

Transatlantic Data Flows Are Crucial to Global Financial Services

October 2021

tl;dr

Background: Data is one of the pillars of the modern digital economy, but its value is contingent on its ability to flow around the globe in real time, permitting individuals and firms to develop new and novel insights and to operate at higher levels of efficiency and safety.

But... Those data flows increasingly run into barriers when they seek to cross national borders. These often take the form of “data-localization” requirements to locate, store, and/or process data within national boundaries.

However... Data-localization policies are often framed as necessary to protect critical digital infrastructure and national-security interests, but they serve instead as trade barriers that hurt consumers more than they help. An examination of the impact on the financial services industry helps to illustrate the problem.

KEY TAKEAWAYS

DATA FLOWS ARE CRUCIAL TO GLOBAL TRADE

[Key provisions](#) of the US-Mexico-Canada Agreement ([USMCA](#)) focused on protecting vital cross-border data flows—including some covering financial services like payments processing, banking, and insurance. Indeed, other countries, notably in the Asia-Pacific

region ([1,2](#)), have pursued trade deals that liberalize cross-border data flows.

But despite the centrality of cross-border data flows to economic prosperity, the global trend has been toward greater restrictions. While 2020 saw reduced *introduction* of new barriers to cross-border digital trade, [the OECD has found](#) there were more such restrictions introduced from 2014 through 2019 than there were measures to liberalize trade.

Of particular concern is the potential for an abrupt interruption of data flows between the United States and the European Union in light of recent EU privacy decisions. According to [one estimate](#), transatlantic trade generates roughly \$5.6 trillion in annual commercial sales, of which at least \$333 billion is related to digitally enabled services. An increase in EU data-localization requirements [has been projected](#) to result in €116 billion of decreased exports, or 4% of total EU exports. [Another study](#) estimated that more restrictive data-localization policies would produce a 31% decline in digital services imports.

FINANCIAL SERVICES REQUIRE GLOBAL DATA

Banking, finance, payments, and insurance services are offered by many firms that operate globally and that must, by necessity, make extensive use of personal consumer data. Financial services firms are also already heavily regulated in their use of that data, both in the U.S. and the EU, by enforcement agencies that

track compliance with, among other things, anti-money-laundering regulations, know your customer requirements, and consumer credit rules.

In an era in which Internet banking has become the norm both for firms and consumers, layering data-localization policies on top of these other requirements make it difficult for firms to conduct basic business, such as notifying consumers of [potentially fraudulent transactions](#) and allowing international firms to transfer payroll and benefits information between company units.

For example, notwithstanding its USMCA obligations to refrain from enacting data-localization trade barriers, Mexico issued [draft financial regulations](#) that “would force firms to only choose cloud providers based in Mexico.” Among other effects, such rules place strain on the \$715 billion global market of remittances, three-quarters of which are used to support an estimated 800 million households in low- and middle-income countries.

PAYMENT NETWORKS REQUIRE GLOBAL DATA FLOWS

Payment-network transactions often involve parties in different countries. Forcing providers to build redundant infrastructure introduces economic waste, as well as increased attack vectors for cyber infiltration.

The additional computing resources required to effectively manage transactions across more hardware layers adds significant overhead costs and potentially reduces quality. In 2020, more than 468 billion transactions [were processed](#) on general-use payment card networks: roughly 890,000 transactions per-minute. That was more than double the 195 billion transactions in 2014.

The value of cashless transactions became more apparent during the COVID-19 pandemic, as online purchasing facilitated social

distancing, and cross-border commerce aided in alleviating supply-chain tensions. Increased infrastructure and compliance costs associated with data-localization policies, however, add frictions to the financial system.

INSURANCE IS A DATA BUSINESS

Insurance and reinsurance firms rely on data analytics to structure policies, conduct underwriting, and service policyholders—all of which are potentially imperiled by data localization. As one example, the European Data Protection Board has [offered guidance](#) that data collected on driver behavior by Internet-connected vehicles and vehicle transponders is personal data that may not be transferred outside the EU. This would appear to foreclose an entire category of emerging auto-insurance products known as “telematics” that hold great promise to produce more accurate auto insurance ratemaking and underwriting.

For more on this issue, see the ICLE Issue Brief [“The Great Transatlantic Data Disruption.”](#)

CONTACT US



Kristian Stout
Director of Innovation Policy
kstout@laweconcenter.org



R.J. Lehmann
Editor-in-Chief & Senior Fellow
rlehmann@laweconcenter.org

ICLE



International Center
for Law & Economics