

Cross-Border Data Governance and Privacy Laws

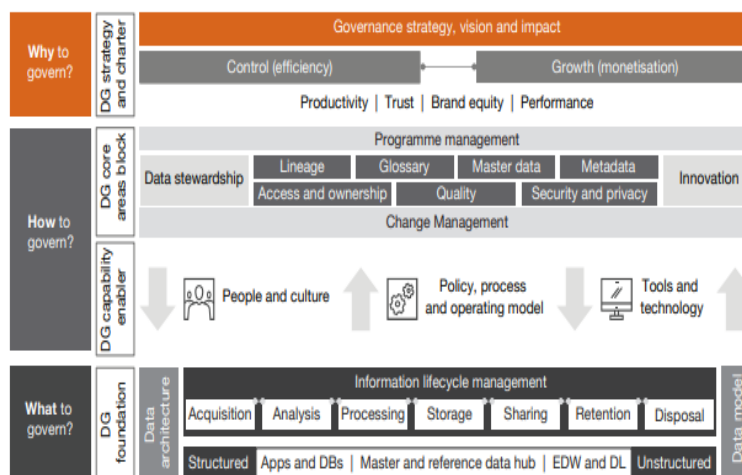
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The term data governance has been considered as a discipline that shapes how data can be protected, managed, and used by fintech institutions. This has been included in the different policies regarding regulatory and technical or institutional provisions affecting the data cycle. Throughout the discussion with Artificial Intelligence (AI) and data ethics, the newer data regulations stated with the personal data emergency. In Europe, it is known as the “General Data Protection Regulation” (GDPR) while in the United States, it is known as the “California Consumer Privacy Act”. Therefore, the European Union is also bringing multiple regulations in consideration of the ethical application and AI. Regulators are engaging actively through consultative processes, and public interests for shaping preferred regulations towards the application of AI and big data into financial services. Henceforth most of the fintech companies are proactively participating in these regulatory management efforts (Shrier, & Pentland, 2022). These companies are found there not waiting for any enforcement letter from the regulator rather the organisational team is being deployed for sharing the data governance plan with governments. In sharing and undressing concerns, they are helping in developing capacity among the government agencies for fostering more informed regulations.

Over the past half-century, there have been multiple innovative advancements brought into the financial industry. These advances can be regarded as the electronic trading system. SWIFT system and the automated settlement. Therefore, a series of developments have been found through smart instruments, predictive markets, and mobile money which are preferred as a considerable part of global technology (Pompella & Matousek, 2021). Among all of the others, the financial system has been found as a developed government rule set that is better formed as a regulatory framework.

In recent years, India has been found as an emerging market for Fintech organisations. Therefore, fintech organisations are also partnering with other organisations where data has been considered as one of the top priorities. Within the digital ecosystem, the “Point of Sale” has been adopted as a considerable model where the user’s transactions are utilised through a combination of both unconventional and conventional data. In the case of regulating data usage, the new banking model has been considered a partnership-enabled structure. Within present times there are multiple data-related regulations and laws that are aimed at delivering security and privacy to individual data.



(Source: pwc.in, 2024)

Figure 1 : EDG framework of PwC

In considering changing regulatory concepts some of the fintech companies have been found to perform readiness assessments while adopting the DG framework through ensuring of DG framework. Referring to the above EDG

framework the data governance framework has been presented as the upcoming DG challenges and data architecture, This framework can be customised through the technological and data requirements of fintech firms (pwc.in, 2024).

In India, the Reserve Bank of India has been considered a “central banking authority”. As the top authority, it regulates all kinds of nonbanking and banking transactions. Within the part of regulatory approaches, the country has implemented the “Payment and Settlement Systems Act” (2007) which governs the online payment system within the country. For payment operation hereby this governing body ensures that all entities should be obtained as prior with RBI authorisation. For the governing of PSPs, there are two guidelines that are mentioned as “Master Direction on PPIs” (2021) and “Regulation of PAs and Payment Gateways” (2020). Referring to the nonbanking PAs, they need to have a net worth of “Rs. 15 crores” in an application for authorisation. In the case of the retail payment condition, the NPCI is the regulatory body that releases the prescribed rules. For governing digital lending, the P2P guidelines can be referred to as “Peer to Peer Lending Platform Directions” (2017). This platform enables the users of loans offered to the individuals which are also being regulated with P2P guidelines.

In relation to the payment ecosystem, the DPDP act has been considered a preferred data processor. The implications of this act can be referred to with cross-border transfers which are not only restricted by the Central Government except for some countries. RBI has mentioned all the system providers in ensuring that the data will be stored only in India. Though the cross-border data transfer is not permitted by PSPs. Within the DPDP act all the SDFs have been required to make periodic audits and the carrying is the independent auditor for data audit. Henceforth all of the payment aggregators need to be required in the submitting of audit reports by CERT-In empanelled auditors. For preventing data breach incidents this can be accompanied by organisational and technical measurements. Additionally, the Master Direction has been directed by RBI for which PPI is required for approval from information security policy (globallegalinsights.com, 2024).

Hence the PSPs need to implement other security measurements also. The data fiduciaries are needed for delivering available and readily means of grievance redressal while responding within a prescribed limit of time. In relation to this Sectoral regulation within the guidelines of RBI can be discussed for a “centralised complaint management system”. For making this management system both the Master Directions and BBPOU of PPI have been required in tracking of complaint status. Futhurly, this DPDP act has been required for raising up this complaint about Data Fiduciary. Here PPI Master Directions has been delivered for resourcing upon “Integrated RBI Ombudsman Scheme”. In referring to the licensing and circular virtue mandate the cross-border transactions in India have gone more tightly than in previous times. In consideration of the stringent approach of RBI the incense granting under PSSA might limit the PACB licensed Entities within the market. This kind of RBI schema has been found as conservative which might provide a conservative stance for cross-border transactions. This circular also strengthens the AML measurements as undertaken by PA- CB entities while comparing registration through FIU-IND (globallegalinsights.com, 2024). In accordance with the reports of Deloitte, there are 2500 fintech in the United Kingdom which are made with 23 multiple specialisms. Among all of the types, WealthTech has been considered as the largest category which has been concerned with the 37% in management and investment platforms (Pompella & Matousek, 2021). Within the UK, the “Financial Services and Markets Act” (2000) has been established for PRA (“Prudential Regulation Authority”) and FCA (“Financial Conduct Authority”) regulators within financial business markets. Both these PRA and FCA are found as technologically neutral. In reference to the “Government’s Crypto Assets Taskforce” (2018). Later in July (2019) the FCA published its crypto assets guidance which declares all the crypto assets under the regulation of the FCA.

For financial regulation within sub- Saharan Africa P2P lending has been considered as the regulatory framework which is comparatively slower in the APAC and MENA regions. There are around four SSA jurisdictions that are regulated under this P2P framework. Therefore, under SSA jurisdictions there is Equity Crowdfunding which covers around 34% of this. In considering lower coverage there is notable growth has been found (around 12%) from the year 2019 (Lee et al., 2022). Additionally, a cross-sectional framework has been observed in the 85% SSA jurisdiction which is considered the preferred cybersecurity framework. Along with the concerns of cyber risk and fraud activity, there are 65% of jurisdictions have been found to have a general data protection framework.

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