



Compliance Newsletter Switzerland

Application of the Swiss Money Laundering Act ("MLA") to Art Dealers Remains Somewhat Blurred

Dealers are not mentioned explicitly in the MLA or in the related ordinance. Further, the special regulations or directives on this topic the Federal Control Body for Combating Money Laundering has not yet issued.

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The comments of the executive branch of the Swiss Government to the Parliament accompanying the bill dated June 17, 1996 (in German "Botschaft"), explicitly excludes the applicability of the MLA to dealers.

Nevertheless, the Federal Control Body for Combating Money Laundering affirms the applicability of the MLA to dealers under special circumstances.

The dealer has to act in the function of a paying agent, i.e. he has to render services with regard to payment transactions. This is the case, when the seller and/or the purchaser of pieces of art do not wish to interact directly.

Secondly, one has to differentiate (a) if the seller of the piece of art instructs the dealer to accept money from the purchaser, the MLA is not applicable; (b) if, vice versa, the purchaser of the piece of art instructs the dealer to accept the purchase price and to transfer the money to the seller, the MLA is applicable.

Currently, a governmental work group is gathering in order to consider whether the guidelines of the FATF (Financial Action Task Force on Money Laundering) should be implemented in Switzerland.

In particular, the work group discusses a so called "light solution" for dealers encompassing the identification of the persons from whom they receive money. However, it is not intended that dealers have to join a self-regulating body.

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