

# Data Localization Laws: India

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Country Q&A | [Law stated as of 21-Dec-2020](#) | India

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This Q&A provides a high-level summary of the key data localization requirements in India. It identifies applicable laws, sector-specific requirements, exceptions, and cross-border data transfer requirements.

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1. What are the key data localization laws in your jurisdiction?

The key data localization laws in India are summarized below:

- The [\(Indian\) Companies Act 2013](#) and the [Companies \(Accounts\) Rules 2014](#):
  - Section 94 of the Companies Act, read with Sections 88 and 92, require covered organizations to store financial information at the registered office of the company.
- The Reserve Bank of India's [Directive 2017-18/153](#) (April 6, 2018) issued under the [Payment and Settlement Systems Act 2007](#):
  - Paragraph 2(i) of the Directive requires covered organizations to store payment data within India.
- The [IRDAI \(Maintenance of Insurance Records\) Regulation, 2015](#):
  - Paragraph 3(9) requires covered organizations to store insurance data within India.

India's pending Personal Data Protection Bill may impose additional data localization requirements. In its current form, the bill includes localization requirements for sensitive personal data and critical personal data as those terms are defined under the law.

2. What do the data localization laws cover?

- Section 94 of the [\(Indian\) Companies Act 2013](#) covers data about:

- members for each class of equity and preference shares;
- debenture-holders;
- other security holders; and
- annual returns that the organization filed with the Registrar of Companies.

(Section 88, Companies Act.)

- Paragraph 2(i) of the Reserve Bank of India's [Directive 2017-18/153](#) (Apr. 6, 2018) issued under the [Payment and Settlement Systems Act 2007](#) covers payment data, including:
  - end-to-end transaction details; and
  - information that the system provider collects or processes in carrying out the payment instruction.

(Section 2(i), Directive 2017-18/153.)

- Paragraph 3(9) of the [IRDAI \(Maintenance of Insurance Records\) Regulation, 2015](#) applies to all records, including those in electronic format, pertaining to insurance policies issued and claims made in India.

3. What sectors, individuals, and entities do the data localization laws in your jurisdiction apply to?

- Section 94 of the [\(Indian\) Companies Act 2013](#) applies to:
  - all companies incorporated under the Companies Act or any prior law;
  - insurance companies;
  - banking companies;
  - electric companies; and
  - any other companies governed by special laws or designated by the Central Government.

(Section 1(4), Companies Act.)

- Paragraph 2(i) of the Reserve Bank of India's [Directive 2017-18/153](#) (Apr. 6, 2018) issued under the [Payment and Settlement Systems Act 2007](#) (PSS Act) applies to payment systems providers registered under Section 4 of the PSS Act. Payment systems encompass clearing, payment, or settling services and include transactions involving:
  - credit cards;
  - debit cards;

- smart cards; or
- money transfer or similar transactions.

(Section 2(i), PSS Act.)

- Paragraph 3(9) of the [IRDAI \(Maintenance of Insurance Records\) Regulation, 2015](#) applies to all insurers.

4. What are the main exemptions from the application of the data localization laws?

- A company subject to the [\(Indian\) Companies Act 2013](#) and the [Companies \(Accounts\) Rules 2014](#) may keep a part of its register of members outside of India if either:
  - the company's articles of incorporation authorize the foreign register (Section 88(4), Companies Act); or
  - the company stores backups of accounting books maintained in electronic format on servers located in India on a periodic basis (Section 128(3), Companies Act; Rule 3, Accounts Rules).
- Paragraph 2(i) of the Reserve Bank of India's [Directive 2017-18/153](#) (Apr. 6, 2018) issued under the [Payment and Settlement Systems Act 2007](#) (PSS Act) permits covered organizations to store copies of payment data outside of India if necessary to complete foreign payment transactions.

5. Do the data localization laws allow for cross-border transfers after storing the data in your jurisdiction? If yes, what are the requirements for transferring data outside your jurisdiction?

India's localization laws do not expressly prohibit or permit cross-border transfers of locally stored data. However, certain localization laws allow for storage of data outside of India under certain circumstances (see [Question 4](#)).

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