

Data Localization Laws: Nigeria

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This Q&A provides a high-level summary of key data localization requirements in Nigeria. It identifies general requirements, sector-specific requirements, regulatory guidance, and best practices. It also addresses data localization law exceptions, cross-border data transfer requirements, and enforcement risks.

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

The key data localization laws in Nigeria are:

- The Central Bank of Nigeria's mandatory 2011 Guidelines on Point of Sale (POS) Card Acceptance Services:
 - Guideline 4.4.8 requires entities engaging in point of sale (POS) card acceptance services in Nigeria to use a local network switch (which connects devices and processes information to and from connected devices) for all domestic POS and ATM transactions. Domestic transactions cannot be routed outside Nigeria for switching between Nigerian issuers and acquirers.
- The National Information Technology Development Agency's (NITDA) mandatory Guidelines for Nigerian Content Development in Information and Communication Technology (ICT), which aim to encourage indigenous innovation, develop the local ICT industry, and establish intellectual property and data regulation and protection standards, each of which has a set of related strategic goals:
 - Guideline 9.1 requires all Indigenous Original Equipment Manufacturers (companies that produce functional computer devices from component parts bought from other organizations) to assemble all hardware in Nigeria and maintain fully staffed facilities for that purpose.
 - Guideline 11.1(4) requires all telecommunications companies to host all subscriber and consumer data in Nigeria.

- Guideline 12.1(4) requires all network service companies to host all subscriber and consumer data in Nigeria.
- Guideline 12.2(1) requires all ministries, departments, and agencies of Nigeria's federal government (MDAs) to host their websites locally and under a registered.gov.ng domain.
- Guideline 13.1(2) requires all data and information management companies to host all sovereign data in Nigeria.
- Guideline 13.2(3) requires MDAs to host all sovereign data locally on servers within Nigeria.

2. What do the data localization laws cover?

Nigeria's data localization laws (see Question 1) cover the following types of information:

- The Central Bank of Nigeria's 2011 Guidelines on Point of Sale (POS) Card Acceptance Services (POS Guidelines) cover all domestic transaction data of cardholders in Nigeria. A cardholder is any person issued a payment card whose account will be debited to settle transactions performed with the payment card. (Guideline 4.4.8 and Appendix 1(b), POS Guidelines.)
- The National Information Technology Development Agency's (NITDA) Guidelines for Nigerian Content Development in Information and Communication Technology (ICT) cover:
 - subscriber and consumer data hosted by telecommunications companies, network service companies, and ICT companies; and
 - sovereign data hosted by ministries, departments, and agencies of Nigeria's federal government and information management companies.
- (Guidelines 11.1(4), 12.1(4), 13.1(2), and 13.2(3), NITDA ICT Guidelines.)

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

The Central Bank of Nigeria's 2011 Guidelines on Point of Sale (POS) Card Acceptance Services (POS Guidelines) apply to:

- Merchant acquirers.
- Card issuers.
- Merchants.
- Cardholders.
- Card schemes and card associations.
- Switches.
- POS terminal owners.
- Payments terminal service aggregators.
- Payments terminal service providers.
- Processors.

(Guideline 2 and Appendix 1, POS Guidelines.)

The National Information Technology Development Agency's (NITDA) Guidelines for Nigerian Content Development in Information and Communication Technology (ICT) (NITDA ICT Guidelines) apply to:

- Federal, state, and local council ministries, departments, and agencies in the executive, legislative, and judiciary branches.
- Private sector institutions.
- Business enterprises.
- Individuals.

(Guideline 4.0, NITDA ICT Guidelines.)

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

There are no exemptions under Nigeria's data localization laws.

5. Do the data localization laws allow for cross-border transfers after storing the data in your jurisdiction?

Guideline 13.1(2) of the National Information Technology Development Agency's (NITDA) Guidelines for Nigerian Content Development in Information and Communication Technology (ICT) requires data and information management companies to host all sovereign data locally in Nigeria. They cannot for any reason host sovereign data outside Nigeria without NITDA's express approval. This means that cross-border transfers or hosting of sovereign data are permissible only with NITDA's express approval.

Guideline 13.1(2) provides that NITDA will consider the following in giving its express approval to cross-border transfers or hosting of sovereign data:

- Compliance with the Nigeria Data Protection Regulation 2019 if personal data is involved.
- The implication of NITDA's Nigeria Cloud Computing Policy.
- A guarantee that the Nigerian government has unfettered right to access and retrieve its data wherever it is located.
- An undertaking of non-disclosure of Nigeria's government data to any third party without express consent.

- A guarantee of adequate and appropriate data security process, which NITDA must review and accept before giving approval.
- That the Nigerian government must have a choice of the jurisdiction where data will be hosted.
- An undertaking for periodic submission of third-party audit reports for NITDA's review.
- Whether the service to be offered to the government is Software as a Service to improve its efficiency or performance.
- Where small- and medium-scale enterprises offer service to the government from a public cloud environment, whether the National Digital Marketplace has registered and verified the service.
- Whether a ministry, department, or agency of Nigeria's federal government is responsible for backing up data in a public cloud.

The Central Bank of Nigeria's 2011 Guidelines on Point of Sale (POS) Card Acceptance Services do not address cross-border data transfers.

6. If yes to Question 5, what are the requirements for transferring data outside of your jurisdiction under the data localization laws?

See Question 5.

7. Have regulators in your jurisdiction issued guidance on compliance with the data localization laws?

Regulators have not issued any guidance on Nigeria's data protection laws.

8. Who enforces the data localization laws in your jurisdiction?

The National Information Technology Development Agency (NITDA) enforces its Guidelines for Nigerian Content Development in Information and Communication Technology (ICT) (NITDA ICT Guidelines). However, the NITDA ICT Guidelines do not spell out NITDA's specific enforcement powers.

The Central Bank of Nigeria enforces its 2011 Guidelines on Point of Sale (POS) Card Acceptance Services.

9. What are the penalties for violating the data localization laws in your jurisdiction?

Neither the Central Bank of Nigeria's 2011 Guidelines on Point of Sale (POS) Card Acceptance Services nor the National Information Technology Development Agency's Guidelines for Nigerian Content Development in Information and Communication Technology (ICT) specify any penalties for violations.

10. What are the enforcement risks for violating the data localization laws in your jurisdiction?

Neither the Central Bank of Nigeria's 2011 Guidelines on Point of Sale (POS) Card Acceptance Services nor the National Information Technology Development Agency's Guidelines for Nigerian Content Development in Information and Communication Technology (ICT) specify any penalties for violations. Therefore, their enforcement risks are not yet apparent.

11. Are there any additional requirements or best practices related to data localization laws not covered above that practitioners in your jurisdiction should be aware of?

No.

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