



Research on Legal Issues of Cross Border Flow of Financial Data from the Perspective of Economic Globalization

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Abstract. In the current context of global economic integration, financial institutions need to transmit a large amount of financial data globally to support their normal business operations. These data are crucial for management decisions, such as fund flows, product pricing, and marketing, all of which rely on scientific and reliable statistical data. However, financial data is vast in scale, diverse in variety, and some data is complex and sensitive, which may pose a threat to personal privacy and national security when cross-border flow occurs. In regulating the cross-border flow of financial data, China has adopted a combination of general provisions and special provisions to achieve a balance of interests. However, this regulatory framework has some shortcomings, such as unclear definitions of certain important financial data concepts and poor coordination between different regulatory rules. Today, with financial data becoming increasingly important, countries should establish a system of coordinated and tightly linked legal regulations for cross-border regulation of financial data, based on the principle of balancing interests. This includes establishing graded and dynamic regulatory rules for financial data, and actively participating in the formulation of international data flow rules to better safeguard national information and citizens' privacy and security.

Keywords: Financial data · Laws and regulations · Cross-border flow

1 Introduction

The trend of global financial data cross-border flow is unstoppable, and data exchange has become the foundation of international economic cooperation [1]. Cross-border flow of financial data can promote international trade, investment, and collaboration, improve the efficiency and liquidity of financial markets. However, cross-border flow of financial data also brings regulatory issues, including data security and privacy protection, cross-border regulatory cooperation, and so on.

Because financial data requires high-level expertise in identification, classification, and processing, countries have adopted a sectoral regulatory model to manage the cross-border flow of financial data. Compared with other industries, the financial industry has a greater demand for the quantity and speed of data cross-border flow, because the

financial industry is a highly globalized industry, and the global layout and group-based operations of financial institutions determine that financial data may involve cross-border flow issues in almost all operational scenarios.

Cross-border flow of financial data requires a balance of multiple interests, including the sensitivity and privacy of customer information, network attacks, and data leaks. Events may lead to serious damage to a country's financial security. The cross-border flow of financial data can bring huge economic benefits to a country and promote the rapid development of a country's digital economy. The business units of financial institutions are showing a global trend of configuration, and the flow of funds and information requires global flow. Therefore, establishing reasonable laws and regulations for the cross-border flow of financial data is of great significance for foreign financial institutions to participate in the construction of China's financial market, expand financial openness, and promote the healthy development of the financial industry.

2 The Current Legal and Regulatory Status of Cross-Border Flow of Financial Data in China

Cross-border flow of financial data in China involves transnational economic cooperation and financial transactions. Currently, there are some problems in the legal and regulatory framework in this field. Firstly, the relevant laws and regulations are not yet complete, and their scope of application and jurisdiction are still unclear. Secondly, the supervision and enforcement of regulatory authorities are relatively weak, resulting in some violations. At the same time, there is an urgent need to improve technical means and talent reserves. Therefore, we need to further strengthen the legal and regulatory framework in this area, improve relevant regulations, enhance the enforcement efficiency and technical capabilities of regulatory authorities, to ensure the legality, security and stability of cross-border flow of financial data. This is reflected in the following four areas:

1. Lack of consistency and coordination: The existing cross-border flow of financial data legal and regulatory system has different rules and standards, and there is a lack of effective coordination mechanism internationally, making it difficult to achieve consistent norms and regulation.
2. Loopholes and gray areas: Due to the characteristics of cross-border flow and the limitations of regulatory span, there are loopholes and gray areas in regulation, which can be easily exploited by financial institutions and individuals, thus threatening financial stability and market fairness.
3. Loose legal framework: The current international legal framework is insufficient for the regulation of cross-border flow, and there are differences in legal systems and regulatory mechanisms between countries, which makes regulation more difficult.
4. Challenges brought by technological innovation: With the rapid development of financial technology, new products and services continue to emerge, and regulatory mechanisms and legal frameworks cannot keep up with the pace of technological change, making it difficult to effectively regulate.

3 Regulatory Methods for Financial Data Flow Internationally

3.1 EU Approach

The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data is the first legal document passed by the Council of Europe in 1981 that regulates cross-border data flows in Europe as a whole. The Convention defines personal data and sets requirements for the processing, transmission, storage, and protection of personal data, aiming to protect personal privacy and data security. Since then, the EU has also enacted a series of regulations and directives, including the Personal Data Protection Directive issued in 1995 and the General Data Protection Regulation issued in 2016, to strengthen the regulation and protection of cross-border data flows. The enactment of these regulations and directives has helped promote the openness and interconnectivity of the economic markets in various European countries, safeguard personal privacy and data security, and promote the development of the digital economy.

The EU's General Data Protection Regulation emphasizes that the processing of personal data must follow the principles of fundamental human rights, including transparency, purpose limitation, data minimization, accuracy, storage limitation, confidentiality, and integrity. The regulation stipulates that the purpose of personal data processing is to serve humanity, not just for commercial interests or government regulatory purposes. This means that throughout the entire process of regulating cross-border data flows in the EU, the value of fundamental human rights is given top priority. In addition, the regulation also stipulates the rights of data subjects, including the right to access and correct their own data, delete their own data, restrict data processing, and object to data processing, further strengthening the rights of personal data protection. The enactment of these provisions helps protect the privacy and data security of EU citizens, promote the development of the digital economy, and provide important references for global cross-border data flows.

3.2 American Method

The approach of the US government and financial industry to the regulation of cross-border financial data flows is very loose. As an information and financial power, the US promotes free cross-border flow of financial data internationally while strengthening the regulation and protection of financial data domestically [2]. The advantage of this approach is that it can promote international economic cooperation and information exchange, contributing to global economic development. However, this loose approach also has some problems, such as the potential spread of financial risks and crimes, affecting the stability and security of the financial system. Therefore, when regulating cross-border financial data flows, various factors need to be balanced to consider both economic development and information exchange, to avoid negative impacts on economic development and information exchange.

However, unlike actively promoting data circulation externally, the US has strict legal supervision over domestic data flows. For example, the Financial Consumer Privacy Act issued in 1978 clearly stipulates the ways, methods, and procedures for financial institutions to obtain user financial information and prohibits financial institutions from providing users' financial information to the federal government without obtaining customer

authorization and fulfilling notification obligations. The Financial Services Modernization Act issued in 1999 specifies the basic principles of financial information protection, including notice, choice, market transparency, security, and enforcement. In 2022, the US House of Representatives passed the “Promoting Digital Privacy Technology Act”, which strengthened legal support for privacy technology of financial data.

In summary, the US presents a binary mechanism in financial data governance, which is opposite at the level of international treaties and domestic legislation. Internally, it has formulated a series of measures to restrict the free flow of financial data, while externally establishing a diversified application pattern to promote the maximum cross-border transmission of financial data under the premise of ensuring security, fully tapping the economic value of data.

3.3 Chinese Approach

China has also regulated cross-border financial data flows. Currently, relevant laws and regulations in China mainly include the Cybersecurity Law of the People’s Republic of China, the Personal Information Protection Law, the Data Security Law, and the Measures for the Security Management of Financial Information Infrastructure [3].

China’s regulation of cross-border financial data flows mainly includes the following aspects:

1. Data export security assessment. Before cross-border data flows, a data export security assessment is required to ensure that data exports comply with relevant laws and regulations and regulatory requirements. The assessment includes the sensitivity of the data, the purpose of the export, the data transmission path, and the recipient’s capabilities.
2. Personal information protection. Cross-border flows of personal information must comply with relevant laws and regulations and regulatory requirements, such as requiring personal consent and informing the individual of the purpose of using their information.
3. Financial information infrastructure security management. Financial institutions need to establish sound information security management systems to ensure the security and stability of financial data.
4. Regulatory cooperation. Chinese financial regulatory authorities cooperate with regulatory authorities in other countries to strengthen the regulation and cooperation of cross-border financial data.

4 Conclusions and Recommendations

The main problems of cross-border data flow in financial markets include security, compliance, and regulatory control. Security issues mainly involve data privacy, information security, and other aspects, while compliance issues include the compliance of cross-border data flow with legal provisions and policy implementation. The regulatory control mainly concerns how to achieve regulatory control over cross-border data flow.

To address these issues, the following solutions can be proposed:

1. Strengthen data security protection, improve the security of data encryption and transmission process to prevent data leakage, tampering, and other incidents [4].
2. Improve the regulatory measures for cross-border data flow, enhance the accuracy and effectiveness of supervision, and ensure the security and legality of data.
3. Strengthen the supervision of financial institutions, effectively regulate the compliance of cross-border data flow, and strictly control the cross-border data flow involving sensitive information [5].
4. Establish industry standards, strengthen the management and control of cross-border data flow through technical means and standardized management measures.

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