

THE ART BUSINESS UNDER THE MICROSCOPE: NAVIGATING CYBER-THREATS, SELF-DEALING, AND GLOBAL COMPLIANCE

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I. INTRODUCTION

Just before the 2024 Spring “Marquee” Week (an entire week featuring exciting auctions of high-profile modern and contemporary artworks), Christie’s, a world-renowned auction house, suffered a cyberattack from RansomHub.¹ The group claimed to have stolen 2 GB of data, including names, dates of birth, addresses, and other information belonging to some of the world’s wealthiest individuals and organizations.² The impact was global: Christie’s reported that the data breach impacted about 45,000 individuals, while RansomHub claimed to have stolen information from at least 500,000 auction house clients.³ In Hong Kong, the Privacy Commissioner for Personal Data confirmed that approximately 8,400 of the auction house’s Hong Kong clients were affected by the breach, though no financial or transaction data were confirmed to have been stolen.⁴

The Christie’s incident was not the first of its kind in the art world, as in October 2021, Art Basel, a world-renowned art fair, suffered a malware attack that threatened to expose the data of the hundreds of art dealers exhibiting at its annual event.⁵ In December 2023, an apparent cyberattack disrupted Gallery Systems, a software company that museums use to display collections and

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1. Eduard Kovacs, *Christie’s Confirms Data Breach After Ransomware Group Claims Attack*, SECURITYWEEK (May 28, 2024, 8:11 AM), <https://www.securityweek.com/christies-confirms-data-breach-after-ransomware-group-claims-attack> [<https://perma.cc/ZZ5H-AT5L>]; *RansomHub Ransomware*, ULTRAVIOLET, <https://www.uvcyber.com/resources/reports/ransomhub-ransomware> [<https://perma.cc/T9E3-339U>] (last visited Nov. 8, 2024) (describing how RansomHub is a threat actor group offering a Ransomware-as-a-Service (RaaS) business model to affiliates for quick entry into, or expansion in, cybercrime).

2. Kovacs, *supra* note 1.

3. Eduard Kovacs, *Christie’s Says Ransomware Attack Impacts 45,000 People*, SECURITYWEEK (June 10, 2024, 5:22 AM), <https://www.securityweek.com/christies-says-ransomware-attack-impacts-45000-people> [<https://perma.cc/6FCA-K7XF>].

4. Yue Ting Kong, *From Cyberspace to the Courtroom, the Christie’s Data Breach Saga Enters the Legal Stage*, THE VALUE (June 13, 2024, 2:33 PM), <https://en.thevalue.com/articles/christies-auction-house-data-breach-2024-update-government-regulator-investigation> [<https://perma.cc/HZ22-VPWQ>].

5. Trina Mannino, *Art World, Take Heed: The Christie’s Hack Was a Warning*, ARTNEWS (May 29, 2024, 11:30 AM), <https://www.artnews.com/art-news/market/art-world-christies-ransomhub-hack-1234708090> [<https://perma.cc/3RJA-GPAK>].

manage documentation.⁶ In October 2024, the Art Gallery of Ontario in Canada experienced an internal server breach by a third party, putting its members' personal information at the risk of exposure.⁷

A potential cyberattack is only at the tip of the iceberg among the challenges the art world faces in protecting clients' or visitors' personal information.⁸ Many art institutions and their clients are not only vulnerable to well-orchestrated cyberattacks but can easily fall victim to insider fraud, such as art advisors conducting unauthorized transactions or purposefully defrauding their clients.⁹

Indeed, this industry has traditionally been one of the most challenging sectors to monitor or regulate, due to the difficulty of balancing anonymity (privacy) with transparency.¹⁰ As two of the most influential names in the art world, Christie's and Art Basel employ top talent from around the globe and handle business transactions worth billions of dollars annually.¹¹ Even so, the level of protection they provide to clients appeared to be less than satisfactory.¹² The Christie's incident has once again generated concerns among art collectors about the safety of their personal data.¹³ These concerns are even greater for clients working with smaller art institutions or individual dealers, who have fewer resources for robust personal data protection.¹⁴

Because there is not a systematic or comprehensive body of law known as "art law," the art world has traditionally relied on legal frameworks across various disciplines, including, *inter alia*, data privacy, anti-money laundering, tax, property, consumer protection, intellectual property, and cultural heritage laws.¹⁵ Notably, the European Union's General Data Protection Regulation

6. *Id.*

7. Josh O'Kane, *Art Gallery of Ontario Hit by Cybersecurity Breach, Says Most Customer Data Not Affected*, THE GLOBE & MAIL (Oct. 30, 2024), <https://www.theglobeandmail.com/arts/article-art-gallery-of-ontario-hit-by-cybersecurity-breach-says-most-customer> [<https://perma.cc/X9CN-CR9A>].

8. See *infra* Part II (introducing some major fraudulent cases done by art advisors in recent years).

9. *Id.*

10. See generally *infra* Part II (detailing the challenges in balancing anonymity and transparency).

11. See, e.g., *Christie's Projected Global Sales Total \$6.2 Billion in 2023*, CHRISTIE'S (Dec. 18, 2023), <https://press.christies.com/christies-projected-global-sales-total-62-ps5-eur58-hk487-billion-in-2023> [<https://perma.cc/88UN-4YSD>].

12. See Johana Bhuiyan, *Christie's Website Hack: Ransomware Attack Exposes Client Data*, THE GUARDIAN (June 1, 2024, 9:00 AM), <https://www.theguardian.com/us-news/article/2024/jun/01/christies-website-hack-ransomware-attack> [<https://perma.cc/P7P5-G2KC>] (describing the RansomHub attack and other art-related attacks).

13. Francesca Aton, *Christie's Website and App Is Back Online After Ten-Day Outage*, ARTNEWS (May 20, 2024, 2:49 PM), <https://www.artnews.com/art-news/news/christies-website-and-app-is-back-online-after-ten-day-outage-1234707625> [<https://perma.cc/PZR3-8FX8>].

14. See Lutie Rodriguez, *Why More Arts Organizations Need Privacy Policies*, ARTS MGMT. TECH. LAB'Y. (May 28, 2020), <https://amt-lab.org/blog/2020/5/why-more-arts-organizations-need-privacy-policies> [<https://perma.cc/FZJ3-XN5T>] ("[W]ithin a sample of nonprofit arts organizations, only 45% of institutions had a privacy policy of any sort. Only 41% had privacy policies written specifically for the organization's website and data collection methods.")

15. See, e.g., Amy Riedel, *What is Art Law?*, APEX LAW GROUP, <https://apexlg.com/what-is-art-law> [<https://perma.cc/NN8V-PGYQ>] (last visited Aug. 14, 2025) ("[A]rt law is an interdisciplinary topic that covers many different areas of legal practice."); but see *The Intersection of Trademark Law and Cultural Heritage*, HFG LAW & INTELL. PROP. (Sep. 9, 2024), <https://hfgip.com/news/intersection-trademark-law-and-cultural->

(“GDPR” or the “Regulation”) (2018) has had a significant impact in the industry.¹⁶ The Regulation is widely regarded as the most influential privacy framework of the past decade: it not only governs entities within Europe but also directly applies to any foreign entities that conduct business with European institutions or individuals.¹⁷ Shortly after its adoption, many non-EU countries also enacted new privacy laws modeled on the GDPR.¹⁸ This wave of global privacy legislation was driven by the rapid advancement of technological tools that, while capable of enhancing personal data protection, can just as easily be exploited by cybercriminals, as exemplified by the Christie’s incident.¹⁹

By examining the latest regulatory and privacy challenges facing the art world²⁰ and evaluating the effectiveness of current legal and non-legal solutions, this Note aims to find an optimal approach to balancing privacy and transparency. Part II lays the foundation for understanding the challenges by introducing the global landscape of privacy laws, including a detailed introduction of the GDPR and AML rules, along with a brief introduction to other relevant U.S. laws, such as the Fair Information Practice Principles (“FIPPs”) and the California Consumer Privacy Act (“CCPA”); this Part also presents the fundamental operations of the art world and examines the emerging technologies’ potential impact. Part III analyzes the challenges of balancing privacy and transparency, including the international nature of the art business, the “agency problem,” and the shortage of tech talent. This section also evaluates existing or proposed solutions and their limitations. Part IV offers recommendations, highlighting that (1) the combined application of the GDPR, AML rules, and others alike, is expected to continue safeguarding the market in the long term; (2) cross-institutional and/or cross-industry collaboration is critical, and art fairs should aim at leading self-regulation efforts; (3) clarifying fiduciary duties, standardizing conflict-of-interest disclosures, and strengthening accountability in art transactions are essential for addressing the “agency problem;” and (4) art institutions must invest in employee training, since AI and blockchain will not replace core privacy laws in the foreseeable future but can nevertheless support and enhance compliance when coupled with a capable and informed workforce.

II. BACKGROUND

Accessing personal information is becoming increasingly easy, and the consequences of data breaches are also becoming correspondingly more

heritage [<https://perma.cc/V3UA-Y25L>] (“Many legal systems do not provide sufficient protection for cultural heritage in the context of trademark law”).

16. See Apacible-Bernardo & Fischer, *infra* note 23 (noting the worldwide impact of the GDPR).

17. Wolford, *infra* note 32.

18. See *infra* Part II.A (introducing the GDPR and its far-reaching influence).

19. Joshua Filani, *Data Privacy in the Digital Age: Analyzing the Impact of Technology of U.S. Privacy Regulations*, CYBERSECURITY, PRIV., & NETWORKS EJOURNAL, Mar. 2024, at 1 (“[T]hese rapid developments in technology have ushered in new challenges, rendering personal privacy vulnerable in various spheres. . .”).

20. This note primarily focuses on the commercial art world.

severe.²¹ Globally, many countries have just updated or are in the process of updating their existing privacy laws.²² The passage of the GDPR marked the beginning of this movement.²³ Since then, non-EU countries across nearly every continent, such as China, Australia, and several African nations, have also begun drafting or enacting privacy laws that borrowed from the GDPR.²⁴

This section begins by introducing the major data privacy frameworks that, in most cases, are globally applicable, including the GDPR and AML rules. It then turns to key U.S. domestic privacy laws and other regulations relevant to the art market, such as the FIPPs and CCPA.²⁵ The following subsections then introduce the basic operations of the art market. The last subsection introduces blockchain and AI's potential use.

A. *The General Data Protection Regulation (2018)*

As one of the most influential privacy laws of the past decade, the EU's GDPR has strengthened personal data protections across industries, including the art sector, which has long been difficult to regulate.²⁶ The Regulation was adopted in 2016 and took effect in 2018.²⁷ It replaced the EU's 1995 Data Protection Directive (the "1995 Directive"), and introduced more comprehensive regulations to address the challenges posed by emerging technological tools.²⁸ The 1995 Directive shared many of the same principles as the GDPR but carried far less binding authority.²⁹ As a "directive," it was inherently suggestive: each EU member country had to adopt its principles and enact their own legislation before it could have any real impact on national data privacy protections.³⁰ Implementation also faced obstacles, including minimal or nonexistent fines, the

21. Colleen McClain et al., *How Americans View Data Privacy*, PEW RSCH. CTR. (Oct. 18, 2023), <https://www.pewresearch.org/internet/2023/10/18/how-americans-view-data-privacy> [https://perma.cc/43WM-VZ4Q].

22. Aly Apacible-Bernardo & Kayla Bushey, *Data Protection and Privacy Laws Now in Effect In 144 Countries*, IAPP (Jan. 28, 2025), <https://iapp.org/news/a/data-protection-and-privacy-laws-now-in-effect-in-144-countries> [https://perma.cc/J5AR-SET7].

23. Aly Apacible-Bernardo & Luke Fischer, *Identifying Global Privacy Laws, Relevant DPAs*, IAPP (Mar. 19, 2024), <https://iapp.org/news/a/identifying-global-privacy-laws-relevant-dpas> [https://perma.cc/D7X7-VDMT].

24. *Id.*

25. *Infra* Part II.C.

26. See Wolford, *infra* note 32 (implementing regulations on privacy and security omitting art); Isaac Kaplan, *Should the Art Market Be More Heavily Regulated?*, ARTSY (May 23, 2016, 5:27 PM), <https://www.artsy.net/article/artsy-editorial-should-the-art-market-be-more-heavily-regulated> [https://perma.cc/FC4B-RJKV] (noting the secrecy of the art market and that it is "used for tax avoidance and evasion").

27. *The History of the General Data Protection Regulation*, EUR. DATA PROT. SUPERVISOR, https://www.edps.europa.eu/data-protection/data-protection/legislation/history-general-data-protection-regulation_en [https://perma.cc/5PGC-6PCP] (last visited Nov. 9, 2024).

28. *Id.*

29. Paul M Schwartz & Karl-Nikolaus Peifer, *Transatlantic Data Privacy Law*, 106 GEO. L.J. 115, 128 (2017).

30. *Id.*

lack of mandatory breach notifications, and difficulties in enforcing rules across borders, among others.³¹

In contrast, the GDPR is considered by far the strictest privacy law in the world.³² Specifically, the Regulation extends protection to personal data relating to any identifiable natural person in, or connected to, the EU.³³ Such a person may be identified directly or indirectly through “an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”³⁴ Further, the Regulation establishes new rules on collecting personal data, processing such data, and a comprehensive set of responsibilities of the parties involved, in addition to reinforcing a wide range of existing individual rights under the 1995 Directive framework.³⁵ For example, it asks that personal data be collected for “specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ... (“purpose limitation”)³⁶; the collected personal data must also be “adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed” (“accuracy”)³⁷; be “kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed (“storage limitation”);³⁸ and be “processed in a manner that ensures appropriate security of the personal data.”³⁹ The Regulation also grants the protected individuals greater control over their own data by giving easier access to the data, and the right to rectify, erase (meaning the right to be forgotten), or restrict the processing, with certain exceptions.⁴⁰

Meanwhile, the Regulation gives leeway to its member states by allowing them to “maintain or introduce more specific provisions to adapt the application of the rules of this Regulation ... by determining more precisely specific requirements for the processing and other measures....”⁴¹ In other words, individual

31. See Rebecca Wong, *The Data Protection Directive 95/46EC: Idealisms and Realisms*, 26 INT'L REV. L. COMPUTS. & TECH., Jan. 2012, at 1–2, 11 (Jan. 2012).

32. Ben Wolford, *What is GDPR, the EU's New Data Protection Law?*, GDPR.EU, <https://gdpr.eu/what-is-gdpr> [<https://perma.cc/YX9C-B77M>] (last visited Oct. 4, 2024); *The General Data Protection Regulation*, EUR. COUNCIL, <https://www.consilium.europa.eu/en/policies/data-protection/data-protection-regulation> [<https://perma.cc/D32L-J2EM>] (last updated June 13, 2024).

33. Council Regulation 2016/679, arts. 3–4(1), 2016 O.J. (L 119) 1, 32–33.

34. *Id.*

35. *Id.*; Wolford, *supra* note 32 (explaining how parties involved in the process include data subject, data controller, and data processor).

36. Council Regulation 2016/679, art. 5(1)(b), 2016 O.J. (L 119) 1, 35.

37. *Id.* at art. 5(1)(c).

38. See *id.* at art. 5(1)(e) (however, “personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organizational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject”).

39. *Id.* at art. 5(1)(f); see also art. 6 (stating the requirements for processing the personal data lawfully).

40. *Id.* at arts. 15–18.

41. *Id.* at art. 6(2).

member states could have enacted and implemented a more stringent version of the GDPR domestically by introducing additional, more detailed requirements.⁴²

The Regulation's influence also comes from its severe punishment imposed for violations.⁴³ In extreme cases, violations can result in penalties reaching tens of millions of Euros.⁴⁴ While the art industry has not yet witnessed a heavy fine for a violation, industries heavily involved in collecting and processing personal data have been targeted under the new rules: for example, in 2023, Ireland's Data Protection Commissioner fined Meta €1.2 billion for alleged unlawful transfers of EU user data to the U.S.⁴⁵

The art world did voice concerns before the Regulation's implementation, seeking clearer guidance, particularly on archiving, public interest exceptions, and data retention.⁴⁶ Since its implementation, numerous efforts have been made to help museums and non-profits comply, and no significant issues have been reported.⁴⁷ Still, questions surrounding archiving and data retention are not only challenges for museums and art non-profits, but also for for-profit art institutions, such as auction houses and galleries, whose operations are closer to those of commercial entities like financial companies and banks.⁴⁸ It is expected that these for-profit institutions will face the most stringent requirements.⁴⁹

Finally, the GDPR's far-reaching impact has been reflected in a wave of global mirroring where non-EU countries introduced national privacy legislation closely modeled on the GDPR.⁵⁰ Shortly after the GDPR became effective, Brazil, Thailand, China, Saudi Arabia, and India enacted their first comprehensive data privacy and protection laws.⁵¹ Australia and the U.K. took inspiration from the GDPR as one influence amid their broader strategic objectives associated with privacy and data when designing national legislation.⁵² Research by the International Association of Privacy Professionals found that "137 countries []

42. *See id.* (allowing member states to introduce more specific provisions of rule).

43. Wolford, *supra* note 32.

44. *Id.*

45. *Meta Hit with Record Fine by Irish Regulator over U.S. Data Transfers*, CBC (May 22, 2023, 7:59 AM), <https://www.cbc.ca/news/business/meta-europe-fine-data-transfers-1.6851243> [<https://perma.cc/PQ7Y-Z3SR>].

46. *See* Jonathan Knott, *Museums Seek Clarification on New Data Protection Laws*, MUSEUMS ASS'N (Aug. 16, 2017), <https://www.museumsassociation.org/museums-journal/news/2017/08/16082017-museums-seek-clarification-on-new-data-protection-laws> [<https://perma.cc/6D3P-LFKF>] (discussing museum concerns before the UK implemented the GDPR).

47. *See generally*, Helen Shone & Faye Clews, *Successfully Managing Data and Privacy Regulations*, ASS'N. OF INDEP. MUSEUMS, <https://aim-museums.co.uk/resources/successfully-managing-data-and-privacy-regulations> [<https://perma.cc/9PT2-MZHM>] (last visited Oct. 13, 2025) (providing a guide advising GDPR compliance).

48. *See infra* Part II.D (introducing the operations of the art market).

49. *Id.*

50. Apacible-Bernardo & Fischer, *supra* note 23.

51. *Id.*

52. *Id.*; *see also* Protection of Personal Information Act of 2013, (S. Afr.). In addition, New Zealand, Singapore and Switzerland, also amended their existing privacy laws to be more robust and reflective of technological advancements since their initial passage. A number of African nations, including Nigeria, Kenya and South Africa, also passed comprehensive privacy legislation in the past several years, around and following the adoption of the GDPR, to "promote the protection of personal information processed by public and private bodies." Apacible-Bernardo & Fischer, *supra* note 23.

Accordingly, many G7 and commercially allied countries began enacting their AML laws.⁶² A major amendment came after the September 11 terrorist attacks, when the AML laws were expanded to include counter-terrorist financing measures.⁶³ In 2016, the EU proposed the Fifth AML Directive (“5AMLD”) and included art traders and “auction houses” in AML coverage for the first time.⁶⁴

The most recent update, the Sixth AML Directive (“6AMLD”), took effect in 2020, aiming to close gaps left by 5AMLD by clarifying definitions, expanding liability, enhancing cross-border enforcement, raising penalties for violations, and, importantly, adding consistency of approach to avoid regulatory divergence between Member States.⁶⁵ It also sets out the role of a new Anti-Money Laundering Authority (“AMLA”), as well as the obligation on other bodies to cooperate with AMLA.⁶⁶ Record retention and data protection would greatly improve the work of competent authorities under this framework.⁶⁷ It is expected that the member states fully transpose this Directive into their domestic AML laws by 10 July 2027.⁶⁸

Today, a standard AML program requires multiple steps to monitor risk.⁶⁹ This typically includes, *inter alia*, transaction monitoring, enhanced due diligence, sanctions screening, and Politically Exposed Persons (“PEP”) screening.⁷⁰ AML programs are frequently applied to entities considered high-risk for facilitating financial crimes, and art transactions fall within this category.⁷¹ The “Know Your Customer” (KYC) procedure often serves as the initial step.⁷² After identifying and verifying a prospective client’s identity, the other AML programs kick in and monitor and regulate the rest part of a transaction.⁷³

www.cfr.org/background/what-does-g7-do [https://perma.cc/2WQG-ZQ4T] (July 8, 2025, 4:15 PM). The Financial Action Task Force (FAFT) was established in 1989 by the “Group of Seven” (“G7”) Countries, namely, Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States.

62. See FATF, *supra* note 61 (documenting the history of the FAFT).

63. See generally, Izhar Haq et al., *The Impact of 9/11 on Money Laundering*, 68 AM. BEHAV. SCIENTIST 261, 267 (2024) (describing the impact of 9/11 on AML Laws).

64. *The Impact of the 5th EU Anti-Money Laundering Directive on the Art Market*, ENNESS GLOB. (Mar. 14, 2025), <https://www.ennessglobal.com/insights/blog/impact-5th-eu-anti-money-laundering-directive-art-market> [https://perma.cc/9GPD-85QH].

65. *AML Checks—Anti-Money Laundering Regulations for Identity Assessment and Verification Process*, NEOTAS, <https://www.neotas.com/aml-checks> [https://perma.cc/A45E-3YJ8] (Oct. 21, 2025); *Proposal for A Directive on the Mechanisms To Be Put in Place by the Member States for the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing and Repealing Directive (EU) 2015/849*, EUR. PARLIAMENT LEGIS. TRAINING SCHED., [www.europarl.europa.eu/legislative-train/theme-an-economy-that-works-for-people/file-6th-directive-on-amlcft-\(amld6\)](http://www.europarl.europa.eu/legislative-train/theme-an-economy-that-works-for-people/file-6th-directive-on-amlcft-(amld6)) [https://perma.cc/8N6J-9Q2J] (Dec. 15, 2024).

66. *Id.*

67. *Id.*

68. Thomas Wahl, *New Anti-Money Laundering Directive (AMLD 6)*, EUCRIM (July 18, 2024), <https://eu-crim.eu/news/new-anti-money-laundering-directive-amld-6> [https://perma.cc/T25Q-LABL].

69. *What is KYC and Why Is It Important? How Is It Part of AML?*, iPROOV (July 9, 2024), <https://www.iproov.com/blog/kyc-aml-importance-difference> [https://perma.cc/G88J-J4JE].

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

KYC rules originated in financial regulation and soon expanded to empower regulators of various other industries.⁷⁴ With regard to the art market, KYC requires “obliged entities” to collect and disclose the identities of buyers and sellers in art transactions occurring within their territories.⁷⁵ The process generally involves steps to establish customer identity, understand the nature of customers’ activities, qualify that the source of funds is legitimate, and assess money laundering risks associated with the customers and their activities.⁷⁶ Accordingly, under this framework, art institutions are obligated to verify the identities of suspicious transactions, conduct risk assessments, and train employees accordingly, so that transactions and customers are monitored properly, and thereby effectively bringing down the number of money laundering activities.⁷⁷ In practice, however, this has always been a challenge for art institutions and individual dealers alike, as they usually lack the expertise or resources to carry out all the necessary steps; they could also fail to follow KYC requirements due to the necessity of facilitating time-sensitive transactions.⁷⁸

While AML has remained integral to market regulation following the implementation of the GDPR, certain aspects, such as customer consent collection, consent mechanisms, and data subject rights, have been significantly reshaped by the GDPR.⁷⁹ For example, the GDPR requires that “consent [must be] specific, informed, and freely given, ensuring that individuals fully understand how their data will be used.”⁸⁰ This requires the data collectors to provide more explicit language asking for consent before collection happens.⁸¹ It is also required that each step of data collection must be explained clearly to ensure that customers know and can actually exercise control over their participation.⁸² Users’ rights are not limited to the initial data collection stage but throughout the process, as they have extensive rights to access, rectify, erase, and restrict

74. See *Non-Financial Institutions Subject to KYC/AML Regulations*, SMART OVERSIGHT, <https://www.smart-oversight.com/blog/non-financial-institutions-subject-to-kyc-aml-regulations/> [https://perma.cc/E2VU-3NX2] (last visited Oct. 12, 2025) (noting that KYC are often associated with financial institutions but other industries are impacted).

75. Andrea N. Perez, *Loss of Privacy Rights When Purchasing Art*, CARRINGTON, COLEMAN, SLOMAN & BLUMENTHAL, L.L.P. (Jan. 1, 2020), <https://www.ccsb.com/loss-of-privacy-rights-when-purchasing-art> [https://perma.cc/WQ5J-USH6].

76. *Know Your Customer (KYC)*, SWIFT, <https://www.swift.com/your-needs/financial-crime-cyber-security/know-your-customer-kyc/meaning-kyc> [https://perma.cc/L2GK-FT44] (last visited Oct. 12, 2025).

77. Thorsten J. Gorny, *Anti-Money Laundering Guide for the Art Market*, SANCTIONS.IO (June 9, 2022), <https://www.sanctions.io/blog/anti-money-laundering-guide-for-the-art-market> [https://perma.cc/8K3U-ASVE].

78. Andrew Adams et al., “Making Sense of the AML Regulations & the Art Market (CLE),” at Steptoe New York (May 15, 2025, 2:30 PM), <https://www.youtube.com/watch?v=YBVtG-bBnb0> (The speakers suggested that, in this type of scenario, asking the potential buyer or seller to provide a payment account with a major financial institution adds an extra layer of safety—it is expected that such financial institutions have done some AML checks on the account and the account holder).

79. Belal Mahmoud, *The Impact of GDPR on KYC Procedure: A Closer Look*, KYC-AML GUIDE (Jan. 1, 2025), <https://kycaml.guide/blog/the-impact-of-gdpr-on-kyc-procedure-a-closer-look> [https://perma.cc/3LQ6-4NPL]; *The Impact of GDPR on KYC Procedures*, SANCTION SCANNER (Sept. 26, 2025), <https://www.sanctionscanner.com/blog/the-impact-of-gdpr-on-kyc-procedures-969> [https://perma.cc/H5TR-YFEZ].

80. Mahmoud, *supra* note 79.

81. *Id.*

82. *Id.*

processing.⁸³ Enabling these rights “compel[s] organizations to be [more] meticulous in handling data and maintaining compliance, while still meeting regulatory requirements for identity verification.”⁸⁴

C. U.S. Privacy and AML Laws and Regulations

The U.S. holds a leading position in the global art market, accounting for a 42% of sales by value.⁸⁵ Developing a comprehensive privacy legal system is thus critical to ensuring a healthy, continued growth of the global art market.⁸⁶ The U.S. primarily protects its residents and business partners’ personal data through various federal and state laws, regulations, and guidelines.⁸⁷ The Fair Information Practice Principles (“FIPPs” or the “Principles”) are primary guidance various legal entities consult.⁸⁸ The U.S. Department of Health, Education, and Welfare created the Principles in the 1970s, which have since then been incorporated in the federal and state statutes, and in the policies of many organizations around the world, including, for example, the Privacy Act of 1974, the 1981 OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, the California Consumer Privacy Act of 2018 (“CCPA”), and even the GDPR.⁸⁹

Many current U.S. privacy laws are generally less stringent than the GDPR.⁹⁰ For example, while the GDPR protects any information relating to an identified or identifiable natural person, the CCPA applies only to information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked directly or indirectly to a particular consumer or household.⁹¹ While violations to the GDPR can result in fines of up to €20

83. *Id.*

84. *Id.*

85. *The Art Bsael and UBS Global Art Market Report 2024*, ART BASEL, <https://www.artbasel.com/stories/the-art-market-remains-resilient-in-2023—despite-a-slowdown-in-sales> [<https://perma.cc/K57F-T8HQ>] (last visited Aug. 13, 2025).

86. *See Consumer Data Privacy Laws*, BLOOMBERG LAW, <https://pro.bloomberglaw.com/insights/privacy/consumer-data-privacy-laws/#privacy-laws-by-country> [<https://perma.cc/Y9P4-A4NL>] (last visited Oct. 12, 2025) (explaining the importance of privacy laws).

87. *Id.*

88. *See The Fair Information Practice Principles*, DEP’T HOMELAND SEC., <https://www.dhs.gov/publication/privacy-policy-guidance-memorandum-2008-01-fair-information-practice-principles> [<https://perma.cc/HX D5-NDCJ>] (last updated May 26, 2022) (“The ‘FIPPs’ provide the foundational principles for privacy policy and guideposts for their implementation at DHS.”); *Fair Information Practice Principles (FIPPs)*, FED. PRIVACY COUNCIL, <https://www.fpc.gov/resources/fipps/> [<https://perma.cc/5A87-DU8A>] (last visited Oct. 22, 2025) (“[T]he Fair Information Practice principles (FIPPs) have informed Federal statute and the laws of many U.S. states and foreign nations, and have been incorporated in the policies of many organizations around the world.”). Eight key principles of the FIPPs cover collection limitation, data quality, purpose specification, use limitation, security safeguards, openness, individual participation, and accountability.

89. FED. PRIVACY COUNCIL, *supra* note 88; Cheryl Saniuk-Henig, *50 Years and Still Kicking: An Examination of FIPPs in Modern Regulation*, IAPP (May 25, 2021), <https://iapp.org/news/a/50-years-and-still-kicking-an-examination-of-fipps-in-modern-regulation> [<https://perma.cc/3T68-NR7F>]; *Fair Information Practice Principles (FIPPs)*, DEP’T VETERANS AFFAIRS, <https://department.va.gov/privacy/fact-sheet/fair-information-practice-principles-fipps> [<https://perma.cc/HT93-Y5K9>] (Sept. 8, 2025).

90. *See infra* text accompanying notes 91–92.

91. *See* Council Regulation 2016/679, art. 4(1), 2016 O.J. (L 119) 1, 33 (stating that “‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’)”); Cal. Civ. Code

million, noncompliance with CCPA penalties are significantly lower.⁹² The difference in stringency between U.S. laws and the GDPR could potentially create challenges in determining which framework to apply in cross-border disputes to ensure fairness and justice.⁹³

The U.S. AML regime originated from the Bank Secrecy Act of 1970 (“BSA”), which established requirements for recordkeeping and reporting by private individuals, banks, and other financial institutions.⁹⁴ The first U.S. AML statute was the 1986 Money Laundering Control Act, establishing money laundering as a federal crime.⁹⁵ Over the decades, the framework has been expanded and incorporated into laws regulating specific industries.⁹⁶ The most up-to-date U.S. regime is the Anti-Money Laundering Act of 2020 (“AMLA 2020”), which was passed as part of the National Defense Authorization Act, strengthening and modernizing AML infrastructure to reflect the capabilities of emerging technologies and new criminal methodologies.⁹⁷ Comparatively, the EU’s current AML regime has a broader coverage, applicable to a wider range of professionals and goods,⁹⁸ but the U.S. is particularly stringent in enforcement, with U.S. agencies acting faster and imposing larger penalties.⁹⁹

The art industry was never specifically targeted by the U.S. AML laws until most recently, when a group of bi-partisan U.S. Senators introduced the Art Market Integrity Act.¹⁰⁰ If passed, the proposed Act would mandate art dealers and

§ 1798.140(b) (“‘Aggregate consumer information’ means information that relates to a group or category of consumers, from which individual consumer identities have been removed, that is not linked or reasonably linkable to any consumer or household, including via a device. ‘Aggregate consumer information’ does not mean one or more individual consumer records that have been deidentified.”).

92. Council Regulation 2016/679, art. 83, 2016 O.J. (L 119) 33–34 (“Infringements of the following provisions shall, in accordance with paragraph 2, be subject to administrative fines up to 20 000 000 EUR...”); Cal. Civ. Code § 1798.155(a); *Updated Monetary Thresholds in CCPA*, CAL. PRIVACY PROT. AGENCY (Dec. 17, 2024), https://cippa.ca.gov/regulations/cpi_adjustment.html [<https://perma.cc/WWJ2-5ZN9>]; *Fines / Penalties – General Data Protection Regulation (GDPR)*, INTERSOFT CONSULTING, <https://gdpr-info.eu/issues/fines-penalties/> [<https://perma.cc/A2K7-R9VX>] (last visited Oct. 12, 2025).

93. Teodora Lalova-Spinks et al., *EU-US Data Transfers: An Enduring Challenge for Health Research Collaborations*, NPJ DIGITAL MEDICINE, 2024, at 1..

94. *History of Anti-Money Laundering Laws*, FIN. CRIMES ENFORCEMENT NETWORK, <https://www.fin-cen.gov/history-anti-money-laundering-laws> [<https://perma.cc/F53Q-FT3K>] (last visited Aug. 13, 2025).

95. *Id.*

96. *U.S. Anti-Money Laundering Act 2020: Key Highlights*, COMPLY ADVANTAGE, <https://complyadvantage.com/insights/us-anti-money-laundering-act-aml-2020> [<https://perma.cc/9FBJ-9Q3M>] (Feb. 12, 2025).

97. *Id.*

98. *See Key Changes To Monitor In The New EU AML/CFT Framework*, AML WATCHER (May 12, 2025), <https://amlwatcher.com/blog/key-changes-to-monitor-in-the-new-eu-aml-cft-framework> [<https://perma.cc/TDR6-H8EG>] (stating that EU AML regulations are expected to expand the application to *non-financial institutions*); *Comparative Analysis of AML Laws and Regulations: A Deep Dive into the US and EU Frameworks*, FIN. CRIME ACAD. (Sept. 30, 2025), <https://financialcrimeacademy.org/aml-laws-and-regulations> [<https://perma.cc/P6YD-DW9E>] (stating that US AML regulations provide the basis for most of the preventative measures applied to the *financial sector and other businesses*).

99. Joe Biddle, *Power Shift: What Happens When America Steps Back From Global AML Enforcement?*, CCI (Apr. 15, 2025), <https://www.corporatecomplianceinsights.com/power-shift-what-happens-when-america-steps-back-from-global-aml-enforcement> [<https://perma.cc/HR2Y-Y3CM>].

100. Fetterman, *Colleagues Introduce Legislation to Crack Down on Money Laundering and Terror Financing in the Art Market*, FETTERMAN U.S. SENATOR FOR PENNSYLVANIA (July 23, 2025), <https://www.fetterman.senate.gov/fetterman-colleagues-introduce-legislation-to-crack-down-on-money-laundering-and-terror-financing-in-the-art-market> [<https://perma.cc/3T7G-8G77>].

auction houses to comply with anti-money-laundering and counter-terrorism financing regulations under the BSA.¹⁰¹ This would be a significant move forward because under the AMLA 2020 and the BSA, only “persons engaged in the trade of antiquities” are covered, representing only a small segment of overall art market activity.¹⁰²

D. Art Market and Art Market Regulation: A General Picture

This subsection expands on the fundamental operations of the art market, an essential context for understanding the tension between privacy and transparency, as well as the need for a balanced regulatory approach. Key art market participants include museums, galleries, auction houses, art fairs, art dealers, collectors, and artists.¹⁰³ Among these, artists, galleries, dealers, and art fairs mainly operate in the primary art market, where more newly created artworks are first shown and sold in private, though works of established artists and masters are frequently transacted;¹⁰⁴ whereas the auction houses, such as Christie’s and Sotheby’s, are the major participants in the secondary market, where artworks are resold, more often from collectors’ hands.¹⁰⁵

In recent decades, art fairs have gained increasing popularity as central venues for art transactions,¹⁰⁶ as the fairs showcase a more diverse range of high-quality artworks all at once and serve important social functions.¹⁰⁷ These fairs feature lively and inclusive events, gather hundreds of galleries, art news media, and organizations from around the world, and welcome both wealthy collectors and the general public often with free entry.¹⁰⁸ Beyond transactions, they also host discussions and lectures featuring prominent speakers from the industry and academia.¹⁰⁹ As a result, art fairs are evolving into much more than just marketplaces for art.¹¹⁰

101. *Id.*

102. Kim, *supra* note 58; U.S. GOV’T ACCOUNTABILITY OFF., GAO-24-106301, ANTI-MONEY LAUNDERING: BETTER INFORMATION NEEDED ON EFFECTIVENESS OF FEDERAL EFFORTS 67 (2024).

103. Daiva Jurevičienė, Jekaterina Savičenko & Algita Miečinskienė, *Art as a Diversification Tool of Investment Portfolios*, 7TH INT’L SCI. CONF. “BUS. & MGMT. 2012” 84, 86 (2012).

104. *The Primary Versus the Secondary Art Market*, ARTLAND (Oct. 2, 2017), <https://magazine.artland.com/the-primary-versus-the-secondary-art-market> [<https://perma.cc/8Q8M-5DZ2>].

105. *Id.*

106. *The Artsy Art Fair Report 2024*, ARTSY (Feb. 28, 2024), <https://www.artsy.net/article/artsy-editorial-artsy-art-fair-report-2024> [<https://perma.cc/TH59-JVX9>].

107. Lucy Howie, *What Collectors Need to Know about Air Fairs*, ARTSY (Aug. 22, 2023, 3:29 PM), <https://www.artsy.net/article/artsy-editorial-collectors-art-fairs> [<https://perma.cc/C25X-XVLS>] (“Art fairs serve as platforms for artists, galleries, and collectors to connect, exchange ideas, and build deeper relationships[.]”).

108. *Id.*; Arun Kakar, *10 Gallery Leaders Shaping the Online Art World*, ARTSY (Aug. 29, 2024, 5:00 PM), <https://www.artsy.net/article/artsy-editorial-10-gallery-leaders-shaping-online-art> [<https://perma.cc/4BNH-M2LG>].

109. Osman Can Yerebakan, *The Hottest New Art Fair This Summer Is in the Berkshires*, ARTSY (June 10, 2025, 11:57 AM), <https://www.artsy.net/article/artsy-editorial-hottest-new-art-fair-summer-berkshires> [<https://perma.cc/QES8-5VLV>].

110. Mahoro Seward, *Are art fairs the next hotspot for lifestyle retail?*, VOGUE BUS. (June 11, 2024), <https://www.voguebusiness.com/story/consumers/are-art-fairs-the-next-hotspot-for-lifestyle-retail> [<https://perma.cc/XNW9-XAQS>].

The global trend of intensifying personal data protection laws provides potential solutions to long-standing issues in the art world but simultaneously creates new challenges.¹¹¹ One concern is the GDPR's requirement to establish maximum retention periods for different categories of data.¹¹² This poses a challenge to provenance verification, a unique requirement for ensuring art market transparency and preventing unjust enrichment.¹¹³ Typically, for an artwork to be legally placed on the market for sale, all previous acquisitions must have been made through legal means.¹¹⁴ As a result, ownership records are the most critical data that sellers and buyers consult for appraisal, clearing title, etc.¹¹⁵ Comprehensive and accurate records of provenance significantly streamline the process (and artworks with well-documented ownership histories, particularly those linked to notable collectors, are more likely to fetch premium prices).¹¹⁶ Simply put, both sellers and buyers benefit from having data stored for longer periods of time and in an ascertainable way to avoid potential legal disputes and achieve higher sales numbers.¹¹⁷ Yet, it is important to note that anonymity is equally valued in this process due to the nature of the business: art transactions frequently involve sensitive personal and financial information belonging to ultra-high-net-worth clients.¹¹⁸ Leaking the data can expose these individuals to cyberattacks and an influx of unsolicited pitches from art dealers, galleries, and auction houses.¹¹⁹

111. See Thomas Danziger & Charles Danziger, *Worried about What GDPR Means for the Art World? Lawyers Answer 11 Questions about the Hair-Raising New Legislation*, ARTNET (July 16, 2018), <https://news.artnet.com/art-world/danziger-gdpr-art-world-guide-1319003> [<https://perma.cc/Q8RX-S5C6>] (discussing challenges for art galleries).

112. Jeamine Fewins, *Personal Data: Lifting the Veil on the Art Market*, LEWIS SILKIN, <https://collectionslegal.art/site/wp-content/uploads/2024/08/Personal-Data-Lifting-the-veil-on-the-art-market.pdf> [<https://perma.cc/42CY-BUV4>] (last visited Sep. 18, 2024).

113. *Id.*; Luke Kelly, *What Is Provenance—and Why Does It Matter?*, UTAH MUSEUM OF FINE ARTS, <https://umfa.utah.edu/what-is-provenance> [<https://perma.cc/DX4K-GR3J>] (explaining that “provenance” in the art context refers to the history of ownership of an artwork) (last visited Oct. 12, 2025).

114. Ronald D. Spencer, *Art Law on Legal Title and Buyer Due Diligence*, ARTNET (Feb. 12, 2014), <https://news.artnet.com/market/getting-good-title-to-art-you-purchase-29939> [<https://perma.cc/C6VW-NQ6E>].

115. *Exploring the Role of Provenance in Art Appraisals: Assessing Historical Significance*, APPRAISEITNOW (July 5, 2023), <https://www.appraiseitnow.com/blog/exploring-the-role-of-provenance-in-art-appraisals-assessing-historical-significance> [<https://perma.cc/A3DV-SBMZ>].

116. Alessandro Levato, *What is the Importance of Provenance in Artwork?*, ARTWORK ARCHIVE (July 7, 2023), <https://www.artworkarchive.com/blog/what-is-the-importance-of-provenance-in-artwork> [<https://perma.cc/D4PB-79BA>].

117. See Brien Posey, *Data Retention Policy*, TECHTARGET, <https://www.techtarget.com/searchdata-backup/definition/data-retention-policy> [<https://perma.cc/F3BW-TH2R>] (last visited Oct. 12, 2025) (“An organization should only retain data for as long as it’s needed.”). In the art context, people would want “provenance” information to stay and be accessible so future authentication and evaluation work may be easier.

118. Andrea N. Perez, *Loss of Privacy Rights When Purchasing Art*, CARRINGTON, COLEMAN, SLOMAN & BLUMENTHAL, L.L.P. (Jan. 1, 2020), <https://www.ccsb.com/loss-of-privacy-rights-when-purchasing-art> [perma.cc/WW6J-7TUU].

119. See, e.g., Esther Neville, *Anonymity and the Art Market: Balancing Privacy and Transparency*, Center for Art Law (Oct. 16, 2023), <https://itsartlaw.org/2023/10/16/anonymity-and-the-art-market-balancing-privacy-and-transparency> [<https://perma.cc/7CD2-SZ8X>] (explaining why the collectors’ community favors anonymity for not having to worry about possible ramifications).

Beyond external threats, clients are also constantly concerned about being deceived by insiders, such as art advisors.¹²⁰ Several high-profile cases illustrate this concern.¹²¹ Yves Bouvier, a Swiss art dealer and former advisor to Russian business tycoon, Dmitry Rybolovlev, allegedly sold Rybolovlev's collections at excessive mark-ups, pocketing significant profits for himself.¹²² Art dealer Inigo Philbrick forged key documents, including a Christie's consignment agreement, a purchase and sale agreement, a bill of sale, and a Christie's invoice, to facilitate unauthorized transactions.¹²³ Most recently, Justin Sun, a crypto Billionaire, claimed that his former art advisor exchanged his \$80 million Collection Le Nez for two paintings and \$10 million in cash without obtaining his official permission.¹²⁴

In the U.S., two primary mechanisms have frequently been used to protect art market participants: state and federal laws (as introduced above) and contractual agreements.¹²⁵ State and federal laws generally govern ownership transfers and artwork authentication, while contractual agreements define the rights and obligations of buyers and sellers, including information regarding the provenance and the condition of artworks.¹²⁶ *Hoffman v. L&M Arts* illustrates how these two methods complement each other to ensure transparency and data security for each transaction.¹²⁷ In this case, the plaintiff sought to sell a Rothko painting through a private sale and entered into a Letter Agreement that contains a confidentiality clause.¹²⁸ Since no privacy law was applicable in the case, the court applied the Texas contract law and held that the plaintiff could not expect confidentiality to be indefinite.¹²⁹ In comparison, Christie's 2024 incident raises complexities that state contract laws might fail to resolve, making comprehensive frameworks like the GDPR and AML particularly helpful for clients with overseas connections.¹³⁰

120. See Don Thompson, *Charting the Art Adviser's Rise in the Art World*, ARTSY (Apr. 17, 2017, 7:12 PM), <https://www.artsy.net/article/artsy-editorial-charting-art-advisers-rise-art> [<https://perma.cc/DT4F-KLLN>] (discussing the increased role and power of art advisors).

121. *Id.*

122. Vincent Noce, *Russian Tycoon Accuses Yves Bouvier of "Campaign of Disinformation" as US Calls off Investigation into Swiss Entrepreneur*, THE ART NEWSPAPER (June 1, 2018), <https://www.theartnewspaper.com/2018/06/01/russian-tycoon-accuses-yves-bouvier-of-campaign-of-disinformation-as-us-calls-off-investigation-into-swiss-entrepreneur> [<https://perma.cc/GHU7-669G>].

123. Dalya Alberge, *"He's Sabotaged His Entire Life for Greed": The \$86m Rise and Fall of Inigo Philbrick*, GUARDIAN (May 25, 2022), <https://www.theguardian.com/artanddesign/2022/may/25/inigo-philbrick-jailed-art-fraud> [<https://perma.cc/K3L5-XDAC>].

124. Daniel Cassidy, *Legal Feud Between Justin Sun David Geffen over 'Stolen' Giacometti Heats Up*, ARTNEWS (May 9, 2025, 4:41 PM), <https://www.artnews.com/artnews/news/justin-sun-david-geffen-feud-heats-up-1234741811> [<https://perma.cc/73Y2-8JBY>].

125. Matthew Erskine, *The U.S. Art Market: A Legal and Financial Guide*, ART BUS. NEWS (Apr. 25, 2024), <https://artbusinessnews.com/2024/04/the-u-s-art-market-a-legal-and-financial-guide> [perma.cc/H9TC-ZRHK].

126. *Id.*

127. *Hoffman v. L&M Arts*, 774 F. Supp. 2d 826 (N.D. Tex. 2011).

128. *Id.* at 829–30.

129. *Id.* at 839–41; Neville, *supra* note 119.

130. See Kovacs, *supra* note 1 (noting the scope of the attack and the worldwide impact).

Indeed, the global evolution of privacy laws is a positive trend for the art market.¹³¹ Stronger privacy protections keep buyers and sellers' identities confidential while still requiring necessary disclosures to ensure transparency.¹³² The emergence of the GDPR imposes stringent restraints on the chaotic art world—essentially forcing all entities that possess personal data information related to EU residents to be transparent about the data they possess, and to get consent from the individuals before they use the data.¹³³ One of the obvious impacts is that the enforcement of the GDPR forces changes how sale contracts are drafted.¹³⁴ Traditionally, privacy rights are protected by a combined effort of contracts and statutes.¹³⁵ Yet within the industry, people understand that the market has largely relied on a secretive way of dealing with information—people who have connections facilitate transactions behind the scene, and the swift and quiet transactions draw no public attention.¹³⁶ Now, the GDPR and the new AML rules can alter the process significantly by pushing institutions and individual dealers to add additional statements within contracts that detail their legal responsibilities in data collection, use, and protection, and mostly importantly, to report such transactions.¹³⁷ Indeed, when the GDPR first came out, art market observers like Velimirović were expecting industry-wide changes in the culture and in the way art organizations deal with clients, contributors, employees, and service providers.¹³⁸ That being said, the new legal regimes have yet to bring a complete revolution in the art industry.¹³⁹ Even after the changes, legal actions remain a frequent option for individuals whose privacy rights are infringed.¹⁴⁰

On the other hand, new privacy and AML laws pose an implementation challenge to smaller-scale art institutions and individual dealers in particular.¹⁴¹ For example, to meet the GDPR's requirements, a small Berlin-based Sofa Salon house needed to ask subscribers in their emails to “opt in” by confirming that they are happy to consider receiving the newsletter and share their personal data—including names and email addresses but in some cases phone numbers and physical addresses as well, which the operator of the Salon estimated would cause the loss of half of the then-existing subscribers.¹⁴²

131. See Fewins, *supra* note 112 (describing new regulations in the art market).

132. *Id.*

133. Stuart Braun, *GDPR Regulations Are Shaking up the Art World*, DW (May 24, 2018), <https://www.dw.com/en/how-new-eu-data-protection-regulations-affect-the-art-world/a-43902325> [perma.cc/PF26-AZYH].

134. Riah Pryor, *Privacy Rules are Spelling Trouble for the Art Market*, THE ART NEWSPAPER (Dec. 6, 2024), <https://www.theartnewspaper.com/2024/12/06/privacy-rules-spelling-trouble-art-market> [perma.cc/8N GS-9V2S].

135. *Id.*

136. Andreja Velimirović, *How Will EU's New GDPR Law Affect the Art Business?*, WIDEWALLS (Mar. 30, 2018), <https://www.widewalls.ch/magazine/gdpr-law-art-business> [https://perma.cc/2C29-3UEM].

137. *See id.* (“If successful, the GDPR will be bringing on an entire culture change within arts organizations and the way companies deal with clients, contributors, employers and service providers”).

138. *Id.*

139. *Id.*

140. Pryor, *supra* note 134.

141. Braun, *supra* note 133.

142. *Id.*

E. The Use of Artificial Intelligence and Blockchain in the Art Market

Emerging technologies represented by blockchain technology and artificial intelligence (“AI”) have the potential to significantly enhance data privacy and security in the art world.¹⁴³ AI is effective in anonymizing data, masking sensitive information, and detecting anomalies, while blockchain’s decentralized nature enables users to have greater control over their data and others’ access to it, and the immutable nature can create a transparent record of data access and usage that is not subject to changes.¹⁴⁴ While blockchain has seen limited real-world application so far, AI has been applied broadly in fields such as medical diagnosis, financial predictions, and facial recognition, among others.¹⁴⁵ Moreover, AI can be used in blockchain settings to enhance the privacy of users’ personal data through anomaly detection, real-time monitoring, adaptive encryption, and others.¹⁴⁶ Specially, AI can support blockchain settings by monitoring and detecting anomalies and attacks, sharing permissions and smart contracts, and enabling privacy-enhanced use of datasets through improved identity management.¹⁴⁷ At the same time, AI models benefit from being trained on more diverse and validated datasets in these settings.¹⁴⁸

On the other hand, however, tech giants, such as Google, Microsoft, OpenAI, and Meta, increasingly dominate and monetize AI tools.¹⁴⁹ This trend presents challenges for art institutions in terms of cost, accessibility, and intellectual property protection.¹⁵⁰ The art institutions also face questions regarding “distance and control.”¹⁵¹ Control, in this context, refers to how AI accesses institutional data and what data is used to train AI models.¹⁵² Furthermore, the application of AI raises broader ethical concerns, including risks of mass surveillance, data breaches, biased algorithms, and a lack of transparency.¹⁵³

143. Stanton Heister & Kristi Yuthas, *How Blockchain and AI Enable Personal Data Privacy and Support Cybersecurity*, in *ADVANCES IN THE CONVERGENCE OF BLOCKCHAIN AND A.I.* 1, 4, 7 (2021), <https://www.intechopen.com/chapters/75936> [<https://perma.cc/HLA4-SS99>].

144. *Id.* at 8–9.

145. *Id.* at 7, 11; see also Arun Gupta, *AI and Blockchain in CRM: Securing Customer Data with Advanced Technologies*, *DATAVERSITY* (July 3, 2024) <https://www.dataversity.net/ai-and-blockchain-in-crm-securing-customer-data-with-advanced-technologies> [<https://perma.cc/SV7Q-GB3A>] (recommending the integration of blockchain and AI as applied to customer relationship management).

146. See Heister & Yuthas, *supra* note 144 at 7–8 (explaining that AI and blockchain can be combined for added security).

147. *Id.*

148. *Id.* at 9.

149. Chris Michaels, *The art world’s AI dilemma: how can artists and museums thrive when big tech controls the monetising of artificial intelligence?*, *THE ART NEWSPAPER* (May 30, 2024), <https://www.theartnewspaper.com/2024/05/30/the-art-worlds-ai-dilemma-how-can-artists-and-museums-thrive-when-big-tech-controls-the-monetising-of-artificial-intelligence> [<https://perma.cc/6T3C-YNKD>].

150. *Id.*

151. *Id.*

152. *Id.*

153. *Artificial Intelligence and Privacy—Issues and Challenges*, OFF. OF THE VICTORIAN INFO. COMM’R, <https://ovic.vic.gov.au/privacy/resources-for-organisations/artificial-intelligence-and-privacy-issues-and-challenges> [<https://perma.cc/G2LL-HCXR>] (last visited Nov. 15, 2024); Christina Pazzanese, *Great Promise but Potential for Peril*, *THE HARV. GAZETTE* (Oct. 26, 2020), <https://news.harvard.edu/gazette/story/2020/10/ethical-concerns-mount-as-ai-takes-bigger-decision-making-role> [<https://perma.cc/4LKD-XRSK>].

Therefore, while emerging technologies like artificial intelligence (AI) and blockchain offer promising valuable tools for enhancing data privacy and security, they currently remain far from replacing established regulatory frameworks such as the GDPR.¹⁵⁴ AI systems depend heavily on data collection and analysis, and though they can improve efficiency, they also raise significant privacy and ethical concerns.¹⁵⁵ The collection of vast amounts of personal data, including sensitive information like biometrics and financial records, makes AI vulnerable to data breaches no less than the traditional record-keeping does.¹⁵⁶

III. CHALLENGES AND PROPOSED SOLUTIONS FOR THE ART MARKET UNDER THE CURRENT LEGAL FRAMEWORK

As economist Nouriel Roubini once described, the art market is a business “full of shady stuff.”¹⁵⁷ Indeed, the art industry has long been infamous as a hotbed for money laundering, looted artwork transactions, and other financial crimes.¹⁵⁸ Importantly, inside information in the art world plays an unusual role even in legitimate transactions—illegal in other markets, but a norm in the art industry.¹⁵⁹

As introduced in Part II, regulating the art market is particularly difficult as it involves two conflicting goals: maintaining privacy but ensuring transparency.¹⁶⁰ The business involves a high level of confidentiality: while some high-profile artworks make headlines for selling at astronomical prices, the identities of the buyers often remain highly secretive.¹⁶¹ Many collectors bid by phone or send representatives to auctions to conceal their involvement.¹⁶² This secrecy fuels competition at auctions: since few people know who the real buyers are, where the artworks will go, or when they might return to the market, fellow bidders fear missing a once-in-a-lifetime opportunity and aggressively drive up the price, often surpassing pre-sale estimates.¹⁶³ Beyond public auctions, the private sales sector, which includes transactions at auction houses, galleries, art

154. See, e.g., *The Growing Data Privacy Concerns with AI: What You Need to Know*, DATAGUARD, <https://www.dataguard.com/blog/growing-data-privacy-concerns-ai> [<https://perma.cc/XAZ3-MBQ6>] (last visited Mar. 6, 2025) (“AI poses various privacy challenges, including unauthorized data use, biometric data concerns, covert data collection, and algorithmic bias.”).

155. *Id.*

156. *Id.*

157. Henry Lydiate, *Regulating the Art Industry*, ARTQUEST, <https://artquest.org.uk/artlaw-article/regulating-the-art-industry> [<https://perma.cc/S6VE-EK2Y>] (last visited Oct. 22, 2025).

158. See *supra* Part II.D (introducing how the anonymity of the art world creates gaps for potential art crimes).

159. *Id.*

160. *Id.*

161. *Id.*

162. Maxwell Rabb, *The 25 Auction Terms Every Art Collector Needs to Know*, ARTSY (Sept. 25, 2024, 10:43 PM), <https://www.artsy.net/article/artsy-editorial-25-auction-terms-art-collector> [<https://perma.cc/393X-VRJJ>].

163. See Noah Charney, *Lost Art: When Works Disappear into Private Collections*, THE ART NEWSPAPER (Nov. 8, 2018), <https://www.theartnewspaper.com/2018/11/08/lost-art-when-works-disappear-into-private-collections> [<https://perma.cc/3VKW-368H>] (explaining the general private and undisclosed nature of artwork sales).

fairs, and direct dealings between individuals and art dealers, represents another highly opaque part of the art world.¹⁶⁴ With confidential information concentrated in the hands of a select few, the art market has traditionally been a game of insider knowledge.¹⁶⁵ Those with connections can strengthen their influence by introducing buyers and sellers, reinforcing their role as gatekeepers.¹⁶⁶ For some art dealers, securing the exclusive right to represent an ultra-high-net-worth client provides them with significant market power, sometimes encouraging unethical behavior.¹⁶⁷ The private nature of the art business constantly raises concerns about how confidential information is used, leading to growing calls for a more transparent market.¹⁶⁸ Finally, it is also worth noting that the rampant wartime looting of art obscured vast amounts of provenance information, creating a persistent historical problem.¹⁶⁹ The private sector and the public sector interact when the looted art enters the market.¹⁷⁰ Transparency, meaning clear provenance records tracing an artwork's sources and destinations, would be essential to maintaining market order.¹⁷¹ As such, privacy and transparency are “yin” and “yang” in maintaining art market integrity and are inherent in the many challenges practitioners of this market are facing.

The first part of this section explores three major challenges in today's art market regulation: (1) the transcontinental nature of the industry, which complicates enforcement and regulatory consistency; (2) the “agency problem,” where intermediaries may exploit their positions at the expense of their clients; and (3) the lack of technological expertise in art institutions, leaving them vulnerable to cybersecurity threats. The second part of this section discusses and evaluates current regulatory solutions aimed at addressing these challenges and improving the balance between privacy and transparency in the art world.

A. Challenges in Art Market Privacy Protection

Shaping a more regulated art market by balancing privacy and transparency is challenging at every stage.¹⁷² Although no currently adopted laws or regulations target specifically on the art industry, several existing regimes governing

164. Lydiate, *supra* note 157.

165. Sam Knight, *The Bouvier Affair*, THE NEW YORKER (Jan. 31, 2016), <https://www.newyorker.com/magazine/2016/02/08/the-bouvier-affair> [<https://perma.cc/2A73-B722>].

166. Fabio Rojas & David De La Torre, *Art Dealers as Competitors and Community Builders: Understanding the Overlapping Social Logics of the Contemporary Art World*, 17 SOCIOLOGY COMPASS, June 2023, at 1, 3, <https://doi.org/10.1111/soc4.13125> [perma.cc/V8SN-TL4M].

167. See *supra* Part II.D (introducing cases of deceitful art advisors).

168. Neville, *supra* note 119.

169. See, e.g., Jodi Heckel, *Provenance Exhibition Shows Challenges of Tracing the Path of Ownership of Artwork*, UNIV. ILL. NEWS BUREAU (May 9, 2017, 9:00 AM), <https://news.illinois.edu/provenance-exhibition-shows-challenges-of-tracing-the-path-of-ownership-of-artwork> [<https://perma.cc/74XU-STA7>] (discussing how provenance has drawn more attention as artwork stolen by the Nazis before and during World War II has been located).

170. See Neville, *supra* note 119 (explaining that lack of transparency can clear the way for illegal activities including the sale of looted art).

171. *Id.*

172. *Id.*

other sectors are used to address certain aspects of the industry.¹⁷³ As introduced above, these include AML laws to monitor and penalize financial crimes, the GDPR to regulate personal data collection and protection, tax laws to address potential tax evasion, among others.¹⁷⁴

However, three major challenges arise when applying these regulations to the art market. First, enforcing privacy laws is complex for galleries, auction houses, and other art institutions that operate internationally, as they must navigate different legal requirements across multiple jurisdictions.¹⁷⁵ Second, transactions involving multiple parties create difficulties in clarifying agency relationships and assigning accountability;¹⁷⁶ excessive trust in agents often leads to self-dealing.¹⁷⁷ Finally, a widespread shortage of tech talent and IT resources in the art industry slows the adoption of robust cybersecurity measures, leaving institutions vulnerable to digital threats.¹⁷⁸

1. *Art as a Transcontinental Business*

Achieving full compliance is challenging for galleries, auction houses, and other art institutions, as they often conduct transactions across continents, thereby subjecting them to different laws in different jurisdictions.¹⁷⁹ For example, Christie's has salerooms in New York, Los Angeles, Paris, Shanghai, Hong Kong, London, Geneva, and Dubai; regional galleries in San Francisco, Amsterdam, Madrid, and Milan; and offices in Tokyo.¹⁸⁰ It also has representatives and liaisons in other global locations.¹⁸¹ Similarly, another major auction house, Sotheby's, at the time of this writing, has eleven salerooms globally and six galleries and salons, in addition to dozens of individual representatives.¹⁸² Gagosian, one of the most reputable contemporary art galleries, has five locations in operation in New York, and over ten gallery spaces or shops in the U.S., Europe, and Asia.¹⁸³

173. See *supra* Part II (introducing the various regimes used to address the art industry).

174. See *id.* (introducing the regulatory regimes applicable to the art industry).

175. *What Is Art Money Laundering and How Does It Work?*, ALESSA (Dec. 27, 2023), <https://alessa.com/blog/art-money-laundering-explained> [<https://perma.cc/GSQ5-P7JV>].

176. *Secret Commissions in Art Transactions: Risks & Safeguards*, ARTSECURE (Jul. 4, 2018), <https://www.artsecure.gr/blog/secret-commissions-in-art-transactions-risks-safeguards> [<https://perma.cc/B2GH-W5XW>].

177. *Id.*

178. Kyle Smith, *Secure Your Organization Despite the Cybersecurity Talent Shortage*, NUHARBOR SEC. (Apr. 11, 2024), <https://www.nuharborsecurity.com/blog/secure-your-organization-despite-the-cybersecurity-talent-shortage> [<https://perma.cc/2SR6-KLLQ>].

179. Dylan Sharma, *Art and Data*, BAR & BENCH (Aug. 10, 2024, 7:58 AM), <https://www.barandbench.com/columns/art-and-data> [<https://perma.cc/QV8A-NK8M>].

180. See *Christie's Locations*, CHRISTIE'S, <https://www.christies.com/en/locations/salerooms#saleroom-locations> [<https://perma.cc/6HXX-X9MV>] (last visited Feb. 4, 2025, 10:03 PM) (showing a list of locations worldwide where Christie's operates).

181. *Id.*

182. See *Locations*, SOTHEBY'S, <https://www.sothebys.com/en/about/locations?locale=en> [<https://perma.cc/TH2D-RL8Q>] (last visited Feb. 4, 2025) (showing a list of locations worldwide where Sotheby's operates).

183. *Locations*, GAGOSIAN, <https://gagosian.com/locations> [<https://perma.cc/JH4Y-HEGQ>] (last visited Feb. 4, 2025, 10:11 PM).

Key regional distinctions remain in transacting artworks.¹⁸⁴ Because of the differences in cultural background, business customs, local rules, and others, self-regulation is sometimes the preferred defense to the chaotic market instead of government intervention.¹⁸⁵ Indeed, a 2016 Deloitte Art & Finance Report reported that “76% of art professionals, 72% of art collectors and 64% of wealth managers, were in favor of self-regulation of the art market.”¹⁸⁶ The 2012 Basel Art Trade Guidelines put forward a series of recommendations for fostering some self-regulation, but it has not been adopted in any official capacity.¹⁸⁷ Among the voices pro self-regulation, Rebecca Davies, then chief executive of The Association of Art & Antiques Dealers, explained that “bureaucracy simply results in poorer regulation, increased costs, and reduced competition.”¹⁸⁸ However, self-regulation is often inadequate for high-value or high-volume art sales, which operate more like systemic financial transactions.¹⁸⁹

Currently, some countries and regions have strict regulations requiring businesses to collect customer data if transactions exceed certain amounts, while their privacy laws impose stringent restrictions on how that data is processed and handled.¹⁹⁰ To illustrate, the EU requires “obligated entities” to collect and disclose the identities of buyers and sellers in art transactions occurring within their territories (i.e. KYC).¹⁹¹ Meanwhile, the GDPR outlines strict rules on how data should be stored, how consent must be obtained, and how businesses must comply with requests to delete consumer data.¹⁹² But the issue becomes complicated when individuals of different nationalities are involved:¹⁹³ if an EU resident lives in the U.S. and purchases artwork from a Chinese gallery, which country’s privacy laws should apply? U.S. law may govern certain aspects, such as which court has jurisdiction if a lawsuit arises, but the GDPR remains the most

184. Artnet News & Morgan Stanley, *State of the Art Market: Understanding Regional Differences in the Globalized Art Market*, ARTNET (Mar. 6, 2024), <https://news.artnet.com/market/state-of-the-art-market-understanding-regional-differences-in-the-globalized-art-market-2444281> [<https://perma.cc/VMQ2-37VY>].

185. See Isaac Kaplan, *Should the Art Market Be More Heavily Regulated?*, ARTSY (May 23, 2016), <https://www.artsy.net/article/artsy-editorial-should-the-art-market-be-more-heavily-regulated> [<https://perma.cc/5NLN-VZ3N>] (discussing views that self-regulation is the answer).

186. Gary Graves, *Art Market and Regulation*, LINKEDIN (July 21, 2020), <https://www.linkedin.com/pulse/art-market-regulation-gary-graves> [<https://perma.cc/UZ7E-QGLN>].

187. Kaplan, *supra* note 185.

188. *Id.*

189. See, e.g., *Money Laundering and Terrorist Financing in the Art and Antiquities Market*, FATF (Feb. 27, 2023), <https://www.fatf-gafi.org/en/publications/Methodsandrends/Money-Laundering-Terrorist-Financing-Art-Antiquities-Market.html> [<https://perma.cc/42DB-AR9V>] (“[M]any jurisdictions do not have sufficient awareness and understanding of [risks associated with illicit art market activities].”).

190. Andrea N. Perez, *Loss of Privacy Rights When Purchasing Art*, CARRINGTON, COLEMAN, SLOMAN & BLUMENTHAL, L.L.P. (Jan. 1, 2020), <https://www.ccsb.com/loss-of-privacy-rights-when-purchasing-art> [<https://perma.cc/X43C-6JFG>].

191. *Id.*

192. Kate Maffey, *Approaches to Data Privacy in Arts Organizations*, ARTS MGMT. & TECH. LAB. (Aug. 2, 2022), <https://amt-lab.org/blog/2022/8/privacy-for-the-arts-in-a-digital-age> [<https://perma.cc/J47K-JTWJ>].

193. See Safna Y. Yacooob, *Does the GDPR Apply to EU Citizens Living in the US? Legal Insights*, COOKIEYES BLOG (Aug. 13, 2025), <https://www.cookieyes.com/blog/does-gdpr-apply-to-eu-citizens-living-in-the-us/> [<https://perma.cc/A4DA-RN3D>] (describing the challenges of international application of the GDPR).

comprehensive privacy law globally.¹⁹⁴ Should a U.S. court prioritize the GDPR's framework or its less stringent domestic privacy regime?¹⁹⁵

In addition to the regional differences, the art-economic models do not remain unchanged over time.¹⁹⁶ Art fairs have increasingly gained popularity,¹⁹⁷ with many of the long-standing art fairs that originated in Europe having expanded to the U.S. and Asia.¹⁹⁸ The number of art fairs has grown from 68 in 2005 to 189 in 2012, and to 408 in 2019.¹⁹⁹ There remained over 370 art fairs in 2024, with a wide range of different focuses on contemporary art, classical art, photography, among others.²⁰⁰ If Art Basel were held only in Basel, the GDPR alone would govern data privacy violations.²⁰¹ With its expansion to Miami and Hong Kong, compliance may require a combination of the GDPR and local regulations.²⁰²

The answers to these concerns could be simpler than anticipated. Eventually, the governing privacy law turns on jurisdiction, choice-of-law in the contract, and each regime's extraterritorial reach.²⁰³ In other words, a U.S. court would default to U.S. (including state) laws and regulations if a contractual choice of foreign law does not already exist.²⁰⁴ The GDPR would apply only if individuals covered by the GDPR are involved; it does not apply merely because the buyer is an E.U. national living outside the Union.²⁰⁵ Over the longer term,

194. See *Comparing U.S. State Data Privacy Laws vs. the EU's GDPR*, BLOOMBERG L. (July 11, 2023), <https://pro.bloomberglaw.com/insights/privacy/privacy-laws-us-vs-eu-gdpr/#the-basics-of-each-law> [https://perma.cc/HRK4-5Q5D] (charting the differences between the privacy laws in the U.S. and the GDPR).

195. See William Gamble, *Are U.S. Data Privacy Laws So Different From the GDPR After All?*, IT GOVERNANCE (July 27, 2023), <https://www.itgovernanceusa.com/blog/are-u-s-data-privacy-laws-so-different-from-the-gdpr-after-all> [https://perma.cc/S7G9-5MSR] (describing differences in the restrictiveness between the two jurisdictions).

196. See generally, Artnet News & Morgan Stanley, *State of the Art Market: Understanding Regional Differences in the Globalized Art Market*, ARTNET (Mar. 6, 2024), <https://news.artnet.com/market/state-of-the-art-market-understanding-regional-differences-in-the-globalized-art-market-2444281> [https://perma.cc/QY45-MX HJ] (describing the economic development in the art market).

197. Y-Jean Mun-Delsalle, *The Art Fair Boom Is Forever Changing the Way the Art Market Does Business*, FORBES (Apr. 8, 2016, 6:22 AM EDT), <https://www.forbes.com/sites/yjeanmundelsalle/2016/04/07/the-art-fair-boom-is-forever-changing-the-way-the-art-market-does-business> [https://perma.cc/2PM4-WD3N].

198. *Id.*

199. Pearl Lam, *Why Does The Art Fair Model Continue to Thrive?*, FORBES (Mar. 29, 2024, 9:30 AM EDT), <https://www.forbes.com/councils/forbesbusinesscouncil/2024/03/29/why-does-the-art-fair-model-continue-to-thrive> [https://perma.cc/FCX8-2TZ9].

200. *Id.*

201. See *supra* Part II.A (introducing the scope of the GDPR).

202. See, e.g., Ana Mishova, *Global Data Protection Regulation: How GDPR Sets the International Standard*, GDPR LOCAL (June 2025), <https://gdprlocal.com/global-data-protection-regulation-how-gdpr-sets-the-international-standard/> [https://perma.cc/QCY3-LBE9] (describing the effects of the GDPR's extraterritorial scope).

203. See Helena Kastlová, *Report on Extraterritorial Enforcement of GDPR*, SUPPORT POOL OF EXPERTS PROGRAMME 23–24 (Apr. 17, 2024), https://www.edpb.europa.eu/system/files/2024-10/edpb_20240417_report_extraterritorial_enforcement_gdpr_en.pdf [https://perma.cc/S4EC-TRJM] (explaining that, generally, foreign law is not enforceable).

204. See *id.* at 25 (describing enforcement of laws in the U.S.).

205. *Who Does the Data Protection Law Apply To?*, EUR. COMM'N., https://commission.europa.eu/law/law-topic/data-protection/rules-business-and-organisations/application-regulation/who-does-data-protection-law-apply_en [https://perma.cc/ZZH7-RXVN] (last visited Oct. 13, 2025).

this conflict may even matter less.²⁰⁶ Legislatures routinely borrow from one another: the GDPR itself reflects the FIPPs, and newer statutes around the world have, in turn, borrowed from the GDPR.²⁰⁷ Barring jurisdictions with fundamentally different legal architectures, we are likely to see greater alignment rather than divergence in core privacy norms, reducing the stakes of which specific label (e.g. U.S. vs. E.U.) ends up applying in a given art-market transaction.²⁰⁸

2. *The Agency-Principal Relationship Problem*

The Third Restatement of Agency defines the “agency-principal relationship” as “a fiduciary relationship that arises when one person (a “principal”) manifests assent to another person (an “agent”) that the agent shall act on the principal’s behalf and be subject to the principal’s control, and the agent manifests assent or otherwise consents so to act.”²⁰⁹ Simply put, in this type of relationship, one party expressly or impliedly authorizes another party to act under their control and on their behalf.²¹⁰ For example, auction houses serve as principals, while their employees act as agents, hired to operate on their behalf and under their control.²¹¹ These employees interact with clients and conduct authorized transactions on behalf of the auction houses.²¹² They also owe a fiduciary duty to their employers, typically outlined in employment contracts, which prohibit self-dealing, competition, and the disclosure of confidential information, among other restrictions.²¹³

Once an agency relationship has been identified, there is relatively little ambiguity as to what the law requires in the context of the art market.²¹⁴ Any benefit the agent obtains in relation to the agency agreement requires the principal’s consent, and any information the agent knows is material to the agency relationship must be disclosed to the principal.²¹⁵ After a transaction, an agent (the art advisor or dealer in this context) also has a duty to disclose associated profits, ensuring that their principal remains informed about the status of their property and financial transactions.²¹⁶

206. See Michael L. Rustad & Thomas H. Koenig, *Towards a Global Data Privacy Standard*, 71 FLA. L. REV. 365, 419 (2019) (describing the intertwined nature of global privacy law).

207. *Id.* at 420.

208. See *id.* at 425 (demonstrating the alignment between privacy laws in the EU and the U.S.).

209. RESTATEMENT (THIRD) OF AGENCY § 1.01 (AM. L. INST. 2006).

210. *Agency—The Basic Law*, L. OFFICES OF STIMMEL, STIMMEL & ROESER, <https://www.stimmel-law.com/en/articles/agency-basic-law> [<https://perma.cc/FZL3-TXQ6>] (last visited Oct. 13, 2025).

211. See *The Law of Auctions*, L. OFFICES OF STIMMEL, STIMMEL & ROESER, <https://www.stimmel-law.com/en/articles/law-auctions> [<https://perma.cc/3HD9-LSSB>] (last visited Oct. 13, 2025) (describing the roles of principal and agent).

212. See MARTIN WILSON, “*Auctions: the Auction House*” in ART LAW AND THE BUSINESS OF ART, 75 (Nov. 11, 2019) (noting that the auction house sells the artwork to a bidder).

213. *Id.* at 76–81.

214. RESTATEMENT (THIRD) OF AGENCY § 1.01 (AM. L. INST. 2006).

215. *Id.* at cmt. e.

216. Tom Christopherson, *Art Law and the Art Market: Disclosure or Discretion?*, SOTHEBY’S INST. ART (Oct. 2, 2017), <https://www.sothebysinstitute.com/news-and-events/news/art-law-and-the-art-market-disclosure-or-discretion> [<https://perma.cc/7SNT-T3G8>].

In practice, however, the agency-principal relationship is more complicated than its literal definition.²¹⁷ In a corporate setting, shareholders are principals, and the management officers are agents acting on their behalf and for their interests.²¹⁸ In a single transaction, lower-level employees are agents acting on behalf of the management officers and the shareholders, and in this case, the management officers assume the roles of both agents (with regard to the shareholders) and principals (with regard to the employees).²¹⁹

As in many industries, art dealing is subject to the complexity of the agency-principal relationship.²²⁰ When multiple parties are involved simultaneously, it becomes difficult to understand the agency relationship situation.²²¹ Under different business relationships, a gallery could be seen as an agent or as an arm's-length party to the artist.²²² For example, if a gallery has a long-term agreement to represent an artist, there exists a principal-agency relationship between them, with the artist as principal and the gallery as an agent.²²³ However, this is not the only way galleries and artists collaborate.²²⁴ Sometimes, a gallery may organize a temporary group exhibition that includes artworks it does not officially represent.²²⁵

Another issue arises when the duties of disclosure and non-disclosure overlap.²²⁶ Art dealers and advisors act on behalf of or provide counsel to clients engaging in transactions within the art market, during which sensitive personal information is often exchanged, including names, addresses, and even purchasing habits.²²⁷ The buyer and seller's information is generally withheld from the public.²²⁸ Moreover, dealers and advisors are sometimes bound by laws, agreements, or the industry norm to withhold the buyer's identity from the seller and the seller's identity from the buyer.²²⁹ Determining when and what information

217. *Id.*

218. *Principal-Agent Problem*, CORP. FIN. INST., <https://corporatefinanceinstitute.com/resources/economics/principal-agent-problem> [<https://perma.cc/JJL3-L6RT>] (last visited Oct. 13, 2025).

219. *See id.* (noting that the "principal is the party that...appoints the agent to make decisions and take actions on its behalf;" in this example, the management officers take both roles, but in different relationships).

220. Christopherson, *supra* note 216.

221. *Id.*

222. "Arm's length" is an expression which is commonly used to refer to transactions in which two or more unrelated and unaffiliated parties agree to do business, acting independently and in their self-interest. *Arm's Length*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/arm%27s_length [<https://perma.cc/9B6N-MYJ8>] (last visited Oct. 13, 2025).

223. Azmina Jasani, *When Artists and Galleries Split, What Are the Legal Implications?*, THE ART NEWSPAPER (Feb. 13, 2020), <https://www.theartnewspaper.com/2020/02/13/when-artists-and-galleries-split-what-are-the-legal-implications> [<https://perma.cc/Q5B4-L2E5>].

224. *See e.g.*, Delagrangé, *infra* note 225 (describing the various types of artist-gallery collaborations).

225. Julien Delagrangé, *What Are the Different Types of Art Exhibitions? A Complete Overview*, CAI (Jan. 12, 2023), <https://www.contemporaryartissue.com/what-are-the-different-types-of-art-exhibitions> [<https://perma.cc/5R2X-KRVH>] (explaining that this type of collaborations benefits both parties: for artists, exhibition experience enhances their resume and increases the chances of selling their work; for galleries, showcasing high-quality exhibits helps strengthen their reputation).

226. Christopherson, *supra* note 216.

227. *Id.*

228. *Id.*

229. *Id.*

should remain confidential or be disclosed is a challenge and can leave room for self-dealing.²³⁰

Self-dealing occurs when a person with a fiduciary duty (i.e. the “agent”) to someone else or an entity (the “principal”) takes action to gain personal benefit, instead of for the principal’s benefit.²³¹ This occurs frequently in the art world.²³² At least three such cases have occurred in recent years involving transactions of artworks worthy millions of dollars—one of the most prominent art advisors, Lisa Schiff pleaded guilty to defrauding clients of about \$6.5 million from 2018 to 2023 by misappropriating funds intended for art purchases and diverting proceeds from sold artworks to living a lavish personal life.²³³ Similarly, Inigo Philbrick defrauded clients by selling them “shares” of artworks, which, when added up, exceeds 100% ownership, and misappropriated the funds to finance his luxurious life.²³⁴ In early 2025, crypto entrepreneur, Justin (Yuchen) Sun similarly claimed that his former art advisor, Sydney Zihan Xiong, defrauded him by forging his signature to facilitate an unauthorized transaction with billionaire collector David Griffin, and that she kept \$500,000 from the transaction for personal use.²³⁵ The frequency of such fraudulent self-dealing activities in the art world is rarely seen elsewhere.²³⁶ With highly confidential clients’ personal information, the whereabouts of valuable artworks in the hands of a small group of insiders, and no existing sufficiently powerful laws to compel disclosure, self-dealing will be a persistent concern for all collectors for the foreseeable future.²³⁷ An unhealthy relationship eventually leads to lawsuits, property loss, and reputational damage.²³⁸ Such harm is no less than that

230. *See id.* (“With practitioners acting for each other, acting in partnership with each other, competing with each other and buying from and selling to each other—sometimes all at the same time—it can be challenging to ascertain when information should be kept confidential and when it should be disclosed.”).

231. *Self-Dealing*, CORNELL L. SCH. LEGAL INFO. INST., <https://www.law.cornell.edu/wex/self-dealing> [<https://perma.cc/PA96-8THZ>] (last visited Oct. 13, 2025).

232. *See e.g.*, Adam Schrader, *Frankenthaler Foundation Moves to Dismiss Lawsuit Amid Ongoing Family Feud*, ARTNET (Feb. 21, 2024), <https://news.artnet.com/art-world/frankenthaler-foundation-moves-to-dismiss-lawsuit-2438426> [<https://perma.cc/3377-LEXZ>] (giving an example of a high-profile self-dealing case).

233. Carlie Porterfield, *Embattled New York Advisor Lisa Schiff Pleads Guilty to Defrauding Clients out of \$6.5 Million*, THE ART NEWSPAPER (Oct. 17, 2024), <https://www.theartnewspaper.com/2024/10/17/lisa-schiff-pleads-guilty-to-defrauding-clients> [<https://perma.cc/AJ4Q-K43S>].

234. Michael Kaplan, *Inside the \$86M Scam that Landed Art Dealer Inigo Philbrick in Prison*, N.Y. POST (May 25, 2023, 9:59 AM ET), <https://nypost.com/2022/05/25/the-86m-scam-that-landed-art-dealer-inigo-philbrick-in-prison> [<https://perma.cc/LKV8-9WDT>].

235. Graham Bowley, *Collector Sues David Geffen to Reclaim a Sculpture Worth Millions*, N.Y. TIMES (Feb. 4, 2025), <https://www.nytimes.com/2025/02/04/arts/david-geffen-giacometti-sculpture.html> [<https://perma.cc/87GW-35JP>].

236. *See e.g.*, Daniel Cassidy, *Billionaire Dmitry Rybolovlev Cleared in Swiss Investigation, Swiss Dealer Yves Bouvier Faces \$830 M. Tax Bill*, ARTNEWS (Oct. 23, 2024), <https://www.artnews.com/art-news/news/rybolovlev-cleared-in-swiss-investigation-bouvier-faces-huge-tax-bill-1234721933> [<https://perma.cc/8KQJ-6VW5>] (describing another instance of this phenomenon).

237. *Reframing U.S. Policy on the Art Market: Recommendations for Combatting Financial Crimes*, ANTIQUITIES COALITION THINK TANK (June 18, 2025), <https://acthinktank.scholasticahq.com/article/130888> [<https://perma.cc/9ASK-ZJU5>].

238. *Id.*

from cyberhackers.²³⁹ Unfortunately, the current privacy and AML regimes do not directly address this concern.²⁴⁰

3. *Shortage of Tech Talents*

Traditionally, the art industry has been slow to adopt and integrate technological solutions.²⁴¹ For example, two studies by the Arts Management & Technology Lab found that while 90% of the surveyed non-profits reported collecting data, 49% of the professionals could not clearly explain how the data was collected.²⁴² Additionally, 55 out of 100 arts organizations had no privacy policy on their website.²⁴³

These results are hardly surprising. Many arts organizations lack responsive tech teams due to issues like budget constraints and mismanagement.²⁴⁴ Some institutions outsource tech work to external companies, while others have no dedicated tech staff at all.²⁴⁵ Even those with resources to build a tech team face challenges, such as team members working in different time zones.²⁴⁶ The situation worsened with the Covid-19 pandemic, as many tech staff in the art industry sought more stable, better-paying jobs elsewhere, further depleting the art world's tech expertise.²⁴⁷

Despite the increasing use of technology in the daily operation and administration,²⁴⁸ the industry practitioners appear to be more wary of than willing to

239. See e.g., Lee Matthews, *Crafty Hackers Are Stealing Millions From Art Galleries and Buyers*, FORBES (Nov. 7, 2017, 11:17 AM EST), <https://www.forbes.com/sites/leemathews/2017/11/07/crafty-hackers-are-stealing-millions-from-art-galleries-and-buyers/> [<https://perma.cc/9ZR5-49ZV>] (describing the harms of cyberattacks on the art world).

240. See e.g., Britt Mosman et al., *Challenges for Global Financial Institutions Under Conflicting Legal Regimes*, GLOB. INVESTIGATIONS REV. (June 21, 2024), <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering-archived/second-edition/article/challenges-global-financial-institutions-under-conflicting-legal-regimes> [<https://perma.cc/T5XB-DZ85>] (describing deficiencies in the current AML schemes).

241. See Dylan Sharma, *Art and Data*, BAR AND BENCH (Aug. 10, 2024, 7:58 AM), <https://www.barandbench.com/columns/art-and-data> [<https://perma.cc/4YLN-MC9W>] (illustrating how the art industry can be slow to adapt, highlighting Christie's past data security issues).

242. Kate Maffey, *Approaches to Data Privacy in Arts Organizations*, ARTS MGMT. & TECH. LAB. (Aug. 2, 2022), <https://amt-lab.org/blog/2022/8/privacy-for-the-arts-in-a-digital-age> [<https://perma.cc/QXA7-S2Q3>].

243. *Id.*

244. *Art Museums across the Country to Hire Technology Talent Expand Audience Engagement Efforts with Nearly 1 Million from Knight Foundation*, KNIGHT FOUND. ORG. (Apr. 25, 2018), <https://knightfoundation.org/press/releases/art-museums-across-the-country-to-hire-technology-talent> [<https://perma.cc/XJ9Z-UW3G>]; *Digital Culture 2019*, ARTS COUNCIL ENGLAND 8 (November, 2019) <https://www.artscouncil.org.uk/sites/default/files/download-file/Digital-Culture-2019.pdf> [<https://perma.cc/7WG9-UBTE>] (“[L]ack of funding to allocate to digital was still a major barrier...”).

245. See *Digital Culture 2019*, *supra* note 244, at 30 (describing the limitations in technological development).

246. *How to Bridge Communication Gap in Outsourcing Software Development*, SVITLA (Feb. 19, 2024), <https://svitla.com/blog/communication-gaps-in-outsourcing> [<https://perma.cc/ASH8-W739>].

247. Kim Goodwin, *Why the Arts Are Losing the War for Talent*, INDAILY (Nov. 17, 2022), <https://www.indaily.com.au/arts-culture/inreview-commentary/2022/11/17/why-the-arts-are-losing-the-war-for-talent> [<https://perma.cc/XQ8G-29AJ>].

248. *How Technology Enables Arts Institutions to Reach New Audiences and Expand Access to the Arts*, ARTNEWS (July 16, 2024), <https://www.artnews.com/art-news/sponsored-content/knight-foundation-3-how-technology-enables-arts-institutions-reach-new-audiences-expand-access-1234708962> [<https://perma.cc/Y9FG-UTDL>].

embrace the use of technology.²⁴⁹ This is fueled by two major concerns that art industry practitioners hold: (1) that advanced technology, represented by AI, has caused significant worries about copyright infringement;²⁵⁰ and (2) a general concern about losing the job to the technological tools.²⁵¹

However, even without such concerns, hiring tech talents is a challenge, especially considering disheartening facts such as that 2/3 of art museum workers have considered leaving the field because their basic living expenses cannot be covered.²⁵² If the current budget at most art institutions is barely sufficient to retain necessary staff members, whether the budget enables or should prioritize hiring tech talents is questionable.²⁵³ The Trump Administration's executive orders cutting federal fundings for national museums unquestionably further deepens the strain on their already tightened budget.²⁵⁴ Indeed, the art industry, particularly public institutions that rely heavily on external funding, is vulnerable to economic cycles and political changes.²⁵⁵ 2024 was not an easy year for the art world: several major art institutions have announced layoffs,²⁵⁶ and even the most prominent auction house, Sotheby's, has reportedly faced significant financial pressure.²⁵⁷ These challenges could easily lead to deprioritizing hiring additional technology staff to address privacy risks.²⁵⁸

249. See text accompanying notes 250–51 (describing the current concerns with embracing technology).

250. Simon Hembt, *The Debate on AI-Created Art and Copyright Protection*, BIRD & BIRD (Sept. 1, 2023), <https://www.twobirds.com/en/insights/2023/global/the-debate-on-ai-created-art-and-copyright-protection> [<https://perma.cc/HCZ8-85DA>].

251. Jiashun Fang, *Is AI A Job Killer in Art Museums*, ARTS MGMT & TECH LAB. (Apr. 19, 2019), <https://amt-lab.org/blog/2019/4/is-ai-a-job-killer-in-art-museums> [<https://perma.cc/A8YP-H6TF>]; Rob Alderson, *Graphic Design Among Most At-Risk Jobs from AI—Report*, DESIGNWEEK (Jan. 13, 2025), <https://www.design-week.co.uk/graphic-design-among-most-at-risk-jobs-from-ai-report> [<https://perma.cc/UL3Y-585M>].

252. Carolina A. Miranda, *A New Study Shows Museum Workers Struggling. We Need to Evolve to Meet the Moment*, L.A. TIMES (Oct. 5, 2023, 5:00 AM), <https://www.latimes.com/entertainment-arts/story/2023-10-05/museums-moving-forward-report-workers-are-struggling-with-burnout-and-low-pay> [<https://perma.cc/RK2F-ZKP5>].

253. See *id.* (describing the “heightened uncertainty” around museum funding).

254. Exec. Order No. 14217, 90 Fed. Reg. 10577 (Feb. 19, 2025); Exec. Order No. 14253, 90 Fed. Reg. 14563 (Mar. 27, 2025).

255. Olivia Gavoyannis, *How Does the Economy Impact the Art Market?*, ARTSY (July 8, 2025, 8:21 AM), <https://www.artsy.net/article/artsy-editorial-economy-impact-art-market>, [<https://perma.cc/NE7K-YBG8>]; Hillel Italie, *A Landscape Transformed: As It Responds to Cuts in Federal Programs, the Arts Community Reels*, ASSOC. PRESS (May 12, 2025), <https://apnews.com/article/national-endowment-arts-humanities-grants-cuts-trump-bb91093e7166c53b69770a3b880afe6b> [<https://perma.cc/79UL-KQJ7>].

256. Aidin Vaziri, *San Francisco's Top Art Museums Announce Layoffs As Money and Visitors Dry Up*, SAN FRANCISCO CHRONICLE (July 25, 2025, 7:47 PM), <https://www.sfchronicle.com/entertainment/article/famsf-layoffs-budget-cuts-20776156.php> [<https://perma.cc/33YY-HLEE>]; Bea Mitchell, *Lucas Museum Lays Off 15 Full-Time Employees Ahead of 2026 Opening*, BLOOLOOP (May 21, 2025), <https://blooloop.com/museum/news/lucas-museum-layoffs> [<https://perma.cc/QS7U-6JUC>]; Adam Schrader, *Brooklyn Museum to Cut Jobs Amid \$10 Million Budget Deficit*, ARTNET (Feb. 27, 2025), <https://news.artnet.com/art-world/brooklyn-museum-layoffs-budget-deficit-2606781> [<https://perma.cc/HJV7-YQJB>].

257. Karen K. Ho, *Sotheby's Lays Off 100 Staffers After Lower Results For Marquee Auctions in New York*, ARTNEWS (Dec. 11, 2024, 4:53 PM), <https://www.artnews.com/art-news/market/sothebys-staff-layoffs-new-york-patrick-drahi-auctions-1234726860/> [<https://perma.cc/P7H9-2JD2>].

258. See generally Maffey, *supra* note 242 (describing how some solutions to data privacy concerns require resources and others face challenges).

A pertinent question arises as to whether hiring tech talent could improve efficiency to the extent that certain positions might be justifiably eliminated.²⁵⁹ While some administrative roles, such as data entry and ticketing, may be automated, specialized expertise remain vital, namely curators, educators, and roles that increase accessibility.²⁶⁰ Auction houses and galleries value efficient and safe transactions, which an automated system supports, but successful business eventually hinges on good art or, at the very least, good storytelling (i.e. pitching).²⁶¹ In this sense, the commercial art world needs “curators” and other roles alike no less than museums do.²⁶² A tech team alone cannot readily justify cutting the core positions.²⁶³

B. Existing and Proposed Solutions

1. Monitoring and Regulating Cross-Border Art Market Activities

In response to the art market’s vulnerability to financial crimes, lawmakers in the EU and the U.S. have moved to tighten AML regulations in recent years: The EU’s AML6D extended AML obligations explicitly to art market participants, including the previously uncovered sectors.²⁶⁴ This means auction houses and art dealers now must conduct strict customer due diligence (identifying and verifying clients), monitor for suspicious activity, and report any red flags to authorities.²⁶⁵ In the U.S., the AML Act of 2020 added dealers in antiquities to the definition of “financial institution” under the BSA, imposing full AML program requirements on them but leaving outside dealers in other areas of art.²⁶⁶ The new AML regime has filled the gap.²⁶⁷

In addition to this, the U.S. Department of Justice issued *Preventing Access to U.S. Sensitive Personal Data and Government-Related Data by Countries of*

259. See Fang, *supra* note 251 (explaining the threat of AI to art museum jobs).

260. See Ana Maria Caballero, *The Role of Curatorial Studios In The Digital Art Ecosystem*, FORBES (July 14, 2025, 3:49 PM EDT), <https://www.forbes.com/sites/digital-assets/2025/07/14/the-role-of-curatorial-studios-in-the-digital-art-ecosystem/> [<https://perma.cc/3622-KUFE>] (discussing the opportunities for curatorial roles within technological advancements).

261. Daniel P. West, *Tell a Better Story: How Estate Auction Marketing Starts with the Item Itself*, AUCTIONMETHOD (July 24, 2025), <https://www.auctionmethod.com/blog/tell-a-better-story-how-estate-auction-marketing-starts-with-the-item-itself> [<https://perma.cc/T78N-3EA9>].

262. See *id.* (noting the importance of storytelling and framing an item).

263. See Fang, *supra* note 251 (discussing jobs that AI is unlikely to take in art museums).

264. Alan Ward, *The Fifth EU Money Laundering Directive and the Art Market*, STEPHENSON HARWOOD (May 28, 2019), <https://www.shlegal.com/news/the-fifth-eu-money-laundering-directive-and-the-art-market> [<https://perma.cc/6UNX-F7RG>]; *Laundering Directive*, KYCHUB, <https://www.kychub.com/blog/6amld> [<https://perma.cc/2SKJ-HS58>] (last visited Mar. 6, 2025).

265. *5AMLD and the Art Trade*, COMPLY ADVANTAGE, <https://complyadvantage.com/insights/5amld-art-trade> [<https://perma.cc/VY6F-49D7>] (last visited Mar. 6, 2025).

266. Peter D. Hardy, *Treasury Report: No Immediate Need for BSA Regulations for the Art Industry*, BALLARD SPAHR LLP (Feb. 10, 2022), <https://www.moneylaunderingnews.com/2022/02/treasury-report-no-immediate-need-for-bsa-regulations-for-the-art-industry> [<https://perma.cc/V3AA-NKUQ>].

267. Thomas J. Delaney et al., *FinCEN Issues New AML Rule Impacting Registered Investment Advisers and Exempt Reporting Advisers*, NORTON ROSE FULBRIGHT (September 2024), <https://www.nortonrosefulbright.com/en/knowledge/publications/06508efe/fincen-issues-new-aml-rule-impacting-registered-investment-advisers-and-exempt-reporting-advisers> [<https://perma.cc/5L2X-VCW9>].

Concern or Covered Persons, which may add another layer of protection.²⁶⁸ The Rule defines “covered person” as an individual or entity that has specified connections to one or more countries of concern and “sensitive personal data” as including “covered personal identifiers, precise geolocation data, biometric identifiers, human ‘genomic data, personal health data, personal financial data, or any combination thereof.’”²⁶⁹ However, it remains unclear whether lower-value transactions will be deemed “sensitive” enough to be covered under the Rule, and generally how efficiently the law enforcement officers will carry it out.²⁷⁰

As of now, many major U.S. auction houses and galleries have begun adopting voluntary compliance programs in anticipation of likely more stringent future rules.²⁷¹ In *Personal Data: Lifting the Veil on the Art Market*, Jezamine Fewins outlines seven steps that non-government parties involved in the art business can take to minimize disruption.²⁷² These include (1) determining what client data an institution is processing and why, where, and to whom the institution is sharing the data; (2) establishing a cross-border inventory of data flows and checking that transfers are covered by appropriate arrangements; (3) obtaining legal advice and appointing data protection officers; (4) adapting an institution’s current privacy notices and policies; (5) adapting the current KYC/due diligence policies and procedures; (6) reviewing reporting obligations and procedures for data breaches; and (7) providing workforce training in data and KYC awareness.²⁷³ Among these, “establishing a cross-border inventory of data flows and ensuring that transfers are covered by appropriate arrangements” is particularly relevant to this Note, as many high-value artworks move internationally.²⁷⁴ Once purchased, artworks are not stored in a warehouse or hung at home permanently.²⁷⁵ Some get loaned to museums or galleries for exhibitions, while the others may re-enter the market in a few years but a different location to buyers in other countries.²⁷⁶

Data Mapping Automation was suggested as a tool for monitoring such type of cross-border inventory of data flows.²⁷⁷ It is a process that uses software

268. Sam Castic & Hansnard Piou, *New U.S. Regulations Impose Significant Restrictions on Cross-Border Data Flows*, HINTZE (Jan. 9, 2025), <https://hintzelaw.com/blog/2025/1/9/new-us-regulations-impose-significant-restrictions-on-cross-border-data-flows> [<https://perma.cc/KYD9-7CF6>].

269. *Id.*

270. *See id.* (discussing how the term “sensitive” is broad and what sensitive data is covered under U.S. law).

271. Hardy, *supra* note 266.

272. Fewins, *supra* note 112.

273. *Id.*

274. *See supra* Part III.A.1 (describing the need for tracking data flows of cross border inventory).

275. *See Primary and Secondary Art Market: Differences*, ARTSCAPY, <https://artscapy.com/page/view-post?id=92> [<https://perma.cc/P87S-GD4W>] (last visited Mar. 6, 2025) (the reasons of quick resale are various, one being that “the artworks acquired on the primary market were then re-sold on the secondary market for six times more...”).

276. *Id.*

277. Morgan Sullivan, *Automating the Future: The Rise of Data Mapping Automation Tools*, TRANSCEND.IO (Feb. 22, 2024), <https://transcend.io/blog/automated-data-mapping> [<https://perma.cc/Z3HX-MQDP>].

to automatically connect data fields from one database or dataset to another.²⁷⁸ The process involves identifying relationships between data points across different systems and ensuring data seamlessly translate from one format or structure to another, without manual intervention.²⁷⁹ While tools alike are relatively mature and accessible,²⁸⁰ the art world may not be willing to make switches.²⁸¹ Indeed, many art institutions are still using software designed decades ago that have barely been upgraded.²⁸² Even after art institutions are largely equipped with the tool in the future, questions remain as to the ability to precisely convert data format stored and transmitted by different data mapping automation tools, the cost of building and maintaining the database, and others.²⁸³

2. *The Agency Problem*

Part III.A discusses the rise of “agency” problem in the art industry when the parties involved in a transaction make ambiguous the existence of clear-cut “representing on behalf” relationship, and that also leaves the gap for the agents to self-deal.²⁸⁴ Courts are cautious in using extrinsic evidence to resolve this ambiguity.²⁸⁵ Namely, courts have consistently held that agencies may not issue any guidance that purports to bind the public.²⁸⁶ However, they diverge on how a guidance can bind the issuing agency or its staff.²⁸⁷ Nabavi and Noori argued that “guidance helps agency officials direct their staff, achieve consistency, and cabin the permissible range of agency discretion.”²⁸⁸ In practice, many art institutions have their own requirements regarding documentation, which may

278. *Id.*

279. *Id.*

280. See Terence Bennett, *10 Top Data Mapping Tools for 2025*, INTEFRATE.IO (Feb. 7, 2025), <https://www.integrate.io/blog/data-mapping-tools> [<https://perma.cc/XKE4-SMQU>] (there have been at least 10 data mapping tools by 2025).

281. See Jason Bailey, *Solving Art’s Data Problem—Part One, Museums*, ARTNOME (Apr. 29, 2019), <https://www.artnome.com/news/2019/4/29/solving-arts-data-problem-part-one-museums> [<https://perma.cc/37TF-WBJ2>] (describing how art catalogues and museums cling to “outdated” data uses).

282. *Open Forum Topic on Museum Cataloging Software*, AM. ALL. OF MUSEUMS, <https://community.aam-us.org/communities/community-home/digestviewer/viewthread?GroupId=31&MessageKey=cddba0d7-565f-4c6c-ab72-9a80b6c7f346&CommunityKey=d34b2dfb-4151-4629-a59a-553d0ae428d9&hlmlt=QT> (last visited Mar. 2, 2025), [<https://perma.cc/8CYA-9DXJ>]; see also Vince Guerrieri, *The Secret Tech Problem at Modern Art Museums*, YAHOO! TECH (June 24, 2019, 1:26 PM), <https://www.yahoo.com/tech/secret-tech-problem-modern-art-182600502.html> [<https://perma.cc/54TX-E8S9>] (“Technology changes so quickly that even five years from now, we might not be able to save some artwork because the hardware or software has changed. We’re in a time machine. The urgency that we need to do something is less than 10 years old.”).

283. See, e.g., *Challenges and Solutions of Data Mapping Explained*, SECURITI, <https://education.securiti.ai/certifications/privacyops/data-mapping/data-mapping-challenges> [<https://perma.cc/5TQX-V44S>] (last visited Mar. 2, 2025) (explaining the challenges associated with data mapping).

284. *Supra* Part III.A.2.

285. Matthew J. Boettcher, *What Happens When a Court Rules Your Contract is Ambiguous?*, PLUNKETT COONEY (Feb. 28, 2023), <https://www.plunkettcooney.com/dontbethethebusinessblog/ambiguous-contracts> [<https://perma.cc/W6F9-QDN5>].

286. Alexander Nabavi-Noori, *Agency Control and Internally Binding Norms*, 131 YALE L. J. 1278, 1282 (2022).

287. *Id.* at 1283.

288. *Id.* at 1345.

eventually serve as important evidence that the parties refer to in disputes over agency relationship.²⁸⁹

Other industries' experience in addressing the agency problem can also serve as inspiration.²⁹⁰ In the finance industry, the agency problem is addressed through stringent regulations that promote transparency and accountability.²⁹¹ For instance, the United States enacted the Sarbanes-Oxley Act (SOX) in 2002 in response to corporate scandals such as Enron and WorldCom.²⁹² SOX requires companies to provide accurate and reliable financial disclosures, mandates the separation of auditing from consulting services to avoid conflicts of interest, and requires a majority of independent directors on corporate boards.²⁹³ These measures ensure that executives (agents) act in the best interests of shareholders (principals).²⁹⁴

The latest AML rules have also spoken on the issue.²⁹⁵ Both the U.S. AMLA 2020 and the EU's 6AMLD require that art dealers identify the beneficial owners in transactions.²⁹⁶ In other words, the new AML regimes are making what previously largely depend on industry's self-regulation (i.e. ensuring by self-discipline that one is dealing solely for the owner's benefit) into binding laws.²⁹⁷

3. *Training Staffs to be More Tech-Savvy*

Equally important from Fewins' seven recommendations is training staff to be more tech-savvy if an institution lacks the resources to hire dedicated tech personnel or equip itself with the latest technological tools.²⁹⁸ Without digitally savvy staff, institutions risk missing emerging opportunities to engage audiences/clients.²⁹⁹ London's Serpentine Galleries, for example, have advocated for artists and institutions to act as "stewards" of data.³⁰⁰ In the fourth volume of the

289. Rob Portman & Tom Carper, *The Art Industry and U.S. Policies that Undermine Sanctions*, U.S. SEN. PERMANENT SUBCOMM. ON INVESTIGATIONS COMM. ON HOMELAND SEC. & GOV'T AFFAIRS 80, https://www.govinfo.gov/content/pkg/GOVPUB-Y4_G74_9-PURL-gpo142344/pdf/GOVPUB-Y4_G74_9-PURL-gpo142344.pdf [<https://perma.cc/NY8G-QSYC>] (last visited Feb. 4, 2025).

290. See Brandi Anastasiades & William Fritchie, *The Sarbanes-Oxley Act: A Comprehensive Overview*, AUDITBOARD (Aug. 9, 2024), <https://auditboard.com/blog/sarbanes-oxley-act> [<https://perma.cc/999Y-A8JM>] (providing an overview of the legislative response to accounting scandals).

291. *Id.*

292. *Id.*

293. *Id.*

294. *Id.*

295. *Unmasking the Risks: AML Compliance Essentials for Art Dealers*, FIN. CRIME ACAD. (Sept. 24, 2025), <https://financialcrimeacademy.org/aml-compliance-for-art-dealers> [<https://perma.cc/5R2U-K2YZ>].

296. *Id.*

297. *Id.*

298. See Fewins, *supra* note 112. (discussing that institutions should "provide workforce training in data and KYC/AML awareness").

299. Chris Barr, *Lessons Learned from Adding Technology Staff to Museums*, KNIGHT FOUND. (Jan. 26, 2021), <https://knightfoundation.org/articles/lessons-learned-from-adding-technology-staff-to-museums> [<https://perma.cc/2MUZ-2KD5>].

300. Louis Jebb, *London's Serpentine Galleries Call for Artists and Institutions to Become 'Stewards' of Data in Face of Rising Interest in AI*, THE ART NEWSPAPER (Mar. 25, 2024), <https://www.theart>

Future Art Ecosystems report, they proposed a model for how art institutions can create, manage, and license data to be used as training material for AI.³⁰¹ Using an exhibition with Holly Herndon and Mat Dryhurst as an example, they outlined how critical creative data from an exhibition can be placed into a “data trust.”³⁰² This trust, governed by an external data trustee, would manage and oversee the data’s usage, ensuring proper oversight and governance.³⁰³

Another project aiming to improve art institution employees’ tech-savviness conducted by the Knight Foundation has shown that employees were able to make more instrumental contributions with increased digital capability after two years’ training, including increases in inter-departmental planning and digital capacity, external partnerships to execute digital projects, employees’ ability to adjust to the evolving responsibilities of new roles, and online programming participation.³⁰⁴

Such training also strengthens privacy and cybersecurity practices, which is vital given that the majority of successful cyberattacks still hinge on user error.³⁰⁵ A report shows that 70% of data breaches involved human error in 2023.³⁰⁶ This number remained steady in 2024.³⁰⁷ The human element is shown to be an essential part of the cybersecurity question, which necessitates more heightened training.³⁰⁸

Where budgets are constrained, creative approaches to tech training can bridge the gap.³⁰⁹ As Deloitte research suggests, companies may address this issue by redefining job roles, partnering with educational institutions, and adopt flexible learning models so employees can continually expand their digital skill sets.³¹⁰ By fostering an adaptable culture and prioritizing employee development, businesses can more effectively meet evolving tech demands and sustain their competitive edge.³¹¹

newspaper.com/2024/03/25/londons-serpentine-galleries-calls-for-artists-and-institutions-to-become-stewards-of-data-in-face-of-rising-interest-in-ai [https://perma.cc/63XG-LFXL].

301. *Id.*

302. *Id.*

303. Chris Michaels, *The Art World’s AI Dilemma: How Can Artists and Museums Thrive When Big Tech Controls the Monetising of Artificial Intelligence*, THE ART NEWSPAPER (May 30, 2024), <https://www.theartnewspaper.com/2024/05/30/the-art-worlds-ai-dilemma-how-can-artists-and-museums-thrive-when-big-tech-controls-the-monetising-of-artificial-intelligence> [https://perma.cc/PJ7H-TABC].

304. Barr, *supra* note 299.

305. *Security Awareness: 7 Reasons Why Security Awareness Training is Important in 2023*, CYBSAFE (Apr. 4, 2023), <https://www.cybsafe.com/blog/7-reasons-why-security-awareness-training-is-important> [https://perma.cc/U2CR-TG4Y].

306. *Id.*

307. *See 2024 Data Breach Investigations Report*, VERIZON BUS. 8, <https://www.verizon.com/business/resources/reports/2024-dbir-data-breach-investigations-report.pdf> (last visited Mar. 2, 2025), [https://perma.cc/K7AJ-VTJM] (noting that 68% of breaches involved a non-malicious human element).

308. *Id.*

309. Nate Paynter et al., *Navigating the Tech Talent Shortage*, DELOITTE (June 11, 2024), <https://www2.deloitte.com/us/en/insights/topics/talent/overcoming-the-tech-talent-shortage-amid-transformation.html> [https://perma.cc/4NZW-ANYB].

310. *Id.*

311. *Id.*

IV. RECOMMENDATION

Overall, the GDPR's strict and comprehensive framework sets a high standard for data protection and provides an ideal structure for other countries to follow.³¹² Its far-reaching principles, such as data minimization, consent, and transparency requirements, ensure robust protection of personal information while allowing businesses to operate within clearly defined boundaries.³¹³ However, the GDPR alone is not sufficient to address the unique challenges in art market regulation. Balancing between transparency and privacy requires a cohesive interplay between data privacy regulations like the GDPR and complementary frameworks such as AML.³¹⁴ Recognizing this, AML and privacy regimes have evolved to expand their coverage and target specific industries.³¹⁵

Addressing the agency problem necessitates the implementation of detailed contracts that clarify agents' responsibilities and mandate the disclosure of conflicts of interest. This must be reinforced by regulatory bodies that enforce compliance and ethical standards. To overcome technological shortcomings, art institutions should invest in staff training, collaborate effectively with external partners, and safeguard data privacy throughout these processes. Lastly, while emerging technologies like AI and blockchain offer valuable tools for enhancing security and efficiency, they should complement rather than replace comprehensive regulations like the GDPR.

A. *The Collaboration of Laws and Organizations*

An in-depth understanding of the GDPR reveals that it does not inherently conflict with the transparency needs of the art market.³¹⁶ First of all, transparency is a key part of the Regulation.³¹⁷ The GDPR articles explicitly require organizations to inform individuals about how their personal data is being processed.³¹⁸ In an art transaction, these data collection and retention rules help ensure that personal information is handled properly, which is important when law enforcement departments need to trace property titles.³¹⁹ At the same time, the GDPR also states that personal information should not be stored longer than

312. *Supra* Part II. A.

313. *Id.*

314. *See supra* Part II.B (discussing KYC/AML measures).

315. *See* Pritesh Vora, *Who Does GDPR Apply to? Understanding GDPR's Scope*, SPRINTO (Oct. 10, 2024), <https://sprinto.com/blog/who-does-gdpr-apply-to> [<https://perma.cc/88SE-5WQP>] (noting that, for example, health data generally requires stricter safeguards than retail customer information).

316. *See The Right to be Informed (Transparency) (Article 13 & 14 GDPR)*, DATA PROTECTION COMM'N, <https://www.dataprotection.ie/en/individuals/know-your-rights/right-be-informed-transparency-article-13-14-gdpr> [<https://perma.cc/N5FX-3UQ3>] (last visited Feb. 6, 2025) ("The principle of transparency requires that any information or communication relating to the processing of personal data is easily accessible and easy to understand, and that clear and plain language be used.").

317. *Id.*

318. *Id.*; Müge Fazlioglu, *Transparency and the GDPR: Practical guidance and interpretive assistance from the Article 29 Working Party*, IAPP (Dec. 14, 2017), <https://iapp.org/news/a/transparency-and-the-gdpr-practical-guidance-and-interpretive-assistance-from-the-article-29-working-party> [<https://perma.cc/247J-AVPG>].

319. *See id.* (explaining the GDPR rules).

necessary, allowing bona fide purchasers to request its erasure after an extended period, an important measure for appeasing privacy concerns.³²⁰ Any future revisions should refine the GDPR to better balance privacy and transparency, including adding more industry-specific subsections to address unique challenges.³²¹ In fact, the current GDPR already includes “Codes of Conduct” that guide organizations in adhering to best practices and sector-specific processing rules.³²² The Codes are sets of rules that assist members of that Code with data protection compliance and accountability in specific sectors or relating to particular processing operations.³²³ They are developed and managed under Article 41 of the GDPR by an association or other body (the “Code owner”) which is representative of a sector (or category of data controllers or processors), with the expert and sectoral knowledge of how to enhance data protection in their area.³²⁴ The Codes can be national or transnational.³²⁵ Even if a particular Code does not explicitly reference the art sector, it can still apply to certain stages of an art transaction if a party falls within the Code’s jurisdiction.³²⁶ If a dedicated Code for the art industry were to be developed under Article 41, it could have a far-reaching impact on regulating transnational art business.

The interplay between the GDPR and other laws, such as the AML rules, also serves as a practical solution for balancing transparency and privacy. Under the GDPR, organizations that carry out identity checks, and hold potentially sensitive information about customers, have to be completely transparent about what happens to the data after use.³²⁷ Simultaneously, the KYC checks and procedures are impactful risk management tools.³²⁸ The organizations under both laws governance should put in appropriate technical and organizational safeguards, including encryption, access controls, regular security audits, and employee training.³²⁹

Collaboration is key to solving art market financial crimes, as suggested by the endeavors in other industries.³³⁰ With the refinement of laws and regulations

320. *Supra* Part II.A.

321. See Ward, *supra* note 264 (discussing the impacts of extending AML regulations to the art market).

322. *Codes of Conduct*, DATA PROTECTION COMM’N, <https://www.dataprotection.ie/en/organisations/codes-conduct> [<https://perma.cc/K45K-7VWE>] (last visited Mar. 3, 2025).

323. *Id.*

324. *Id.*

325. *Id.* An example is that by early 2021, there had already been 30 GDPR industry codes drafted solely in Poland. Krzysztof Grabowski, *What Guidelines Do the GDPR Industry Codes Provide?*, CROWE (Jan. 21, 2021), <https://www.crowe.com/pl/en-us/insights/what-guidelines-do-the-gdpr-industry-codes-provide> [<https://perma.cc/826G-KY46>].

326. See *Codes of Conduct*, *supra* note 322 (noting that the codes can be sector-specific or process-specific).

327. See Council Regulation 2016/679, art. 13, 2016 O.J. (L 119) 40–41 (requiring disclosure of storage periods and recipients).

328. *General Data Protection Regulation (GDPR) and Its Impact on KYC Checks*, GDPREU, <https://www.gdpneu.org/impact-of-gdpr-on-kyc> [<https://perma.cc/C3MN-T7QF>] (last visited Nov. 15, 2024).

329. *GDPR & KYC: Balancing Privacy with Verification*, TOGGGLE (Sept. 6, 2025), <https://www.togggle.io/blog/gdpr-kyc-balancing-privacy-verification> [<https://perma.cc/KB2S-BD7N>].

330. Laura S. Patten, *Collaboration is key to solving art-market financial crime*, THE ART NEWSPAPER (Dec. 11, 2018), <https://www.theartnewspaper.com/2018/12/11/collaboration-is-key-to-solving-art-market-financial-crime> [<https://perma.cc/5K3F-82ZJ>].

filling legal gaps, criminal organizations may also become more sophisticated and may attempt new ways to spot gaps in the system.³³¹ Collaboration is pivotal in discerning and solving this issue because any single institution has only a partial view of a transaction.³³² Similarly, any single regulatory law, even one as comprehensive as the GDPR, will fail to cover all potential criminal activities.³³³ The joint work of the GDPR, the AML rules, as well as other regulations, serve as strong gatekeeper in the market.³³⁴

B. *The Leader Roles in the Art Market*

Some art industry practitioners have suggested that the industry create a collaborative consortium that securely pools data, technology, and even human resources.³³⁵ Art fairs appear to be an optimal avenue for the collaborative efforts to take place. Large scale art fairs, such as Frieze and Art Basel, should serve as leading roles in the industry's self-regulation.³³⁶ While big-name museums, auction houses, galleries, and art fairs all exert influence in the industry, their rules are only binding to the parties with whom they are doing a certain level of direct or indirect business (or to those who are just physically present on their property).³³⁷ Art fairs are occasions where information flows freely among, and transactions happen concurrently among different parties.³³⁸ The concentration of the key market participants in one place helps build consensus about market trends and collector preferences.³³⁹ These fairs usually host several conversations during the entire event period and cover a wide range of topics, from the functions of public art, art patronage, wealth transfer, to museum acquisitions, and so forth.³⁴⁰ These leading fairs have the capability to facilitate changes that are recognized by the leading art institutions instantly and on-site.³⁴¹ To facilitate more changes like this to happen, art fairs should have dedicated sections on art and law, which aim to produce industry consensus that art institutions can carry out.

331. *Partnering in the Fight Against Financial Crime: Data Protection, Technology and Private Sector Information Sharing*, FATF 3 (July 2022), <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Partnering-int-the-fight-against-financial-crime.pdf> [<https://perma.cc/K2DU-QVL6>].

332. *Id.*

333. *See id.* (noting that criminals take advantage of different jurisdictions to “layer their illicit financial flows”).

334. *See id.* at 3–4 (describing how collaboration increases effectiveness).

335. Patten, *supra* note 330.

336. *See id.* (advocating for players in the art world to collaborate; art fairs bring those players together).

337. *See, e.g.* Ward, *supra* note 264 (noting that an auction house or art dealer would be required to check customers' identities).

338. Lam, *supra* note 199.

339. *Id.*

340. *Talks*, ART BASEL, <https://www.artbasel.com/stories/conversations> [perma.cc/5UF4-9P4F] (last visited Feb. 5, 2025).

341. *See, e.g.* Martha Lufkin, *Rule of Law: Legal Tips for Art Lovers*, THE ART NEWSPAPER (Dec. 9, 2018), <https://www.theartnewspaper.com/2018/12/09/rule-of-law-legal-tips-for-art-lovers> [perma.cc/P2M9-25YR] (noting that the 2017 Art Basel pushed the parties to not “accept any works known or suspected to be stolen, fake, or subject to claims,” and to “use due diligence to establish origin and authenticity” even outside the fair).

C. Solutions to the Agency Problem

With the enactment of the GDPR in the EU and similar privacy acts worldwide, the art industry already has a relatively strong foundation for compliance and accountability.³⁴² Building on this, transparency can be enhanced by requiring detailed contracts that clearly outline agents' responsibilities, commissions, and obligations.³⁴³ For example, agents should be required to disclose any conflicts of interest, such as representing both buyers and sellers in the same transaction. Some galleries have begun providing provenance records and condition reports upfront to build trust with buyers, offering a model for others to follow.³⁴⁴

Regulatory bodies within the art industry can provide essential oversight and enforce compliance. For instance, the British Art Market Federation works to create a regulatory framework for art transactions in the U.K., promoting ethical conduct and best practices.³⁴⁵ In addition, licensing requirements for art dealers and agents would ensure they meet professional standards and remain accountable.³⁴⁶

These regulatory bodies should also prioritize ethical standards that align the interests of agents and principals. Training and certification programs emphasizing legal obligations and ethical practices can educate agents about their responsibilities. Collaboration among galleries, auction houses, and dealers to uphold these standards would enhance the integrity of the art market.

D. Solutions to Technology Shortfall

To capitalize on technological advancements, art institutions should foster effective collaborations with external partners, particularly when outsourcing tech needs. Protecting data privacy during these processes is crucial to maintaining client trust and complying with legal regulations.³⁴⁷ Yet after all, they must

342. See Fewins, *supra* note 112 (discussing adoption of stricter administrative and reporting standards under data protection reforms).

343. See Lee Nelson, *Help Agents Explain the Importance of Written Buyer Agreements*, NAT'L ASS'N. REALTORS (May 29, 2024), <https://www.nar.realtor/magazine/broker-news/network/help-agents-explain-the-importance-of-written-buyer-agreements> [perma.cc/RF4K-964E] (noting that a "legally binding contract provides protection and transparency" for both agents and customers).

344. See Jason Horejs, *Building Strong Artist-Gallery Partnerships: Trust, Communication, and Success*, REDDOTBLOG (Oct. 30, 2024), <https://reddotblog.com/building-strong-artist-gallery-partnerships-trust-communication-and-success> [perma.cc/N7AF-WRLF] (advocating for mutual trust and clear and transparent communication between parties).

345. See, e.g., *Guidance on Anti Money Laundering for UK Art Market Participants*, BRITISH ART MARKET FED. 5 (Feb. 6, 2023), <https://tbamf.org.uk/wp-content/uploads/2023/02/BAMF-AML-Guidelines-February-6th-2023.pdf> [perma.cc/SNJ2-QVXU].

346. See Lee Down, *Unlock Art's Potential: A Visual Artist's Guide to Licensing*, ATS ARTISTS NETW. (May 16, 2023), https://artsartistsartwork.com/unlock-arts-potential-a-visual-artists-guide-to-licensing/#google_vignette [https://perma.cc/6NWH-TDY5] (explaining the importance and benefits of licensing).

347. See Jana Arbanas, *Data privacy and security worries are on the rise, while trust is down*, DELOITTE (Sept. 5, 2023), <https://www.deloitte.com/us/en/insights/industry/telecommunications/connectivity-mobile-trends-survey/2023/data-privacy-and-security.html> [https://perma.cc/T52Y-R8HK] (finding that consumers are increasingly worried about their data privacy).

invest in hiring their own technical staff, or, at the bottom least, train the current employees to be tech-savvy. Verizon's 2025 report reveals that 60% of breaches were brought about through human error.³⁴⁸

Continuous professional development programs can improve employees' tech proficiency.³⁴⁹ Institutions should encourage staff to participate in ongoing education through platforms like Coursera and edX, which offer courses in digital curation, cybersecurity, and IT.³⁵⁰ Events such as the annual Museum Computer Network (MCN) Conference also provide opportunities to learn about digital strategies, data management, and innovative technologies relevant to the art world.³⁵¹ For larger institutions, in-house training programs, mentorship initiatives, and structured professional development plans can enhance internal technical expertise.³⁵² Smaller institutions or individual dealers with fewer resources may consider partnerships with reliable external data protection experts, such as universities or specialized firms.³⁵³

E. The Optimal Use of AI and Blockchain

Incorporating blockchain and artificial intelligence (AI) into these compliance processes can streamline tasks such as securely storing identity credentials, automating document verification, and detecting fraudulent activities more rapidly than manual systems.³⁵⁴ For example, blockchain-based digital identity solutions can provide secure, decentralized methods of storing and verifying personal data, while machine learning algorithms can help detect fraudulent documents or patterns of suspicious activity more efficiently, streamlining the KYC processes.³⁵⁵ However, both of these tools come with inherent complexities and ethical risks.³⁵⁶ One of the most significant tensions is the blockchain's immutability, which poses a direct conflict with the GDPR's "right to erasure" because personal data recorded on an unchangeable ledger cannot be effortlessly

348. *2025 Data Breach Investigations Report*, VERIZON 11 (2025), <https://www.verizon.com/business/resources/Tccc/reports/2025-dbir-data-breach-investigations-report.pdf> [<https://perma.cc/K2C4-L9NZ>].

349. Grady Andersen & MoldStud Research Team, *The Benefits of Continuous Professional Development for Computer Technicians*, MOLDSTUD (Feb. 12, 2024), <https://moldstud.com/articles/p-the-benefits-of-continuous-professional-development-for-computer-technicians> [perma.cc/3AHC-5L4C].

350. Varuni Khosia, Prachi Verma & Brinda Dasgupta, *Companies Turn to Online Platform to Upskill Staff*, THE ECON. TIMES, <https://economictimes.indiatimes.com/jobs/companies-turn-to-online-platforms-to-upskill-staff/articleshow/58117708.cms?from=mdr> [<https://perma.cc/WTS8-D22S>] (Apr. 11, 2017, 12:49 AM IST).

351. *Annual Conference*, MCN, <https://mcn.edu/annual-conference> [perma.cc/5SHD-DNLG] (last visited Nov. 15, 2024).

352. See Nate Paynter et al., *supra* note 309 (advocating that employers train and upskill employees on technology).

353. *Id.*

354. TOGGLE, *supra* note 329.

355. *Id.*

356. Christina Pazzanese, *Great promise but potential for peril*, HARVARD GAZETTE (Oct. 6, 2020), <https://news.harvard.edu/gazette/story/2020/10/ethical-concerns-mount-as-ai-takes-bigger-decision-making-role/> [<https://perma.cc/Z67P-8Y7W>].

deleted.³⁵⁷ Similarly, AI-driven systems that handle identity checks or analyze user behavior can inadvertently carry biases, leading to discriminatory outcomes or inaccuracies that expose organizations to reputational and legal liabilities.³⁵⁸ Art institutions must therefore balance these innovations' benefits against the risk of non-compliance, adopting careful oversight, transparent data-handling practices, and ongoing audits to ensure that blockchain and AI tools genuinely enhance, rather than undermine, the delicate interplay of privacy rights and anti-fraud regulations.³⁵⁹

V. CONCLUSION

The intersection of art, privacy, and transparency presents unique challenges that demand a multifaceted approach to regulation. As the Christie's incident and similar breaches demonstrate, the art market's opacity is both a vulnerability and an asset—valuable for protecting client confidentiality yet susceptible to exploitation by cybercriminals and unethical practices.³⁶⁰ Balancing privacy and transparency requires art institutions to adopt comprehensive frameworks such as the GDPR while tailoring their application to the specific needs of the art industry.³⁶¹ Complementary measures, including AML rules and clear contractual agreements, are also essential to fostering both accountability and trust.³⁶² At the same time, ambiguous principal-agent relationships pose significant risks of self-dealing if not clearly defined.³⁶³ Establishing robust fiduciary obligations and mandating conflict-of-interest disclosures can help mitigate these risks, ensuring that intermediaries act solely in their clients' best interests.³⁶⁴

Investing in technological solutions and expertise is another critical component. Art institutions must prioritize staff training and consider collaborative partnerships with reliable external organizations to address their technological gaps.³⁶⁵ By adopting advanced tools like artificial intelligence and blockchain, institutions can bolster data security and enhance operational efficiency.³⁶⁶ However, these technologies should complement, not replace, robust legal frameworks. AI and blockchain have the potential to streamline processes and

357. Rahime Belen-Saglam et al., *A Systematic Literature Review of the Tension between the GDPR and Public Blockchain Systems*, 4 BLOCKCHAIN: RSCH. & APPLICATIONS (2023), Jan. 5, 2023, at 2, <https://doi.org/10.1016/j.bera.2023.100129>.

358. *What is AI bias*, IBM, <https://www.ibm.com/think/topics/ai-bias> [<https://perma.cc/M5UV-72AF>] (last visited Oct. 24, 2025).

359. Pazzanese, *supra* note 356.

360. *Supra* Part I.

361. *Supra* Part IV.A.

362. *Supra* Part II.B.

363. *Supra* Part III.B.2.

364. *Supra* Part IV.C.

365. Zina Cole et al., *The Art of Data: Empowering Art Institutions with Data and Analytics*, MCKINSEY & CO. (May 10, 2023), <https://www.mckinsey.com/industries/social-sector/our-insights/the-art-of-data-empowering-art-institutions-with-data-and-analytics> [<https://perma.cc/QR2G-VGBY>].

366. Dalila Ressi et al., *AI-Enhanced Blockchain Technology: A Review of Advancements and Opportunities*, J. NETWORK & COMPUT. APPLICATIONS, Mar. 1, 2024, at 1, <https://doi.org/10.1016/j.jnca.2024.103858>.

reduce vulnerabilities, but their ethical and privacy concerns underscore the importance of comprehensive regulation to guide their use responsibly.³⁶⁷

Ultimately, the path forward lies in fostering a culture of transparency and ethical accountability within the art market. This entails aligning business practices with global privacy laws like the GDPR, promoting collaboration between stakeholders, and leveraging technological innovations to improve both security and efficiency. By addressing these challenges holistically, the art industry can build stronger partnerships, protect its stakeholders, and maintain its integrity in a rapidly evolving digital landscape.

367. *Artificial Intelligence and Privacy—Issues and Challenges*, *supra* note 153.