunisia for 23 years. It is not clear how much money Ben Ali and his entourage held abroad when the president was forced out of office in January 2011, but according to a March 2014 report issued under the auspices of the World Bank, 220 companies were allegedly owned by Ben Ali and his relatives – and they were allegedly earning 21 per cent of all the country's private sector profits between 1996 and 2010.⁴⁵

In December 2012, luxury assets including high-performance cars, yachts, fine art, jewellery, and palaces belonging to Ben Ali and his wife, Leila Trabelsi, were auctioned.⁴⁶ It is believed that roughly 12,000 items, including 22 luxury vehicles, reported to include a Lamborghini, a Bentley, an armoured Cadillac, and a Maybach town car,⁴⁷ as well as hundreds of pieces of jewellery, ornate clocks, watches and paintings were among the auctioned items.⁴⁸ Suits belonging to Ben Ali went for an average of €3,000 each, while coats belonging to Trabelsi went up to €4,000.⁴⁹

Officials declared that auctioning Ben Ali's family's luxury assets has brought US\$500 million (€442 million) to the state's coffers since 2011.⁵⁰

³³ According to UNICEF's data 2007-2011: www.unicef.org/infobycountry/angola_statistics.html

³⁴ See: http://www.transparency.org/news/feature/corruption_perceptions_index_2016

⁴⁵ Bob Rijkers, Caroline Freund and Antonio Nucifora, *All in the family – State capture in Tunisia*, Policy Research Paper 6810, World Bank, March 2014. www.wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2014/03/25/000158349_20140325092905/Rendered/PDF/WPS6810.pdf; cited in Financial Times. www.ft.com/cms/s/0/f90e2ac0-a302-11e3-ba21-00144feab7de.html#axzz2x5H1wMtuBusiness (subscription required).

⁴⁶ See: www.csmonitor.com/World/Middle-East/2012/1226/Tunisia-seeks-gold-in-former-dictator-s-assets

⁴⁷ See: www.telegraph.co.uk/news/newstoppers/howaboutthat/9763437/Tunisia-auctions-Ben-Alis-luxuries.html; www.businessinsider.com/tunisia-auctions-ben-alis-cars-for-funds-2012-12?IR=T

⁴⁸ See: www.bloomberg.com/news/articles/2012-12-24/tunisia-offers-luxury-cars-as-ben-ali-s-assets-go-to-auction (subscription required).

A major area of investment for luxury goods producers is the marketing and public relations needed to create and sustain a luxury brand. Customers are not only paying for the physical item, as the retail price can be multiple times the production cost, but rather are aspiring to the intangible social and psychological benefits associated with the brand⁵¹. Luxury industry reports identify reputation as a luxury goods company's greatest asset, but also note that this makes them particularly susceptible to risk.⁵² Luxury brands could be particularly susceptible to public campaigns drawing negative attention to their business practices where they are found to be linked to or facilitate the laundering of illicit funds.

LUXURY SUB-SECTORS: RISK FACTORS IN FOCUS

Drawing on publicly available information, this section summarises the main risk factors for money laundering in leading luxury sub-sectors. Despite data limitations, an initial picture emerges of a high risk of money laundering, coupled with overall low awareness and lack of effective supervision.

The art market

The global art market in 2015 was estimated to be worth US\$63 billion.⁵³ In the same year, sales at auctions reached US\$29.9 billion.⁵⁴ The major art markets are in the US (43 per cent), the UK (21 per cent) and China (19 per cent), followed by France, Germany and Switzerland.⁵⁵

High-profile economists,⁵⁶ US prosecutors⁵⁷ and academics⁵⁸ have all called for greater regulation of the global art market due to its money laundering and tax evasion risks. Major risk factors include

³⁹ See: www.telegraph.co.uk/news/worldnews/europe/ukraine/10656023/In-pictures-Inside-the-palace-Yanukovich-didnt-want-Ukraine-to-see.html

⁴⁰ See: www.washingtonpost.com/wp-dyn/content/article/2011/01/28/AR2011012801921.html

⁴¹ See: www.independent.co.uk/news/business/news/police-lack-resources-to-carry-out-money-laundering-investigations-10309052.html

⁴² See: http://aida.wss.yale.edu/~ng3/NANCYS_Yale_Website/resources/papers/QianWen_20150102.pdf

⁴³ See: www.bbc.com/news/world-asia-china-32246080

⁴⁴ Deloitte, Global powers, 2014.

⁴⁵ Bob Rijkers, Caroline Freund and Antonio Nucifora, *All in the family – State capture in Tunisia*, Policy Research Paper 6810, World Bank, March 2014. www.wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2014/03/25/000158349_20140325092905/Rendered/PDF/WPS6810.pdf; cited in Financial Times. www.ft.com/cms/s/0/f90e2ac0-a302-11e3-ba21-00144feab7de.html#axzz2x5H1wMtuBusiness (subscription required).

⁴⁶ See: www.csmonitor.com/World/Middle-East/2012/1226/Tunisia-seeks-gold-in-former-dictator-s-assets

⁴⁷ See: www.telegraph.co.uk/news/newstopping/howaboutthat/9763437/Tunisia-auctions-Ben-Ali-luxuries.html;

www.businessinsider.com/tunisia-auctions-ben-ali-cars-for-funds-2012-12?IR=T

⁴⁸ See: www.bloomberg.com/news/articles/2012-12-24/tunisia-offers-luxury-cars-as-ben-ali-s-assets-go-to-auction

(subscription required).

⁴⁹ See: www.france24.com/en/20121222-tunisia-auction-ben-ali-treasures

⁵⁰ See: <http://english.alarabiya.net/en/business/economy/2016/02/10/Tunisia-makes-500-million-from-ousted-president-s-assets-.html>

⁵¹ See: <http://www.epictions.com/blog/content-marketing/content-marketing-examples-luxury-brands> "Luxury brands are largely about selling the idea of exclusivity. Their appeal lies in the illusory idea of superiority that comes from possession."

⁵² Ace European, *Emerging risks for the European luxury goods industry to watch* (London: Ace, 2014).

www2.chubb.com/UK-EN/_Assets/documents/luxury-goods-report-june-2014-lr.pdf

⁵³ TEFAF Art Market report. <https://news.artnet.com/market/tefaf-2016-art-market-report-443615>

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ See: www.theglobeandmail.com/report-on-business/international-business/european-business/economists-urge-tighter-regulations-to-curb-money-laundering-in-art-market/article26217852/

⁵⁷ See: www.independent.co.uk/arts-entertainment/art/news/secret-world-of-multimillion-pound-art-deals-faces-us-inquiry-into-allegations-of-money-laundering-a6921781.html

⁵⁸ See: www.swissinfo.ch/eng/opaque-art_art--the-new-frontier-in-the-fight-against-money-laundering/41461526

the traditions of confidentiality and discretion in the art world, and that works of art can be both high-value and easily transportable. A report by consultancy firm Deloitte identifies several additional money laundering risks in the luxury art sector, such as the common use of foreign or offshore accounts and the use of intermediaries to carry out transactions, for example through telephone or online auctions.⁵⁹

In 2015, an assessment on money laundering risks prepared by a Swiss government taskforce noted that, “While the most important economic and financial sectors have become subject to stronger anti-money laundering regulations, lawmakers have paid surprisingly little attention to the art market, also in Switzerland”.⁶⁰ The Panama Papers also revealed numerous cases of high-value art being held through anonymous shell companies to disguise their true owners.⁶¹

In recent years, the growth in large storage spaces in transit zones (often located near or in an airport), known as Freeports, has created new spaces for luxury art transactions to be carried out in complete secrecy. Originally created to temporarily host goods in transit from one country to another, the Freeport concept has undergone a major upgrade. Freeports in Geneva, Singapore and Luxembourg now offer a wide range of services, coupled with extreme security measures.⁶² Not least among their attractions is that during their stay inside the Freeport – which in practice can last for decades – objects go untaxed. Once inside the warehouse, art “can be sold privately and anonymously to other buyers”, without necessarily leaving the premises following the transaction.⁶³

Despite awareness of the risks of money laundering⁶⁴, commitment to anti-money laundering within the art sector seems to be limited. The Basel Institute of Governance has proposed guidelines that could be the basis for self-regulation in the sector.⁶⁵ However, a 2012 working paper found that “the art trade has shown a pronounced lack of interest” in dealing with the proposed guidelines. A letter sent out to key representatives of the art trade industry was “met with reservation and outright refusal to engage”.⁶⁶

In 2013, a representative of the Art Dealers Association of America told the New York Times that money laundering “is not an industry wide problem and really does not pertain to us”.⁶⁷ In the UK, auction houses filed just 15 suspicious reports (0.004 per cent of the national total) in the year to September 2014, and there were no known cases of regulatory enforcement involving auction houses or art dealers.⁶⁸

In early 2017 the Responsible Art Market initiative, a group whose founders include leading auction houses and the Geneva Freeport⁶⁹, published guidelines on combatting money laundering and

⁵⁹ Deloitte, *About the need of forensic and anti-money laundering services for art market professionals* (London: Deloitte, 2014). www2.deloitte.com/content/dam/Deloitte/lu/Documents/risk/lu-forensic-aml-art-market.pdf

⁶⁰ See: www.news.admin.ch/NSBSubscriber/message/attachments/42572.pdf p.114 (in German).

⁶¹ See: <https://panamapapers.icij.org/20160407-art-secrecy-offshore.html>

⁶² See: www.newyorker.com/magazine/2016/02/08/the-bouvier-affair

⁶³ See: www.theglobeandmail.com/report-on-business/international-business/european-business/economists-urge-tighter-regulations-to-curb-money-laundering-in-art-market/article26217852/

⁶⁴ Alexia Timmermans, *Ethics of Art Dealers and Auction Houses*, Sotheby's Institute of Art, (London: Timmermans, 2016). https://sothebysinstitute.academia.edu/Departments/Art_Business/Documents “The art world has evolved into a multi-billion-dollar industry, in which the lack of transparency and the predominant absence of enforceable laws and regulations, represent a fertile climate for controversial, unethical practices.” (page 1)

⁶⁵ See: www.baselgovernance.org/sites/collective.localhost/files/publications/basel_art_trade_guidelines.pdf

⁶⁶ Ibid.

⁶⁷ See: www.nytimes.com/2013/05/13/arts/design/art-proves-attractive-refuge-for-money-launderers.html?_r=0

⁶⁸ Transparency International UK, *Don't look won't find*, 2015.

⁶⁹ See: <http://paolopileggi.com/up/ram/wp/organisation/>

terrorist financing.⁷⁰ These voluntary guidelines have no legal effect⁷¹ and do not include a monitoring and enforcement mechanism⁷² to ensure art market professionals actually follow them.⁷³



The Panama Papers uncovered the real owners of a number of super-yachts held through anonymous shell companies. [Photo: iStock/1001nights]

Super-yachts

According to industry publications, 392 super-yachts were sold worldwide in 2015,⁷⁴ a record since the 2008 financial crisis. A 100-metre super-yacht costs an estimated US\$275 million on average, with additional millions in yearly operating costs; for instance an average of US\$1.4 million for crew salaries alone.⁷⁵

Leading jurisdictions of “established and emerging super-yacht wealth”⁷⁶ include countries with a high risk of public sector corruption such as Indonesia, Kazakhstan, Kuwait, Russia, Thailand and Turkey.⁷⁷ In 2014 Bloomberg reported that, “the proportion of yachts measuring more than 40

⁷⁰ See: <http://responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/>

⁷¹ See: <http://responsibleartmarket.org/art-market-guidelines/>

⁷² See: <http://responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/>

⁷³ See: <https://www.antiquestradegazette.com/news/2017/geneva-art-trade-to-crack-down-on-money-laundering-with-new-guidelines/>

⁷⁴ See: www.boatinternational.com/yacht-market-intelligence/superyacht-industry-data/superyacht-sales-data/superyachts-sold-in-2015--29145

⁷⁵ See: www.towergateinsurance.co.uk/boat-insurance/the-cost-of-maintaining-a-super-yacht

⁷⁶ See: www.superyachtnews.com/business/19145/high-risk-lending-jurisdictions-are-a-plentiful-source-of-wealth.html

⁷⁷ See for example Transparency International’s Corruption Perceptions Index: www.transparency.org/cpi2015

meters owned by Russians has more than doubled over the past five years to about 8 percent of the global fleet”.⁷⁸

Super-yachts are often registered in secrecy jurisdictions and in countries offering “flags of convenience” such as Belize, the British Virgin Islands, the Cayman Islands, the Marshall Islands and the United Arab Emirates,⁷⁹ which have poor financial transparency standards, minimal taxation and low regulations, in particular on labour standards.⁸⁰

In 2012, the *New York Times* found that, “A Cayman Islands incorporation costs \$5,000 to \$7,000, but with that flag, a European can buy a \$2 million yacht built in Italy and completely avoid value-added tax. A one-year Marshall Islands yacht registry costs \$2,200 and can be done online in a day, according to the islands’ Web site”.⁸¹ The Panama Papers revelations also uncovered the real owners of a number of mega-yachts registered to anonymous shell companies, including the former prime minister of Qatar,⁸² and a Nigerian oil tycoon whose assets have since been frozen by the Lagos High Court.⁸³

The main shipyards supplying luxury yachts are located in Italy, Germany, the Netherlands, the UK and the US. Due to the extensive involvement of buyers in the customised design process, there is little doubt that the identity of the ultimate beneficial owner of the vessel is usually known to the shipyard.⁸⁴

On the other hand, mentions of secrecy, discretion⁸⁵ and confidentiality⁸⁶ abound on super-yacht websites. For example, referring to the largest yacht in the world, the 180m long Azzam (built by German shipyard Lürssen), an industry publication says, “Not much is known about this behemoth of a yacht other than the specs and that her interior is in a relaxed French Empire style, but it is rumoured to have been built for the a member of the royal family of Abu Dhabi of the United Arab Emirates”.⁸⁷

There have been concrete attempts to buy super-yachts with suspected proceeds of corruption. In just one example, in addition to having a yacht seized by Dutch authorities (see introduction), in 2011 Teodorin Obiang Jr, son of the president of Equatorial Guinea, tried to order a yacht worth US\$380 million from German company Kusch. The order was only cancelled after Global Witness uncovered and publicised it.⁸⁸

Regulatory reports in leading producer countries such as Germany, Italy and the UK rarely mention the sector, and there is little evidence of effective supervision and enforcement by authorities. In the Netherlands, home to large super-yacht shipyards such as Heesen and Feadship, dealers in vessels and boats are required to report any suspicious transactions to the authorities. However, of the 40,959 suspicious transaction reports the Dutch authorities received in 2015, only three (0.01 per cent of the total) came from dealers in vessels and boats.⁸⁹

⁷⁸ See: www.bloomberg.com/news/articles/2014-09-25/super-yacht-pedlars-in-monaco-fret-russia-sanctions-ending-party

⁷⁹ See the Tax Justice Network’s Financial Secrecy Index: <http://financialsecrecyindex.com/>

⁸⁰ See: www.newstatesman.com/politics/business/2016/01/lost-outlaw-seas-dangerous-treatment-staff-superyachts

⁸¹ See: www.nytimes.com/2012/04/19/business/global/amid-a-tax-crackdown-a-search-for-a-safe-port.html?_r=1

⁸² See: www.forbes.com/sites/chloesorvino/2016/04/13/panama-papers-leak-helps-show-that-qatars-former-prime-minister-is-a-billionaire/#492762d025ee

⁸³ See: <http://megayachtnews.com/2016/07/galactica-star-panama-papers/>

⁸⁴ See for example: www.feadship.nl/en/story/the-pursuit-of-dreams/your-dreams

⁸⁵ See: www.eliteyacht.com

⁸⁶ See: www.sainttropez-yachtcharter.com

⁸⁷ See: www.boatinternational.com/yachts/the-register/top-200-largest-yachts--25027?page=20

⁸⁸ See: www.globalwitness.org/en/archive/son-equatorial-guineas-dictator-plans-one-worlds-most-expensive-yachts/

⁸⁹ FIU the Netherlands, Annual report 2015: see appendix 1 at: www.fiu-nederland.nl/sites/www.fiu-nederland.nl/files/documenten/fiu_jaaroverzicht_2015_eng.pdf

Awareness of anti-money laundering and anti-corruption measures within the sector seem to be poor. The International Superyacht Society has proposed a brief series of Business Principles,⁹⁰ which make no specific mention of corruption, bribery or money laundering, and do not include basic elements of good practice in anti-corruption principles, such as establishing a code of conduct, policies and procedures, training and guidance or internal controls.⁹¹

In the UK, the yachting industry response to a proposed anti-money laundering regulation in 2014 was to claim that the measure was “potentially fatal” and that the sector “faced ruin”.⁹² The proposed ruling, which would have required boat brokers to become accredited in order to open client accounts with banks, was ultimately reversed following pressure by the Association of Brokers and Yacht Agents.⁹³

Precious stones and jewels

The global gems and jewellery market is expected to reach a market value of US\$292 billion by the end of 2019.⁹⁴

Precious metals and stones have long been identified as a particularly vulnerable sector to money laundering, as trade in this sector is characterised by a “high value to mass ratio”, meaning that, for instance, a million dollars' worth of diamonds can be carried across borders illegally with relative ease.⁹⁵

Research carried out by the FATF on diamond trading found that, “diamonds are also used as a form of currency”, which poses a significant money laundering risk.⁹⁶ Precious minerals can also be used in trade-based money laundering schemes,⁹⁷ in which through price manipulation or false invoices for fictitious sales, precious minerals can be used as a cover for laundering illicit funds.⁹⁸ Due to all these factors, locations that have large precious stone and metals marketplaces would be particularly at risk.

A case in point is Antwerp, which hosts the largest diamond exchange in the world. The 1,850 registered diamond businesses in the city trade an estimated 80 per cent of the world's rough diamonds and 50 per cent of its polished diamonds each year, generating an annual turnover of €42 billion.⁹⁹ Despite the diamond sector being identified as posing a significant laundering risk, in 2015 a FATF report found “virtually no Suspicious Transaction Reports” from diamond traders in Belgium.¹⁰⁰ The report also noted that the number of prosecutions involving precious metals and diamonds is “not commensurate with the level of risk cited by the Belgian authorities”.

⁹⁰ See: www.superyachtsociety.org/docs/5181SR%20ISS%20Business%20Principles_EU_2.pdf

⁹¹ See: https://issuu.com/transparencyinternational/docs/business_principles_web_final

⁹² See: www.mby.com/news/boat-brokers-spared-potentially-fatal-fca-ruling-41256#s8f0JT0756i2D74v.99

⁹³ See: www.yachtingmonthly.com/news/money-laundering-regs-threatened-brokers-444

⁹⁴ See: www.prnewswire.com/news-releases/global-gems-and-jewellery-market-2015-2019-300198009.html

⁹⁵ FATF, *Money laundering and terrorist financing through trade in diamonds* (Paris: FATF, 2013), p.10. www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf.

⁹⁶ Ibid. p.10.

⁹⁷ FATF, *Trade based money laundering* (Paris: FATF, 2006). www.fatf-gafi.org/publications/methodsandtrends/documents/trade-basedmoneylaundering.html

⁹⁸ IMF, *Implementing AML/CFT measures in the precious minerals sector: Preventing crime while increasing revenue* (Washington DC: IMF, 2014). www.imf.org/external/pubs/ft/tnm/2014/tnm1401a.pdf

⁹⁹ See: www.awdc.be/sites/awdc/files/Antwerp%20Diamond%20Masterplan%20-%20Project%202020.pdf

¹⁰⁰ FATF, *Anti-money laundering and counter-terrorist financing measures: Belgium: Mutual Evaluation Report* (Paris: FATF, 2015). www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Belgium-2015.pdf



Dealers in precious stones and jewels typically have limited oversight by authorities. [Photo: iStock/zysman]

In some countries such as the US, authorities¹⁰¹ have issued regulations requiring dealers in precious metals, stones, and jewels to establish anti-money laundering programmes.¹⁰² The most recent information available via FATF country reports points to low levels of effective oversight and compliance in the sector:

- **Norway** “has no designated competent authority for AML/CFT monitoring and supervision of...dealers in precious metals and stones”, despite having an estimated 500 dealers in the country.¹⁰³
- In **Malaysia**, dealers in precious metals and stones have “very low awareness of AML/CFT obligations and measures”. Additionally, requirements for dealers in precious metals and stones in East Malaysia (Sabah and Sarawak) only apply to those dealers registered as companies, meaning that 345 of the 1,600 dealers in this region are outside the scope of the legislation. The FATF report finds that “little information is held by the authorities about the sector and its risks”.¹⁰⁴
- **Spain** has over 2,500 dealers in precious metals and stones, of which 53 comprise over 50 per cent of sector activity. However, of the 3,058 suspicious transaction reports received by

¹⁰¹ FinCEN: www.fincen.gov/sites/default/files/shared/antimoneylaundering060305.pdf

¹⁰² Department of the Treasury Financial Crimes Enforcement Network, *Guidance for dealers, including certain retailers, of precious metals, precious stones, or jewels, on conducting a risk assessment of their foreign suppliers*, 10 March 2008.

¹⁰³ FATF, *Anti-money laundering and counter-terrorist financing measures: Norway: Mutual Evaluation Report* (Paris: FATF, 2014), p.95. www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Norway-2014.pdf

¹⁰⁴ FATF, *Anti-money laundering and counter-terrorist financing measures: Malaysia: Mutual Evaluation Report* (Paris: FATF, 2015). www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Malaysia-2015.pdf

authorities in 2012 (the most recent year for which data are available) just 20 came from jewellers.¹⁰⁵

- In **Switzerland**, dealers in precious stones only have to comply with legal anti-money laundering obligations when they receive cash payments of more than CHF 100,000 Swiss Francs (€91,340).¹⁰⁶

Personal luxury items

The global market for personal luxury items was estimated at €250 billion in 2015,¹⁰⁷ with the market close to evenly split across the accessories, apparel, watches and jewellery, and perfume and cosmetics segments (see Table 1). The main consumer markets are in the US, Japan, China, Italy and France.¹⁰⁸ Demand generated by tourists in these countries is increasing; in Japan for instance, 6 per cent of demand growth comes from tourists.¹⁰⁹

Designer apparel and footwear as well as bags and accessories represent an important part of the luxury goods market, with 48 of the top 100 luxury goods companies operating in these sectors.¹¹⁰ Prices for luxury items can reach extraordinary amounts, for instance in 2012 the Louis Vuitton Kusama bag was retailing at US\$133,430.¹¹¹

Table 1. Market value by personal luxury market segment

PERSONAL LUXURY MARKET SEGMENT	MARKET VALUE IN BILLION EURO	% OF TOTAL MARKET
Accessories	65	29%
Apparel	56	25%
Watches and jewellery	49	22%
Perfume and cosmetics	45	20%
Other	8	4%
Total	223	100.0%

Source: Kering 2014 reference document¹¹²

A 2014 risk report on the luxury goods sector found that 56 per cent of respondents in the industry cited bribery, corruption, fraud and money laundering as factors that caused them the most concern.

¹⁰⁵FATF, *Anti-money laundering and counter-terrorist financing measures: Spain: Mutual Evaluation Report* (Paris: FATF, 2014), p.98. www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Spain-2014.pdf

¹⁰⁶FATF, *Anti-money laundering and counter-terrorist financing measures: Switzerland: Mutual Evaluation Report* (Paris: FATF, 2016), p.29. <http://www.fatf-gafi.org/media/fatf/content/images/mer-switzerland-2016.pdf>

¹⁰⁷Kering, *Financial document* (Paris: Kering, 2015), p.19. www.kering.com/sites/default/files/document/kering_2015_financial_document.pdf

¹⁰⁸See: www.statista.com/statistics/245645/leading-personal-luxury-goods-markets-by-country/

¹⁰⁹See: www.consultancy.uk/news/2803/global-luxury-market-worth-224-billion-top-20-brands

¹¹⁰Deloitte, *Global powers of luxury goods 2015: Engaging the future luxury consumer* (London: Deloitte, 2015).

www2.deloitte.com/content/dam/Deloitte/global/Documents/Consumer-Business/gx-cb-global-power-of-luxury-web.pdf

¹¹¹See: http://luxurylaunches.com/fashion/louis_vuitton_pumpkin_minaudiere_by_yayoi_kusama_unveiled_at_selfridges.php

¹¹²Kering, *Reference document* (Paris: Kering 2014).

www.kering.com/sites/default/files/document/kering_ddr_2014_va.pdf

Respondents acknowledged that the globalised nature of the sector had increased the levels of risk.¹¹³

As mentioned above, an important part of consumers are tourists, and therefore in addition to the weak due diligence processes from luxury brands, the lack of effective controls at borders increases money laundering and tax evasion risks.

The risk factors include the use of luxury items to corrupt government officials. In the 2014 annual report by multinational Kering this link was explicitly made; Kering is the owner of leading luxury brands including Gucci and Balenciaga. Referring to flat growth in the Chinese luxury goods market in 2014, the report explains: "This slowdown was partly due to the tightening of anti-corruption measures in Mainland China, as the government wishes a 'moralization' of Chinese society".¹¹⁴

No instances of suspicious activity reports or sanctions for anti-money laundering regarding personal luxury producers or dealers could be found in regulatory reports. The annual report of the Swiss Watch Federation has a strong focus on the fight against counterfeiting and the protection of trademarks yet makes no mention of corruption or money laundering risks.¹¹⁵



Luxury items can be used to bribe government officials. [Photo: iStock/Krylov1991]

¹¹³ Cited in Transparency International UK, *Don't look won't find*, 2015.

¹¹⁴ Kering, 2014, p.20.

¹¹⁵ Federation of the Swiss Watch Industry, *Annual report 2014* (Bienne: Federation of the Swiss Watch Industry, 2015). www.fhs.ch/file/6/Annual_report_2014_web.pdf

Real estate

The high-end real estate sector is particularly vulnerable to money laundering, in part due to its capital intensive nature: properties can be bought and then resold with very little risk of capital loss.¹¹⁶ Research by Transparency International UK has found that 75 per cent of properties whose owners are under investigation for corruption in the UK made use of offshore corporate secrecy (shell companies) to hide their identities. Overall, 36,342 London properties totalling 2.25 square miles (5.8 square kilometres) are held by offshore haven companies.¹¹⁷

This problem is not unique to the UK. Luxury property in the US state of New York is also extensively owned through anonymous shell companies.¹¹⁸ According to official sources, the majority of real estate purchases of at least US\$1 million in the US state of Florida's Miami-Dade and Broward counties are made through shell companies.¹¹⁹ In Germany, official assessments have also found low awareness of money laundering risks in the real estate sector (see country section below).

In Canada, the Financial Transactions and Reports Analysis Centre (FINTRAC) found dozens of instances of real estate firms in Vancouver that were not following record-keeping practices, had failed to identify clients and complete due diligence procedures, and did not properly assess risk.¹²⁰ Transparency International Canada also found that 29 of the 100 most valuable residential properties in Vancouver are owned through shell companies.¹²¹ Prices in Vancouver's luxury home market increased by 25 per cent in 2015, a higher increase than observed in 100 other major real estate markets.¹²²

For more detail on money laundering risks in the real estate market, please also see recent analysis by Transparency International looking at Australia, Canada, the UK and the US¹²³.

¹¹⁶ Transparency International UK, *Corruption on your doorstep: How corrupt capital is used to buy property in the UK* (London: TI UK, March 2015). www.transparency.org.uk/publications/corruption-on-your-doorstep/

¹¹⁷ Ibid.

¹¹⁸ See: www.nytimes.com/2015/02/08/nyregion/stream-of-foreign-wealth-flows-to-time-warner-condos.html?action=click&contentCollection=N.Y.%20%2F%20Region&module=Kicker®ion=Header&pgtype=article

¹¹⁹ See: www.reuters.com/article/us-usa-corruption-realestate-idUSKCN0UR2LM20160113

¹²⁰ See: www.cbc.ca/news/canada/british-columbia/fintrac-realtors-realestate-vancouver-1.3497796

¹²¹ See: www.cbc.ca/news/business/transparency-home-ownership-1.3889013

¹²² Knight Frank, *The wealth report: The global perspective on prime property and investment* (London: Knight Frank, 2016). <http://content.knightfrank.com/research/83/documents/en/wealth-report-2016-3579.pdf>

¹²³ Transparency International, *Doors Wide Open: Corruption and Real Estate in Key Markets* (Berlin: Transparency International, 2017). www.transparency.org



Teodorin Obiang's Malibu mansion, viewed from Google Earth. [Photo: 2014 Google Map data]

LUXURY SECTOR ANTI-MONEY LAUNDERING: FROM GLOBAL STANDARDS TO PRIVATE COMPLIANCE

The global anti-money laundering system broadly consists of four components, moving from the international level to the level of individual companies and private sector associations:

- International standards, with the most relevant being the FATF standards
- National-level compliance with international standards (in law)
- National oversight and enforcement by authorities (practical effectiveness)
- Private sector legal compliance with due diligence and reporting requirements, and private sector risk management going beyond compliance with the aim of improving implementation of processes

Strong legislation that meets global standards is essential. Businesses are highly unlikely to carry out due diligence on their customers without being legally required to do so. However, it is just the first step. Effective compliance requires oversight and enforcement by regulatory authorities, which need to have the powers, resources and capacity to carry out their roles.

It must also be recognised that in countries where due diligence requirements are relatively recent, even a well-appointed authority will need a number of years to support the creation of a culture of compliance within a sector. From awareness raising and training for industry bodies and their members, to on-site visits and sanctions for non-compliance, changing the approach to anti-money laundering across an entire industry takes time and sustained investment.

International standards: The FATF Recommendations and the G20 beneficial ownership principles

The Financial Action Task Force (FATF) was established in 1989 as an inter-governmental body with the goal of combating money laundering in the financial system. Over 180 jurisdictions around the world have committed to its 40 Recommendations, which are also used by the International Monetary Fund to assess its members' readiness to combat money laundering.¹²⁴

The main anti-money laundering areas covered by the FATF Recommendations include:

- Preventive measures: customer due diligence, record-keeping and enhanced due diligence for Politically Exposed Persons (PEPs). These should apply to both financial institutions and to selected non-financial businesses and professions such as law, accounting and real estate.
- Reporting of suspicious transactions
- Identification of the real owner of companies and trusts – technically known as the beneficial ownership of legal persons and arrangements
- Regulation and supervision
- Operational and law enforcement
- International cooperation¹²⁵

Members of the FATF and its regional bodies are evaluated on their compliance with the standards, and reports on the results are made public.

The main luxury sub-sectors covered under the FATF framework are real estate and precious stones and metals. Both of these are classified as non-financial businesses and professions together with lawyers, accountants, notaries and casinos. For these non-financial businesses, the same due diligence and reporting standards as for the financial sector apply.

The FATF standards do not make specific reference to dealers in high-value goods, nor do they mention luxury sectors such as art, luxury transport including yachts and private aircraft, or high-end fashion accessories and apparel.

Businesses and professionals operating in the precious metals and stones sub-sector have a legal obligation to carry out customer due diligence and file suspicious transaction reports only when

¹²⁴ See: www.imf.org/external/NP/rosc/rosc.aspx

¹²⁵ FATF Recommendations.

engaged in cash transactions above US\$15,000.¹²⁶ The focus on cash payments means that common payment methods such as debit and credit cards, which can be issued by banks in countries with weak anti-money laundering regimes, are not covered.¹²⁷ A threshold-based approach also does not align with the risk-based approach recommended by the FATF for other financial and non-financial sectors, which requires businesses to identify, assess and understand the money laundering risk to which they are exposed, and take mitigation measures accordingly.¹²⁸

As noted above, there have been multiple instances of anonymous shell companies being used to hide the identity of customers in the luxury sector. International standards which specifically aim to reduce the abuse of corporate ownership include the High-Level Principles on Beneficial Ownership transparency, adopted by the Group of 20 (G20) leaders at the Brisbane summit in November 2014. In July 2015, Transparency International published a technical guide¹²⁹ that outlines in detail how governments can ensure their legal framework is in line with each of the 10 G20 principles to more effectively tackle money laundering.¹³⁰

National-level legislation: limited implementation of global standards

While the strength of national anti-money laundering legislation varies across countries, overall average compliance with FATF standards has been found to be poor.¹³¹

An IMF review of the evaluations of FATF members' implementation between 2004 and 2011, noted that "compliance with the Anti-Money Laundering/Combating of Financing Terrorism (AML/CFT) standard is low", with only 12 per cent full compliance with the recommendations across all available countries, and nearly one in four being non-compliant.¹³² On average, the study found that just over one in 10 countries complies with the FATF recommendations for non-financial businesses and professions,¹³³ highlighting "significantly low compliance" with recommendations pertaining to customer due diligence measures.¹³⁴

A 2014 overview produced by the OECD, also drawing on FATF country reports, found significant variation in average compliance scores of the 36 OECD members across the various areas of anti-money laundering assessed. Average scores for the non-financial sectors, as well as for key areas such as due diligence on Politically Exposed Persons, regulation and supervision, reporting of suspicious transactions, and transparency in beneficial ownership in OECD member countries were found to be low.¹³⁵

¹²⁶ FATF Recommendations, see sections on Designated Non-Financial Businesses and Professions (DNFBPs) and interpretive note p.81. http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

¹²⁷ Transparency International UK, *Don't look won't find*, 2015.

¹²⁸ See: <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/risk-based-approach-banking-sector.html>

¹²⁹ Transparency International, *Technical Guide: Implementing the G20 Beneficial Ownership Principles* (Berlin: Transparency International, 2015).

http://www.transparency.org/whatwedo/publication/technical_guide_implementing_the_g20_beneficial_ownership_principles

¹³⁰ Transparency International, *Just for Show? Reviewing G20 Promises on Beneficial Ownership* (Berlin: Transparency International, 2015). http://www.transparency.org/whatwedo/publication/just_for_show_g20_promises

¹³¹ Based on findings after the third round of mutual evaluations done under FATF: www.fatf-gafi.org/publications/mutualevaluations/?hf=10&b=0&s=desc%28fatf_releasedate%29

¹³² IMF, *Compliance with the AML/CFT International Standard: Lessons from a cross-country analysis*, IMF Working Paper, (Washington DC: IMF, 2011), p.6. www.imf.org/external/pubs/ft/wp/2011/wp11177.pdf

¹³³ *Ibid.*, p.11.

¹³⁴ *Ibid.*, p.12 (22.1 per cent).

¹³⁵ OECD, 2014, p. 27 to p. 29.

As regards the implementation of the G20 beneficial ownership principles, meanwhile, in 2015 Transparency International found that the majority of G20 members fell into the “average” category, with three countries scored as “strong” and only one country (the UK) scoring “very strong” overall.¹³⁶

Anti-money laundering in leading luxury markets

To assess how the seven largest markets for luxury – China, France, Germany, Italy, Japan, the UK and the US – are performing on anti-money laundering, Transparency International looked at the strength of relevant legislation and its effective implementation, drawing on available secondary evidence including FATF country reports, academic papers, and annual reports by oversight authorities.¹³⁷

We find low levels of effective supervision and enforcement in the luxury sectors in all seven countries, while in China, Japan and the US significant legislative weaknesses remain.

Anti-money laundering overview: non-financial sectors and luxury goods dealers

Seven largest luxury markets worldwide

COUNTRY	FATF RATINGS: NON-FINANCIAL SECTORS	BENEFICIAL OWNERSHIP TRANSPARENCY SCORE: NON-FINANCIAL SECTORS	ARE DEALERS IN LUXURY GOODS REQUIRED BY LAW TO IDENTIFY THE BENEFICIAL OWNER OF THE CUSTOMER?	# SUSPICIOUS ACTIVITY REPORTS FILED BY NON-FINANCIAL SECTOR
China	Customer due diligence: non-compliant (FATF Recommendation 12); Reporting obligations: non-compliant (FATF Recommendation 16); Regulation and supervision: non-compliant (FATF R. 24).	8%	no	n/a
France	Customer due diligence: partially compliant (FATF R.12); Reporting obligations: partially compliant (FATF R.16); Regulation and supervision: non-compliant (FATF R.24).	88%	yes	2,447 SARs from non-financial sectors; 6.6% of total (2014)
Germany	Customer due diligence: non-compliant (FATF R.12); Reporting obligations: non-compliant (FATF R.16); Regulation and supervision: non-compliant (FATF R.24).	88%	yes	245 SARs from non-financial sectors; 1.0% of total (2014)
Italy*	Customer Due Diligence: largely compliant (FATF R.22); Other measures: largely compliant (FATF R.23);	85%	yes	2,390 SARs from non-financial operators and

¹³⁶ Transparency International, *Just for Show? Reviewing G20 Promises on Beneficial Ownership* (Berlin: Transparency International, 2015). http://www.transparency.org/whatwedo/publication/just_for_show_g20_promises

¹³⁷ Please see “Focus of this report” section above for more details on the sources used for this report.

	Supervision: largely compliant (FATF R.28).			professionals; 1.9% of total (2014)
Japan	Customer Due Diligence: non-compliant (FATF R.12); Reporting obligations: partially compliant (FATF R.16); Regulation and supervision: partially compliant (FATF R.24).	50%	no	10,734 SARs from non-financial sectors; 2.8% of total (2014)
UK	Customer Due Diligence: partially compliant (FATF R.12); Reporting obligations: largely compliant (FATF R.16); Regulation and supervision: partially compliant (FATF R.24).	77%	yes	17,848 SARs received from non-financial sectors; 4.7% of total (October 2014 to September 2015)
US*	Customer Due Diligence: non-compliant (FATF R.22); Other measures: non-compliant (FATF R.23); Supervision: non-compliant (FATF R.28).	8%	no	n/a

*Assessed by FATF using updated 2012 methodology

Sources: Most recently available FATF Mutual Evaluation Reports for China (2007); France (2011); Germany (2010); Italy (2016); Japan (2008); UK: (2007); US (2016). Transparency International, 2015. SAR data from most recently available annual reports of Financial Intelligence Units in France, Germany, Italy, Japan and UK.

China

Numerous sources point to the use of luxury goods and artwork to pay bribes in China. Research has found a significant inverse correlation between imports of luxury goods and anti-corruption measures in the country.¹³⁸ Unusually high prices for Chinese art at auctions – including a 1946 ink painting that sold for US\$65 million in 2011¹³⁹ – have been directly linked to suspicions of corruption and money laundering.¹⁴⁰ In 2013 the *New York Times* noted that the Chinese art market had become “a breeding ground for corruption” in which business officials use art to bribe public officials.¹⁴¹

China was rated as non-compliant by the FATF¹⁴² in 2007 on anti-money laundering measures for the non-financial businesses and professions.¹⁴³ The FATF found that very limited customer identification and record-keeping requirements were applied by non-financial sectors, including dealers in precious metals and stones, and that, “Reporting obligations have not been extended to any of the [non-financial] sectors”. Most non-financial sectors were not required in law to establish

¹³⁸ Nancy Qian and Jaya Wen, The Impact of Xi Jinping’s anti-corruption campaign on luxury imports in China (2015). http://aida.wss.yale.edu/~nq3/NANCYS_Yale_Website/resources/papers/QianWen_20150403.pdf

¹³⁹ See: www.nytimes.com/projects/2013/china-art-fraud/

¹⁴⁰ See: www.scmp.com/business/money/wealth/article/1409498/china-art-auctions-great-money-laundry

¹⁴¹ See: www.nytimes.com/projects/2013/china-art-fraud/

¹⁴² FATF, *First Mutual Evaluation Report on anti-money laundering and combating the financing of terrorism: People’s Republic of China* (Paris: FATF/GAFI, 2007). www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20China%20full.pdf

¹⁴³ FATF Recommendations 12, 16 and 24 refer to DNFBSs under the Recommendations used for the 3rd evaluation round. In 2012 and prior to the 4th evaluation round which started in 2014, the FATF Recommendations were updated and the numbering has changed.

internal anti-money laundering control programmes, nor were they supervised or monitored for compliance.

By 2012, a FATF follow-up report found “some progress in addressing the deficiencies identified” relative to non-financial sectors, but it said that China “has not yet brought the level of compliance with these Recommendations up to a sufficient level”. For instance, China “has not yet amended its legislation to strengthen the [customer due diligence] and record keeping requirements applicable” to dealers in precious metals and stones, nor had it yet established requirements for internal control programmes.¹⁴⁴ In 2015, Transparency International rated China’s compliance with G20 standards on beneficial ownership at only 8 per cent for the non-financial sectors.¹⁴⁵

A 2016 US State Department report on money laundering notes that in China “valuable assets, such as real estate, art and gold” are used for laundering criminal proceeds. The State Department report confirms that customer due diligence rules currently apply to a limited group of sectors in China. These sectors are primarily financial and do not include any luxury goods sectors, with the exception of auto finance companies.¹⁴⁶ The People’s Bank of China received 17.7 million suspicious transaction reports in 2014, but no further breakdown by sector of this aggregate number could be found.¹⁴⁷

France

According to Euromonitor data, France’s luxury goods industry depends on tourists for more than a half of its €16 billion in revenues.¹⁴⁸ Sectors with due diligence obligations and suspicious reporting requirements in France include real estate brokers, dealers in high-value goods, auctioneers and auction houses.¹⁴⁹

While Transparency International gave France an 88 per cent score on beneficial ownership in non-financial sectors in 2015,¹⁵⁰ in its 2011 evaluation the FATF rated France as “partially compliant” regarding customer due diligence and suspicious reporting in non-financial sectors.¹⁵¹ The assessment found a need for French authorities to promote knowledge and comprehension of the FATF Recommendations in the real estate sector, as well as among dealers in jewellery and precious stones.¹⁵²

The annual report of the French Financial Intelligence Unit (TRACFIN)¹⁵³ for 2014 notes a substantial increase in the number of SARs submitted that year. For non-financial sectors, the number of suspicious activity reports rose from 1,691 reports in 2011 to 2,447 in 2014, an increase of 44.7 per cent. Nevertheless, SARs from non-financial sectors represented just 6.6 per cent of the

¹⁴⁴ FATF, *Mutual Evaluation 8th follow-up report: Anti-money laundering and combating the financing of terrorism: China* (Paris: FATF, 2012). www.fatf-gafi.org/media/fatf/documents/reports/mer/Follow%20Up%20MER%20China.pdf

¹⁴⁵ Transparency International, 2015.

¹⁴⁶ US Department of State, *International narcotics control strategy report Volume II: Money laundering and financial crimes* (Washington DC, US State Department, 2016). www.state.gov/documents/organization/253983.pdf

¹⁴⁷ See:

www.pbc.gov.cn/eportal/fileDir/image_public/UserFiles/english/upload/File/%E4%BA%BA%E6%B0%91%E9%93%B6%E8%A1%8C2014%E8%8B%B1%E6%96%87%E5%B9%B4%E6%8A%A56.15%E5%AE%9A%E7%A8%BF%EF%BC%89.pdf

¹⁴⁸ Cited by Deloitte, *Global powers*, 2014.

¹⁴⁹ US Department of State, 2016.

¹⁵⁰ Transparency International, 2015.

¹⁵¹ FATF, *Mutual Evaluation Report: Lutte contre le blanchiment de capitaux et le financement du terrorisme:*

France (Paris: FATF, 2011), p.647. www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20France%20ful.pdf

¹⁵² *Ibid.*, p.8.

¹⁵³ TRACFIN, *Annual Report 2014* (Paris : TRACFIN 2014).

http://www.economie.gouv.fr/files/rapport_tracfin2014_tome1_en.pdf Traitement du renseignement et action contre les circuits financiers clandestins (TRACFIN) is a service of the French Ministry of Finance.

total number submitted in 2014. Just 29 suspicious reports came from real estate professionals, with a decrease of 46.3 per cent relative to the previous year: from 54 in 2013 to 29 in 2014.

The next FATF assessment of France will take place in the year 2020.

Germany

An estimated 100 billion euro is laundered in Germany every year. According to a 2016 study commissioned by the German Finance Ministry, the majority of these transactions involve property, cars, artworks, yachts and other luxury items.¹⁵⁴

In 2010, the FATF rated Germany as non-compliant in its anti-money laundering measures for non-financial businesses and professions. By 2014, a FATF follow-up report¹⁵⁵ found substantial progress in translating the FATF standards into legislation. Designated non-financial businesses are now legally required to adopt risk-based due diligence procedures to identify PEPs, and also to file suspicious transaction reports where disclosure by contracting partners is insufficient.

However, despite the establishment of a legal framework for supervision of the real estate and precious stones and metals sectors, in 2014 the FATF expressed “concerns with regard to its effective implementation”.¹⁵⁶ For example, the German authorities provided no information to the FATF on levels of compliance with customer due diligence obligations in the precious metals and stones sector.¹⁵⁷

Although luxury goods sectors are not explicitly named in the German anti-money laundering regulation, “persons dealing in goods” and real estate agents are among the sectors it covers. In 2015, Transparency International scored Germany 88 per cent on its implementation of the G20 beneficial ownership principles for non-financial businesses and professions.¹⁵⁸

An assessment of money laundering risks in the real estate sector carried out for the German Financial Intelligence Unit concluded that “sensitivity” and knowledge around the issue of money laundering is “lacking” among real estate dealers. It noted that in 2010 there were just 292 suspicious transaction reports from the sector – 2.6 per cent of the total – despite 22 billion euro worth of transactions in the real estate market in that year.¹⁵⁹

The general trend of low suspicious reporting from non-financial sectors continued in 2014. Of the 24,054 suspicious transaction reports received by authorities, just 149 (0.6 per cent) came from “persons commercially trading in goods”, and 245 from non-financial sectors overall.¹⁶⁰ German authorities carried out 1,691 on-site inspections in 2013 for real estate agents, and 1,309 for traders in high-value goods. No information was included in the most recent FATF report on the outcomes and follow-up actions resulting from these on-site visits.¹⁶¹

Authorities in the German states (*Länder*) have an important supervisory role for anti-money laundering, and in 2014 the FATF noted the increasing relevance given to money laundering by these sub-national authorities. However, it also observed that the number of public employees dedicated to anti-money laundering supervision varies considerably from one *Land* to next, raising

¹⁵⁴ See: www.dw.com/en/money-laundering-in-germany-far-bigger-than-thought/a-19205873

¹⁵⁵ FATF, *3rd Follow up report: Mutual Evaluation: Germany* (Paris: FATF, 2014). www.fatf-gafi.org/media/fatf/documents/reports/mer/FUR-Germany-2014.pdf

¹⁵⁶ FATF, *Germany*, 2014.

¹⁵⁷ *Ibid.*

¹⁵⁸ Transparency International, 2015.

¹⁵⁹ Geldwäsche im Immobiliensektor in Deutschland, Bundeskriminalamt.

¹⁶⁰ See:

www.bka.de/SharedDocs/Downloads/EN/Publications/AnnualReportsAndSituationAssessments/FIU/fiuJahresbericht2014Englisch.pdf?__blob=publicationFile&v=1

¹⁶¹ FATF, *Germany*, 2014.

the question of the capacity for effective supervision; in particular in Bavaria, North Rhine-Westphalia, and Hesse.¹⁶² The German Finance Ministry has admitted a lack of appropriate anti-money laundering measures at the regional level.¹⁶³

Italy

In its 2015 evaluation, the FATF rated Italy as “largely compliant” with the legislative recommendations for non-financial sectors.¹⁶⁴ Dealers in jewellery and gold, as well as real estate agents have to comply with anti-money laundering requirements according to Italy’s Anti-Money Laundering Law and related regulation. Article 10(2) of this law also includes a mention of “precious objects”, which according to the FATF is interpreted by case law “in the widest possible way”,¹⁶⁵ and therefore should cover luxury goods sectors. Similar analysis of national legislation carried out by Transparency International in 2015 gives Italy a positive score of 85 per cent for the non-financial professions and sectors.¹⁶⁶

However, on effective implementation, the FATF found that, “the understanding of money-laundering risks within the [non-financial] sectors is very mixed” and that “with the exception of...auditors, [non-financial businesses] are not subject to administrative sanctions for failure to perform Customer Due Diligence”. In addition, with regard to suspicious transaction reports, non-financial businesses “except notaries, send very few reports”.¹⁶⁷

The Italian Financial Intelligence Unit’s 2014 annual report¹⁶⁸ confirms this finding; noting that, “The number of reports sent by professionals and non-financial operators remains very small both in absolute terms and in relation to the potential”. In that year, 47 suspicious reports were submitted by gold traders, manufacturers and dealers in precious stones and metals, and 48 by “other non-financial operators”, together representing just 0.14 per cent of the over 70,000 reports received by the authorities.

Japan

Japan is the second largest luxury goods market in the world after the United States.¹⁶⁹ In law, real estate agents and professionals have customer due diligence and suspicious reporting requirements, as do dealers in precious metals and stones.¹⁷⁰

In June 2014, however, the FATF expressed concern about Japan’s “continued failure to remedy the numerous and serious deficiencies” it had identified in a previous 2008 report, including “the lack of satisfactory customer due diligence requirements and other obligations in the area of preventive measures applicable to the financial and non-financial sectors”.¹⁷¹ As a response to pressure from the FATF, in November 2014 Japan adopted amended anti-money laundering legislation, which

¹⁶² Ibid.

¹⁶³ See: www.dw.com/en/money-laundering-in-germany-far-bigger-than-thought/a-19205873

¹⁶⁴ Under the updated FATF Recommendations these are numbers 22, 23 and 28. Italy is among the first countries to have been evaluated using the updated methodology.

¹⁶⁵ FATF, *Anti-money laundering and counter-terrorist financing measures: Italy: Mutual Evaluation Report* (Paris: FATF, 2016). www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Italy-2016.pdf

¹⁶⁶ Transparency International, 2015.

¹⁶⁷ FATF, *Italy*, 2016.

¹⁶⁸ Banca d’Italia, *Annual report Financial Intelligence Unit* (Rome: Banca d’Italia, 2015).

https://uif.bancaditalia.it/publicazioni/rapporto-annuale/2015/annual-report-2014.pdf?language_id=1

¹⁶⁹ According to data from Euromonitor cited by Deloitte, *Global powers*, 2014.

¹⁷⁰ United States Department of State, 2016.

¹⁷¹ See: www.fatf-gafi.org/publications/mutualevaluations/documents/japan-aml-cft-deficiencies.html

aimed to address the weaknesses identified. Transparency International's 2015 analysis of national legislation gives Japan a score of 50 per cent for the non-financial professions and sectors.¹⁷²

The 2014 annual report of Japan's Financial Intelligence Unit¹⁷³ notes that the real estate industry has set up a council to raise awareness and share information on money laundering in the sector. The Japan Jewellery Association also posts information related to money laundering risks on its website and holds workshops for jewellers.¹⁷⁴

These efforts do not yet seem to have translated into increased compliance by the sectors. In 2014, the Japanese authorities received 377,513 suspicious transaction reports (STRs), a 280 per cent increase compared to 2005. While, according to media reports, organized crime syndicates were buying real estate at auctions around the country¹⁷⁵, real estate agents submitted just one suspicious transaction report (0.0003 per cent of the total) in 2014, down from a high of 21 in 2010. Meanwhile, dealers in precious metals and stones submitted five STRs (0.0013 per cent of the total), down from 28 in 2012.¹⁷⁶ The next FATF evaluation is due in 2019.

United Kingdom

In the UK, a 2015 national risk assessment of money laundering included a section on high-value dealers, which found that, "as a result of weak levels of compliance the sector can be vulnerable to being used for money laundering/terrorist financing".¹⁷⁷

A Transparency International UK overview of the performance of anti-money laundering supervisory authorities supported this finding, noting that available evidence pointed to a "general lack of awareness of AML obligations" in the luxury goods sectors, together with "lack of information from the supervisor".¹⁷⁸ While the tax authority HMRC (Her Majesty's Revenue and Customs) is tasked with supervising a broad range of sectors, including real estate agents, high-value dealers and auction houses, it has not displayed sufficient capacity for that supervision to be effective. For example, in 2014–2015, the overall fines for money laundering breaches across all these sectors was only £768,000.¹⁷⁹

In 2016 the US State Department also noted "significant intelligence gaps" on the part of UK authorities, "in particular in relation to 'high-end' money laundering".¹⁸⁰

Other indicators of lax supervision of the luxury goods sector identified by Transparency International UK include:

- No dedicated annual anti-money laundering reports for the luxury goods sector
- No thematic reports on anti-money laundering compliance within the sector
- No public record of enforcement against individual luxury goods retailers

¹⁷² Transparency International, 2015.

¹⁷³ Japan Financial Intelligence Centre, *Annual report 2014* (Tokyo: JAFIC, 2014).

www.npa.go.jp/sosikihanzai/jafic/en/nenzihokoku_e/data/jafic_2014e.pdf

¹⁷⁴ Ibid.

¹⁷⁵ See: <http://japanpropertycentral.com/2013/01/yakuza-snagging-properties-at-public-auctions/>

¹⁷⁶ Japan Financial Intelligence Centre, *Annual report 2014* (Tokyo: JAFIC, 2014).

www.npa.go.jp/sosikihanzai/jafic/en/nenzihokoku_e/data/jafic_2014e.pdf

¹⁷⁷ HM Treasury and Home Office, *UK national risk assessment of money laundering and terrorist financing* (London: Treasury and Home Office, 2015).

www.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf

¹⁷⁸ Transparency International UK, *Don't look won't find*, 2015.

¹⁷⁹ Ibid.

¹⁸⁰ US Department of State, 2016.

In the year to September 2014, high-value dealers had made only 331 suspicious activity reports, 0.09 per cent of the total. In addition, “only 179 suspicious transactions were reported by estate agents in 2013/14, and just 15 suspicious cases were reported through art and auction houses”.¹⁸¹

United States

The United States is the largest luxury market in the world.¹⁸² Under US legislation the list of sectors with reporting obligations includes several luxury sectors, such as dealers in precious metals, stones or jewels; businesses engaged in vehicle sales including automobile, aeroplane and boat sales; and persons involved in real estate closings and settlements.¹⁸³

However, its most recent FATF Mutual Evaluation Report found that only casinos and dealers in precious metals and stones are specifically covered by requirements under the Banking Secrecy Act, rating the US as non-compliant on anti-money laundering measures taken in non-financial sectors.¹⁸⁴

A significant weakness in the US anti-money laundering regulatory framework is that key sectors including the real estate industry and sellers of vehicles were granted a temporary exemption under the Patriot Act 2002 for the implementation of anti-money laundering programmes.¹⁸⁵ Under the exemption, these sectors are not required to carry out background checks on the source of purchase funds or determine the ultimate (“beneficial”) owner.

In 2015 the New York Times, in its Towers of Secrecy series,¹⁸⁶ exposed how wealthy individuals from outside the United States use real estate to hide corruptly acquired funds. Using anonymous shell companies to hide their identity, they were able to acquire thousands of square feet of prime Manhattan property.¹⁸⁷ In addition, according to data analysed by the New York Times,¹⁸⁸ across the country shell companies made nearly a half of the residential purchases of over US\$5 million.

Following requests by civil society organisations for stronger due diligence requirements in the real estate sector,¹⁸⁹ in January 2016 the US regulator FinCEN introduced measures requiring the identification of the beneficial owner of companies buying real estate in Miami-Dade county and

¹⁸¹ Transparency International UK, *Don't look won't find*, 2015.

¹⁸² See: www.cnn.com/2015/12/31/the-worlds-biggest-luxury-markets-in-2015.html?slide=11

¹⁸³ See: www.ffiec.gov/bsa_aml_infobase/pages_manual/regulations/31USC5312.htm#31USC5312a2

¹⁸⁴ FATF, *Anti-money laundering and counter-terrorist financing measures: United States: Mutual Evaluation Report* (Paris: FATF, 2016). www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-States-2016.pdf

¹⁸⁵ See:

www.transparency.org/news/pressrelease/u.s.treasury.must.close.loopholes.to.stem.the.flow.of.proceeds.of.for.eign; www.hsgac.senate.gov/subcommittees/investigations/hearings/-keeping-foreign-corruption-out-of-the-united-states-four-case-histories

¹⁸⁶ See: www.nytimes.com/2015/02/08/nyregion/stream-of-foreign-wealth-flows-to-time-warner-condos.html?action=click&contentCollection=N.Y.%20%2F%20Region&module=Kicker®ion=Header&pgtype=article

¹⁸⁷ See:

www.transparency.org/news/pressrelease/u.s.treasury.must.close.loopholes.to.stem.the.flow.of.proceeds.of.for.eign

¹⁸⁸ See: www.nytimes.com/2015/02/08/nyregion/stream-of-foreign-wealth-flows-to-time-warner-condos.html?rref=collection%2Fnewseventcollection%2Fshell-company-towers-of-secrecy-real-estate&action=click&contentCollection=us®ion=rank&module=package&version=highlights&contentPlacement=1&pgtype=collection&r=0

¹⁸⁹ See: www.transparency-usa.org/wp-content/uploads/2016/03/FinalLettertoFinCEN-1.pdf

Manhattan,¹⁹⁰ a requirement later extended to six metropolitan areas.¹⁹¹ This measure was immediately identified as a “threat” to the luxury home market by the real estate sector.¹⁹²

In 2015, Transparency International rated the US translation of G20 beneficial ownership principles in non-financial sectors into national legislation as “very weak” with a score of just 8 per cent.¹⁹³

CONCLUSION

Billions of dollars of purchases of luxury items like houses, yachts, watches and more are made each year. But despite the very real risk of money being laundered through these sales, there is little evidence that authorities are watching, or that luxury businesses are doing enough to reduce this risk.

The luxury sector has at least two major differences compared to other non-financial businesses and professions which are at risk of facilitating money-laundering, such as law or accounting.

First, luxury goods and assets can themselves be used as means of payment in the setting up of corrupt deals. As noted above, for example, luxury watches and works of art have been identified as a preferred method of bribing public officials.

Second, the desire to own luxury items can be a primary motivation for corrupt behaviour. While the psychological motivation of individuals engaged in corruption is an under-researched field, the behaviour of kleptocrats who amass multiple luxury properties and items in a short period of time suggests owning these goods was one of the goals of the corrupt activity. The same does not apply to other high-risk business sectors; few if any corrupt deals have, for example, the ultimate goal of paying accounting fees.

The unique characteristics of luxury sectors lend added urgency to the need to address the multiple money laundering vulnerabilities identified in this report. While recent large-scale revelations such as the Panama Papers have increased the levels of media and policy attention to overall risks of money-laundering, much remains to be done to tackle the challenges specific to high-value goods and assets. It is hoped this report contributes to the nascent discussion about the anti-money laundering responsibilities of the private businesses operating in the luxury sectors, and those of the authorities charged with their oversight.

¹⁹⁰ See: www.fincen.gov/news/news-releases/fincen-takes-aim-real-estate-secrecy-manhattan-and-miami

¹⁹¹ See: www.fincen.gov/news/news-releases/fincen-expands-reach-real-estate-geographic-targeting-orders-beyond-manhattan

¹⁹² See: www.bloomberg.com/news/articles/2016-01-14/luxury-home-market-seen-threatened-by-transparency-in-nyc-miami

¹⁹³ Transparency International, 2015.

METHODOLOGICAL NOTE

This scoping report builds on a 2015 review of relevant international standards regarding the luxury goods sector, produced by Corruption Watch South Africa. Desk research was carried out between March and May of 2016, with findings being updated in January and February of 2017.

Country overviews in this report are drawn from publicly available policy analysis, in particular FATF country assessments and reports by national oversight authorities. Sector overviews are drawn from publicly available media reports, academic papers, and assessments by consultancy firms.

Limitations include that there have been no in-depth assessments of the luxury sector from an anti-money laundering policy perspective to date, and the scarcity of primary and secondary data regarding the anti-money laundering efforts of both authorities and private sector companies. In addition, FATF carries out assessments (Mutual Evaluations) of its member countries following a multi-year cycle. Baseline FATF assessments – known as Mutual Evaluation Reports – are carried out every seven to 10 years. For countries under follow-up review, publication of data can be more frequent. Overall the intervals between data for a particular country becoming available through reports by FATF and its regional bodies can vary between one and 10 years.

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