



هيئة تنظيم
مركز قطر للمال
QATAR FINANCIAL CENTRE
REGULATORY AUTHORITY

Overview of the Governance and Controlled Functions Rules 2021

June 2021

Why introduce a new Rulebook?

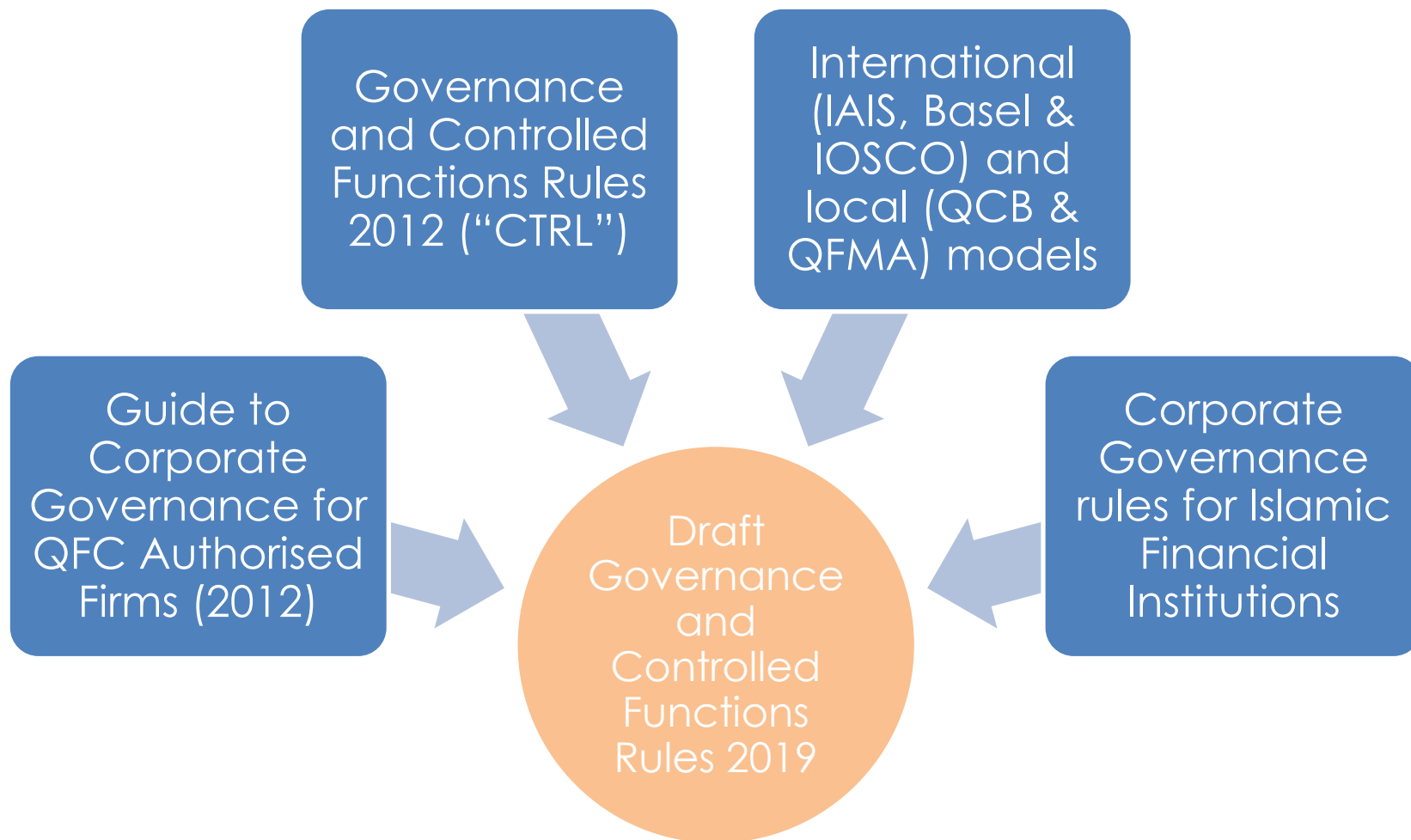
Second Strategic Plan for Financial Sector Regulation 2017-2022

Strategic Goal 1:

Corporate governance standards continue to be strengthened across the region in line with the higher international standards that have been placed on Boards of Directors and senior management in response to greater demands for accountability and integrity.

Each of the regulatory authorities has initiated improved standards for corporate governance based on the global standards and requirements of international organisations such as the OECD, BIS, IAIS and IOSCO. **The regulatory authorities will review their governance frameworks and take steps to ensure further harmonisation of corporate governance practice in line with international best practice.**

Where have the new rules come from?



Some Key Dates:

Second Strategic Plan: **13 December 2017**

Consultation paper issued: **2 October 2019**

Town Hall: **10 December 2019.**

Consultation Period ended: **12 January 2020.**

Final rules issued: **13 July 2020.**

Commencement date: **1 July 2021.**

First compliance statement due: **End Q1 2023.**



5+ Years.

To whom do the rules apply?

- Most of the rules will apply to all firms.
 - However, **Chapter 3** (Governing Bodies) recognises that some QFC firms are branches while others are LLCs, and so within Chapter 3 there are:
 1. Rules that apply to all firms – both LLCs and branches (**Parts 3.1. and 3.2**); and
 2. Rules that apply to LLCs only (**Part 3.3**); and
 3. Within the rules that apply to LLCs there are two distinct categories;
 1. **Category A** firms (banks, insurers and discretionary investment managers) ; and
 2. **Category B** firms (all other smaller firms).
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Governance Principles (Chapter 2):

Chapter 2 – The Principles

1. The Governing Body must **approve** a corporate governance framework;
 2. The Senior Management must ensure that the corporate governance framework is **implemented**;
 3. The Governing Body and Senior Management must have appropriate **knowledge, skills and expertise**;
 4. The Governing Body must periodically **review** the corporate governance framework and risk management framework; and
 5. The Governing Body must **disclose** specified information about the corporate governance framework. (**New**)
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Role and obligations of the Governing Body – Slide 1:

- Division 3.1.C sets out the role and obligations of the Governing Body.
- The obligations in Rule 3.1.7-3.1.21 are largely new, and are an important new dimension to the Corporate Governance regime.
- Rule 3.1.22 deals with the obligations of individual members of the governing body.

Role and obligations of the Governing Body – Slide 2:

Rule Reference	Detail
3.1.7 Decision-making	The GB must have access to sufficient information and independent advice about the firm's affairs to make informed decisions and discharge its responsibilities effectively.
3.1.8 Engagement	The GB must: a) keep up with material changes in the firm's business and external environment; and b) act in a timely manner to protect the firm's long-term interests.
3.1.9 Accountability	The GB is accountable for: a) the development and oversight of the firm's business strategy and objectives; b) the firm's risk management framework; c) the firm's internal controls and assurance framework; and d) the firm's financial soundness.

Role and obligations of the Governing Body – Slide 3:

Rule Reference	Detail
3.1.10 Culture and values	<p>The GB must play the leading role in establishing the firm's corporate culture and values.</p> <p>That means putting in place and overseeing a code of conduct or code of ethics for all employees.</p>
3.1.11 Own Structure	<p>The GB must:</p> <ul style="list-style-type: none">a) have a well-designed governance structure;b) allocate sufficient time and attention for its members to perform their duties effectively; andc) consider how it can best perform its role, (e.g. whether to create 1 or more committees).

Role and obligations of the Governing Body – Slide 4:

Rule Reference	Detail
3.1.12 Oversight	<p>The GB must:</p> <ul style="list-style-type: none">a) provide effective oversight of senior management;b) hold senior management accountable for their actions;c) set out the consequences (including dismissal) if those actions are not aligned with the GB's expectations;d) deal prudently with conflicts of interest by ensuring that no individual or group of individuals unduly influences the body's decision-making;e) approve the firm's organisational structure and corporate governance framework;f) ensure that the firm has succession plans in place;g) establish direct and independent contact with the firm's audit and risk functions;h) ensure that the firm has an effective anti-fraud framework; andi) maintain transparency and disclosure.

Role and obligations of the Governing Body – Slide 5:

Rule Reference	Detail
3.1.13 Subsidiaries	The GB must ensure that the firm seeks to promote good governance in its subsidiaries (if any).
3.1.4 Approving and updating Plans	The GB must: a) approve strategic and business plans appropriate to the nature, scale and complexity of the firm's business; and b) update the plans regularly to take account of changes in the business environment.
3.1.15 Appointments	The GB is responsible* for the appointment, remuneration, disciplining or dismissal, or the assessment of the performance of: a) The Senior Executive Function; b) The Internal Auditor; c) The Risk Management Function; d) The Compliance Oversight Function; e) The Approved Actuary.

Role and obligations of the Governing Body – Slide 6:

Rule Reference	Detail
3.1.16 Remuneration Policy	The GB must establish and maintain, for itself and the whole firm, a remuneration policy appropriate to the nature, scale and complexity of the firm's business
3.1.17 Business Resilience & Continuity Plan.	The GB must establish a business resilience and continuity plan to ensure, so far as practicable, that the firm can continue to fulfil its obligations under the law applicable in the QFC in the event of an interruption. The GB must periodically review the plan, and ensure it is tested.
3.1.18 Conflicts of Interest	<p>The GB must ensure that the firm's corporate governance and risk management frameworks are designed:</p> <ul style="list-style-type: none">a) to avoid/mitigate conflicts of interest; andb) to deal effectively with any conflict of interest that arises. <p>Every 6 months, the firm's senior management must give the GB a written summary of all conflicts of interest addressed by the senior management during the period.</p>

Role and obligations of the Governing Body – Slide 7:

Rule Reference	Detail
3.1.19 Periodic Review	The GB must ensure that the firm's corporate governance framework and risk management framework are reviewed at least once every 3 years by: a) the internal auditor; or b) an independent and objective external reviewer.
3.1.20 Keeping Minutes	The GB and each committee of the GB, must maintain appropriate records of its deliberations and decisions, sufficient to show that the body or committee is effective and has carried out its responsibilities.
3.1.21 Independence of certain employees	The GB must ensure that each employee to whom a responsibility is allocated within the firm's internal controls framework is sufficiently free from influence for the framework to be effective in achieving its purposes; The internal controls framework is made up of the risk management, compliance oversight, internal audit and actuarial functions

Obligations of individual members of the Governing Body

Rule Reference	Detail
3.1.22	<p>A member of the governing body of an authorised firm:</p> <ul style="list-style-type: none">a) must act in good faith, honestly and reasonably;b) must exercise due care and diligence;c) must act in the best interests of the firm and its customers, putting those interests ahead of his or her own interests;d) must exercise independent judgment and objectivity in decision-making, taking due account of the interests of the firm and its customers; ande) must not use his or her position to gain undue personal advantage or cause detriment to the firm.

Rule 3.1.2 – every member of a Governing Body (both LLCs and Branches) must be an approved individual – either for the executive governance function or the non-executive governance function.

Governing Body's obligations cannot be repudiated.

Rule 3.1.5

“A governing body cannot relieve itself of an obligation under this Division by repudiating the obligation or allocating it to another person or body.”

That means no delegation – upwards or downwards.

Governing Body – Engagement with the Regulatory Authority

As a consequence of the rules setting out the role and obligations of the Governing Body, interactions with the Regulatory Authority in the future will entail a greater level of engagement directly with the Governing Body, and with individual members of the Governing Body, than heretofore.

Governing Bodies are reminded of Rule 3.1.20 concerning the need to keep appropriate records of their deliberations and decisions.

Remember the old adage – **If it isn't written down it didn't happen!**

In order to adequately discharge these obligations Boards will need to have a sufficient number of members, of the appropriate skills and experience, and will need to meet frequently.

The Board – Number of Directors – Rule 3.3.6

The Board of a **Category A** firm must meet the following criteria:

- There must be a minimum of 5 directors;
- A majority of the directors should be non-executive directors; and
- A majority of the non-executive directors must be independent non-executive directors.

BUT – see Rule 3.3.6(7) for Category A firms that are subsidiaries.

The board of a **Category B** firm must have at least 3 directors, a majority of whom should be non-executive directors, and at least one independent non-executive director.

The Board – sub-committees

A. Rule 3.3.8 - the board of a **Category A** firm must establish :

- Nominations Committee;
- Remuneration Committee;
- Audit Committee; and
- Risk Committee.

BUT – see Rule 3.3.8(3) about the possibility, subject to Regulatory Authority consent, of combining Nominations and Remuneration, and combining Audit and Risk.

B. Category B firms are not obliged to establish committees, but then the full Board must discharge the responsibilities of the committees – see Rule **3.3.9**.

Board Meetings - LLCs:

Rule 3.3.14 – The Board of **all** authorised firms must meet at least every three months, and at least 4 times a year.

Rule 3.3.12(4) – The audit committee (Category A firms) must meet at least 4 times a year.

Again, let me remind you of **Rule 3.1.20:**

The Governing Body of an LLC (and each committee), and the Governing Body of a branch must maintain appropriate records of its deliberations and decisions, sufficient to show that the body or committee is effective and has carried out its responsibilities.

Rule 1.2.1(b)

The Governing Body of an authorised firm that is a branch can be either:

- 1) The firm's board of directors, or a committee of that board, that has the responsibility of overseeing the firm's business in or from the QFC; or
- 2) that part of the firm's committee of management or other body (whatever it is called) that has the responsibility of overseeing the firm's business in or from the QFC.

Rule 3.2.1(1):

- 1) The governing body of an authorised firm that is a branch must have at least 3 members;
- 2) The governing body must have a mix of relevant competencies, and as a whole must have the necessary skills to oversee the firm effectively; and
- 3) The governing body of an authorised firm that is a branch must meet at least every 3 months and at least 4 times in a year.

Annual Compliance Statement – Chapter 3

Rule 3.4.1 – every firm must give a written statement (signed by the Chair of the Governing Body and the SEF) to the Regulatory Authority every year as to the extent to which it has complied with the applicable requirements of Chapter 3 during the previous year.

The statement must set out:

- a) the requirement with which the firm has not complied;
- b) the reasons for the non-compliance; and
- c) a statement of what the firm is doing or intends to do to bring itself into compliance with the requirement.

Firms incorporated in the QFC must also give this statement to their shareholders and put it on their website.

We have advised firms that the first year to which this statement will apply will be 2022, and that the first statement will be due for submission at the same time as all other annual returns for that year.

Turning to the Corporate Governance Framework - What is a firm's Corporate Governance Framework ?

Rule 1.2.2(1) –

The corporate governance framework for an authorised firm is made up of the firm's organisational structures, policies, procedures, and systems and controls as they relate to the firm's business objectives and the means of achieving them.

Rule 1.2.2(2) –

An authorised firm's corporate governance framework includes:

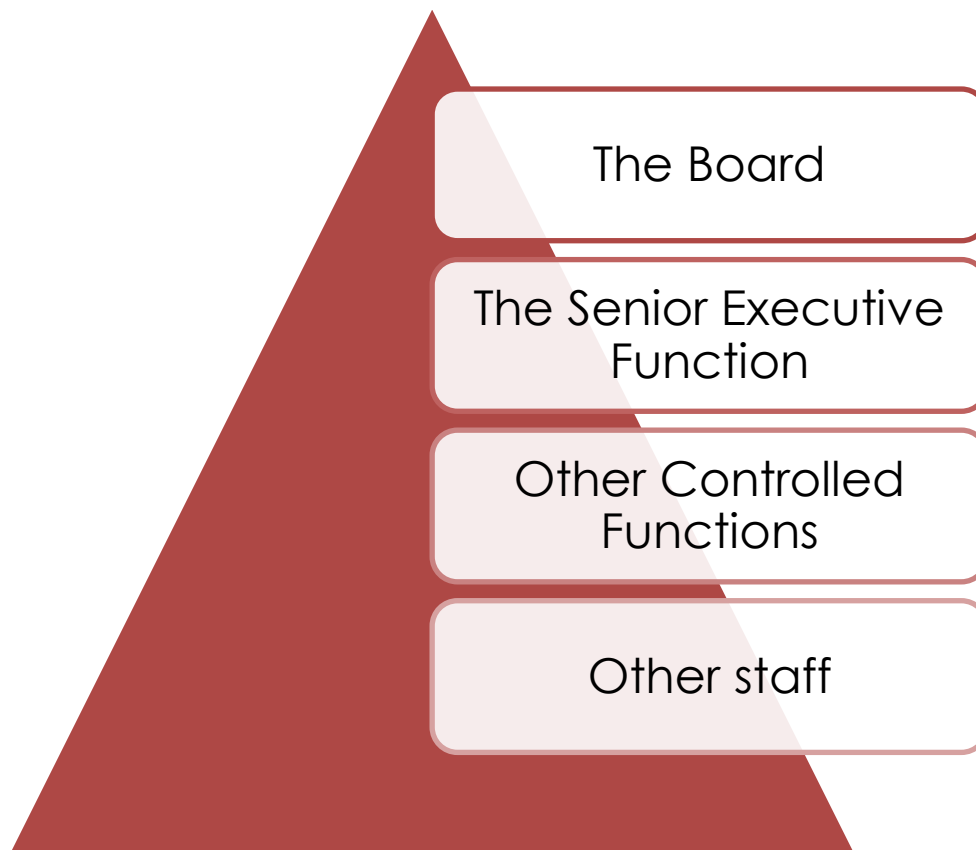
- a) the firm's risk management framework (see rule 1.2.3);
- b) its internal control and assurance functions (that is, its risk management, compliance oversight, internal audit and actuarial functions);
- c) its business objectives; and
- d) the corporate governance obligations in these rules, the Companies Regulations, and other applicable regulations, rules and guidance.

Governing Body and corporate governance framework:

Corporate Governance and the Role of the Governing Body:

- **Rule 2.1.1 – Principle 1** The Governing Body must **approve** a corporate governance framework for the firm....under which the Governing Body is ultimately responsible for ensuring that the firm carries out its obligations under these rules;
- **Rule 3.1.11(a)** The Governing Body must have a well designed governance structure,
- **Rule 3.1.12(e)** The Governing Body must **approve** the organisational structure and corporate governance framework through which the firm is managed and controlled.

Cascade of authority within Authorised Firms.



Senior Management – Accountability

- **Rule 3.1.6(2)** - The Governing Body of **every** firm must give the Senior Executive Function a written document that sets out his or her responsibilities.
 - **Rule 3.1.6(4)** - The Senior Executive Function must give **every** other person who exercises a controlled function a written document that sets out his or her responsibilities.
 - The Senior Executive Function and **every** controlled function must acknowledge, in writing, having received that document and must confirm that he or she understands, and undertakes to carry out, those responsibilities.
 - Remember **Rule 3.1.12** - The Governing Body must hold the firm's senior managers accountable for their actions, and must set out the possible consequences (including dismissal) if those actions are not aligned with performance expectations.
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Overview of the Internal Control and Assurance Functions

Risk management is one of the four internal control and assurance functions that, as we saw earlier, (see **Rule 1.2.2(2)**) are a key component of a firm's corporate governance framework.

The internal control and assurance framework is made up of:

- The risk management function;
- The compliance oversight function;
- The internal audit function; and
- The actuarial function.

The purpose of the internal controls and assurance framework is to provide reasonable assurance on the effectiveness and efficiency of the firm's operations, the reliability of its financial reporting and the extent of its compliance with applicable laws and regulations. **(Rule 1.2.4(3)).**

Risk Management – Who must have what?

Risk Management Framework:	All authorised firms , whether branch or LLC, Cat A or Cat B. Rule 1.2.3
Risk Management Function:	All authorised firms , whether branch or LLC, Cat A or Cat B. Rule 7.1.2.
Risk Manager (Approved Individual):	QFC Bank and a QFC Insurer (other than a captive). Rule 6.2.3
Risk Appetite Statement	All authorised firms , whether branch or LLC, Cat A or Cat B. Rule 7.1.6
Risk Management Strategy	All authorised firms , whether branch or LLC, Cat A or Cat B. Rule 7.1.6

But “nature, scale and complexity” should be factored in.

What is a Risk Management Framework?

Rule 7.4.4:

“An authorised firm’s **risk management framework** is the totality of systems, structures, policies, processes and people within the firm that identifies, measures, evaluates, monitors, reports on and controls or mitigates all internal and external sources of material risk.

Material risks are risks that could have a material effect, financial or non-financial, on the firm, on its stakeholders or on the interests of its customers.”

Risk Management Framework - Role of Governing Body and Management

The Governing Body must regularly review the risk management framework.

Rule 2.1.4 - Principle 4

The Governing Body must ensure that the firm's **risk management** is reviewed at least once every 3 years by:

- a) the firm's internal auditor; or
- b) an independent and objective external reviewer.

Rule 3.1.19

Senior management is responsible for implementing the Risk Management Framework including:

- a) ensuring that the **implementation** of the framework is in accordance with CTRL; and
- b) actively promoting a strong risk management culture throughout the firm.

Rule 4.1.2

Risk Management Function

Rule 1.2.12 - The ***risk management function*** for an authorised firm is the function of being responsible for:

- a) the firm's risk management framework; and
- b) overseeing** and **reviewing** the firm's implementation of, and its compliance with, those policies, procedures and controls.

Rule 6.2.2(2) - The purpose of the risk management function is to monitor and control the firm's risk exposure.

Rule 6.2.1- An authorised firm must establish and maintain a risk management function that is appropriate to the nature, scale and complexity of the firm's business.

Rule 3.3.13(1(a)) - The Risk Committee of the Board (or the full Board where no such Committee exists) is responsible for overseeing the firm's risk management function.

What makes up the Risk Management Function?

Rule 6.2.2(1) An authorised firm's **risk management function** is made up of:

- a) the individual (if any) who is approved to exercise the risk management function for the firm;
- b) any other employees allocated to the function;
- c) the part of the firm's resources (other than staff) allocated to the function;
- d) the firm's risk management strategy;
- e) the firm's risk management policy; and
- f) the records that the firm keeps in relation to risk management.

Risk Management - Risk Appetite Statement

Rule 7.1.6(1) requires firms to have a **documented risk appetite statement**, approved by the governing body, that captures the firm's attitude to, and level of acceptance of, different risks.

Rule 7.1.6(2) The firm's **risk appetite** is the aggregate level and types of risk that the firm is willing to assume to achieve its strategic objectives and business plan.

Rule 7.1.6(3) If appropriate, the statement must specify quantitative measures.

Guidance to **Rule 7.1.6** creates a direct link to the firm's risk management strategy.

Risk Management

Risk Management Strategy

Rule 7.1.7 - A firm must have a written, annually reviewed, Risk Management Strategy that:

- a) provides for assessing material risks;
- b) sets out policies and procedures for monitoring, prioritising and managing major risk exposures;
- c) includes both quantitative and qualitative considerations; and
- d) provides for monitoring significant changes to the firm's risk profile

We have also added Guidance by way of a suggested framework (at Schedule 1) on the definition and categorisation of risks.

Authorised firms are free to adapt this framework to reflect the nature, scale and complexity of their operations, or to develop and implement their own risk classification framework.

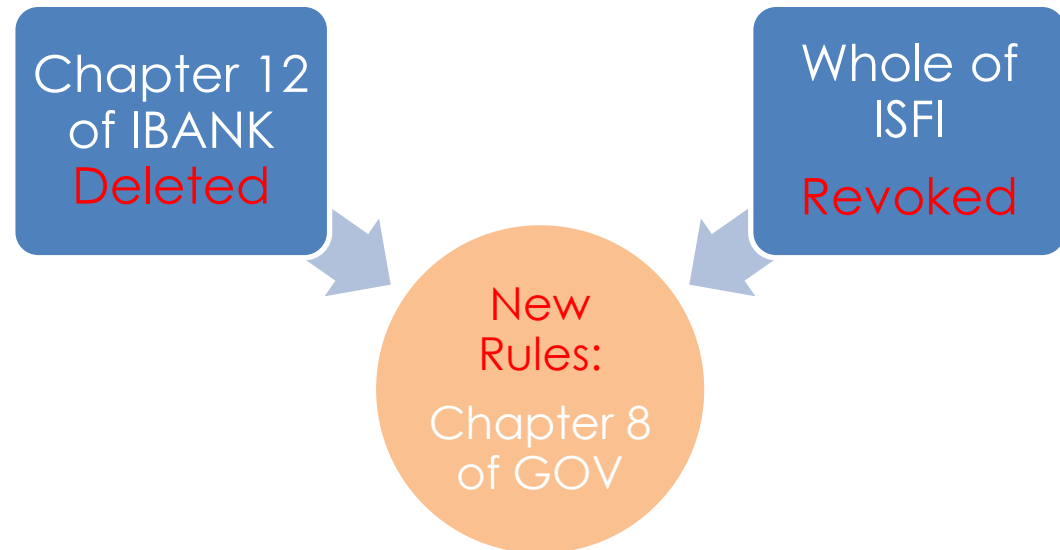
Risk Management Responsibility of the Risk Committee

Rule 3.3.13 – the Risk Committee is responsible for:

- a) advising the Board on the firm's risk appetite;
- b) overseeing senior management's implementation of the risk strategy;
- c) interacting with and overseeing the risk management function;
- d) overseeing strategies for managing all relevant risks (including capital and liquidity);
- e) receiving and reviewing regular reports about the risk profile, measurements against risk appetite/limits, limit breaches, etc.

Corporate Governance and Islamic Finance Firms

By and large what we are doing is repackaging existing rules rather than introducing new measures or requirements:





Thank You