***News Flash –18 December 2021 – Lambrecht Law Office***

The Belgian Government passed a new decree on 29 September 2021, implementing the law of 18 September 2017 on the prevention of money laundering and the financing of terrorism and the limitation of the use of cash. This law effectively implements the 5th AML Directive (Directive (EU) 2015/849). The origin of the law lies in its pursuit of the legitimate interest to combat money laundering and the financing of terrorism which affects the development of organised crime, this being a considerable threat to society today.

The 2017 law refers to art dealers, warehouses and its intermediaries. Art dealers are defined as natural or legal persons who buy, sell or act as intermediaries in the trade of artworks. Warehouses are defined as natural or legal persons who own or manage warehouses - including custom warehouses and freeport warehouses - which offer a storage service for artworks. The definition of artworks for art dealers includes any movable property more than 50 years old, where the sale price of one or all of the goods is equal to or exceeds €10,000.00 in value. For warehouses, artworks mean works of art or movable goods more than 50 years old regardless of value. The scope of intermediaries includes art galleries, auction houses and organisers of fairs and exhibitions dealing in art and antiquities.

The new decree requires both art dealers and warehouses to register with the Crossroads Bank for Entreprises (*Banque-carrefour des entreprises / Kruispuntbank van Ondernemingen*), recording their economic activities under one of the newly available NACEBEL codes. If persons or entities are carrying out such activities on the date of entry into force (23 October 2021), they must register no later than 1st January 2022.

Article 3 of the decree sets out the conditions for natural persons to register (applicable to both art dealers and warehouses): (1) that he or she has not been deprived of any of their civil or political rights; (2) not declared bankrupt; (3) no criminal record within Belgium or another Member State; (4) not been subject to a measure of withdrawal, suspension or temporary prohibition provided by Article 108 of the law of the 18 September 2017; and (5) not been a member of the statutory governing body, a member of the management body or an ultimate beneficiary of an art intermediary who has been subject to the aforementioned measure. If either an art dealer or warehouse fails to meet these criteria, they may not continue their economic activities.

(\*) Codes 4778702, 4779102, 4799002, 4791005 and 8230001 for art dealers; code 5210021 for warehouses.

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