



qatar

FINANCIAL CENTRE  
REGULATORY AUTHORITY

# A Guide to our Approach to Regulation



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# A Guide to our Approach to Regulation

# Chapter 1

## Introduction

The Regulatory Authority is the independent regulatory body of the Qatar Financial Centre (QFC) established to regulate firms that conduct financial services in or from the QFC. It has a broad range of regulatory powers to authorise, supervise and, when necessary, discipline firms and individuals. The Regulatory Authority regulates firms using principle based legislation of international standard, modelled closely on the laws used in other major financial centres.

The Regulatory Authority has developed regulatory systems for the effective supervision of entities authorised to conduct Regulated Activities in or from the QFC (Authorised Firms).

A summary of the approach adopted by the Regulatory Authority in the course of handling applications to conduct business in the QFC, along with general information about the QFC itself, is set out in A Guide to the Application Process.

A Guide to our Approach to Regulation provides information about two other important regulatory processes adopted by the Regulatory Authority – the risk based approach to the supervision of Authorised Firms and the enforcement process for the investigation of contraventions of QFC Law, regulations and rules and the disciplining of those responsible.

# Chapter 2

## Supervision

The Regulatory Authority adopts a risk based approach to the supervision of Authorised Firms in the course of applying the 'Principles of Good Regulation' which are set out in Article 13 of the Financial Services Regulations. This enables the Regulatory Authority to focus its resources on the mitigation of risks to its objectives. Those objectives are set out in Article 12 of the Financial Services Regulations.

In applying the risk based approach, the Regulatory Authority will:

- maintain close relationships with each Authorised Firm and its senior management;
- co-operate with other regulators to ensure that Authorised Firms which are branches or part of a group are effectively supervised but not overly burdened with regulatory requirements that duplicate those imposed by their home state regulator;
- maintain a continuous cycle of risk management which ensures it regularly undertakes the risk assessment and classification of Authorised Firms using a standardised methodology; and
- focus on achieving its objectives by making effective use of the supervisory tools available to it.

This risk based supervision ensures that the Regulatory Authority will have a structured approach to the use of its regulatory tools and that its resources are focused on those areas which present the greatest risk to its objectives. Relying upon this approach to supervision will also assist the Regulatory Authority in ensuring that Authorised Firms are complying with all applicable regulations and rules.

The Regulatory Authority notes that an Authorised Firm's solvency and compliance with regulatory (including prudential) requirements is the responsibility of its directors and senior management. In particular, the Regulatory Authority places significant emphasis on the role of directors and senior management of Authorised Firms' in implementing and maintaining effective internal systems that ensure solvency and compliance with regulatory requirements.

### The Risk Assessment Framework

The Regulatory Authority's risk based approach to supervision is premised upon a continuous cycle of risk management which identifies, assesses and mitigates those risks arising within an Authorised Firm which present a risk to the objectives of the Regulatory Authority.

Central to the risk based approach is a process of assessing risks. This is undertaken using a standardised methodology and by reference to the Regulatory Authority risk table (which is set out as an appendix to this Guide). The table identifies two broad risk categories – Business Risks and Control Structure Risks.

### Business Risks

This category contains those risks arising from the type of business conducted by the Authorised Firm and is further broken down into the following risk groups:

- **Financial Soundness**  
Risks arising from the Authorised Firm's capital position, its liquidity mix and the nature of its earnings.
- **Business Strategy**  
Risks arising from the nature of the business undertaken by the Authorised Firm and is further broken down into risk factors such as the type of clients, products and markets targeted by the firm.
- **Market and Operational**  
Risks arising from the Authorised Firm's exposure to market risk, credit risk, operational risk, liquidity risk, insurance underwriting and the nature of the firm's contractual arrangements.
- **Organisation and Regulation**  
Risks arising from the position of the Authorised Firm within its group structure and includes evaluating its controllers, home regulators and the regulatory history of the firm.

### Control Structure Risks

This category refers to the internal structure of the Authorised Firm and is further broken down into the following risk groups:

- **Clients**  
Risks arising from the manner in which the Authorised Firm conducts business with its clients and includes communication, safeguarding of assets, how it deals with and provides advice and disclosures to its clients.
- **Conflicts Management**  
Risks arising from the manner in which the Authorised Firm identifies and manages conflicts of interest particularly in reference to the remuneration of sales staff and personal account dealing.
- **Management and Control**  
Risks arising from the management and control of the Authorised Firm in areas such as compliance, risk and outsourcing.
- **Financial Crime**  
Risks arising from the effectiveness of the Authorised Firms procedures to prevent money laundering and other areas of market abuse.
- **Human and Technical Resources**  
Risks arising from the Authorised Firm's approved individuals and the adequacy of its information technology.

# Chapter 2

## Supervision

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These risk groups are then broken down into the specific risk factors as further set out in the risk table.

In conducting the risk assessment, the Regulatory Authority considers the nature and size of an Authorised Firm's business and its internal structures against each of the risks specified in the risk table. The Regulatory Authority then assesses and prioritises each identified risk taking into account the probability of the risks occurring and the impact upon the Regulatory Authority's objectives should the risk crystallise. Having done so, the Regulatory Authority assigns every Authorised Firm an aggregate risk classification of low, medium or high.

The risk assessment will be first undertaken during the initial authorisation process. The Regulatory Authority will use the information provided by the applicant or otherwise gathered during consideration of the application to carry out the initial risk assessment and to allocate the Authorised Firm an interim aggregate risk classification.

Shortly after authorisation, the Regulatory Authority will meet with the senior management of the Authorised Firm to discuss their business and strategy plans and the general implementation of their procedures, systems and controls. This meeting, along with the initial risk assessment undertaken during the application process, will determine when the first detailed 'on site' risk review of the Authorised Firm will be undertaken.

Following that detailed 'on site' risk review, the Regulatory Authority will update the aggregate risk classification assigned to the Authorised Firm.

The risk assessment process is then on-going and Authorised Firms can expect to be the subject of a risk assessment at least annually. However, an Authorised Firm's risk classification may be updated at any time and may be affected by information obtained by the Regulatory Authority through notification, reports, visits to the Authorised Firm and on-going dialogue with senior management.

A risk assessment may also be undertaken upon the occurrence of certain 'trigger' events, such as a material change in an Authorised Firm's business, a change in an Authorised Firm's controllers, the appointment of new personnel in key business areas or a significant failure in an Authorised Firm's systems and controls.

Following the first detailed 'on site' risk review and all subsequent risk assessment reviews the Regulatory Authority will develop a risk mitigation programme for the Authorised Firm. These risk mitigation programmes are designed to address specific identified risks and will identify each action required and the intended outcome. The supervisory tools (see below) relied upon subsequently by the Regulatory Authority to manage the risks will depend upon the nature and seriousness of the risks and the extent to which they are already being mitigated by effective controls.

This approach allows the Regulatory Authority to be pro-active in that once risks have been identified and assessed, it can take appropriate action to mitigate them before they crystallise. It also allows the Regulatory Authority to determine the intensity of the supervisory programme for each Authorised Firm and therefore the allocation of the Regulatory Authority's supervisory resources.

The Regulatory Authority will discuss certain aspects of the risk assessment with Authorised Firms but will generally not disclose an Authorised Firm's aggregate risk classification.

### Supervisory Tools

In the course of fulfilling its supervisory role, the Regulatory Authority has a range of supervisory tools available to it. Some of these tools are:

- **On-Site Visits**  
Such visits allow the Regulatory Authority to view first hand the personnel, procedures, systems and controls within the Authorised Firm, to complete the risk assessment of the Authorised Firm and to review the operation of the risk mitigation programme.
- **Personal Meetings**  
Meetings with directors, senior management or specific individuals allow the Regulatory Authority to understand the culture of the Authorised Firm, the strategy and focus of the firm's management and to discuss specific areas of the business.
- **Desk-Based Reviews**  
The Regulatory Authority reviews the regular reports required to be submitted by firms (such as prudential returns). Firms are also required to inform the Regulatory Authority before or shortly after certain trigger events. All of this material is reviewed to ensure compliance with QFC regulations and rules and to detect emerging problems or concerns.
- **Production of Information**  
The Regulatory Authority has the power to require the production of documents and other information. This allows the Regulatory Authority access to information regarding the Authorised Firms business in order to determine compliance with QFC regulations and rules or to enquire into a particular matter.
- **Reports**  
The Regulatory Authority may require an Authorised Firm to provide a report prepared by a person approved by the Regulatory Authority. This procedure enables supervisors to obtain independent audit reports on specific areas of concern within a firm.

### **Fostering Relations with Overseas Regulators**

The Regulatory Authority works closely with regulators outside of the QFC to promote the highest standards of domestic and international supervision.

Where firms are subject to regulation by another regulator, the Regulatory Authority determines the level and standard of supervision undertaken by the other regulator and will co-operate with the other regulator in carrying out its functions. In so doing the Regulatory Authority will enter into formal arrangements with such other regulators through Memoranda of Understanding and other agreements.

Such co-operation with other regulators is aimed at ensuring that Authorised Firms are properly and effectively supervised but are not exposed to unnecessary or duplicative requirements in different jurisdictions.

### **The Regulatory Authority's Approach to Confidentiality**

The Regulatory Authority recognises that Authorised Firms maintain information which is confidential to their clients. Indeed, the Regulatory Authority expects firms to have appropriate systems in place to ensure the confidentiality of such information. Nonetheless, the Regulatory Authority will, from time to time, require access to such confidential information in order to perform its supervisory function. When it does so, the Regulatory Authority will itself apply high standards of confidentiality in such a manner as to balance the legitimate expectations of Authorised Firms and their clients that such information will remain confidential with the need to rely upon such information in the supervision of the Authorised Firm for the benefit of that firm, its clients and the QFC as a whole.

The Regulatory Authority and those acting for it (its officers, employees, agents, contractors and other persons appointed by the Regulatory Authority, such as nominated persons or investigators) are subject to the confidentiality provisions of the Financial Services Regulations. These provisions prohibit them from disclosing any confidential information received in the exercise of their respective functions under the QFC regulations, except in accordance with those regulations.

The regulations set out the particular circumstances in which the Regulatory Authority may disclose information in order to effectively supervise and regulate firms in the QFC.

These circumstances include but are not limited to releasing information:

- with the consent of the person to which the information relates;
- in response to a legally enforceable demand (such as a subpoena from a court);

- where the disclosure is made in good faith in the exercise of its functions;
- where the disclosure is made to any body performing functions relating to the detection or prevention of money laundering; or
- where the disclosure is made to an overseas regulator.

In determining whether to release information, or in circumstances where it is required to release information, the Regulatory Authority will pay due regard to the rights of those parties that may be affected and will ensure procedural fairness.

The Regulatory Authority recognises the importance of fostering and maintaining confidence in the QFC as an internationally recognised financial services centre and the confidentiality requirements in the QFC are in line with international best practice. Where the Regulatory Authority enters into relationships through formal agreements with other regulators for the purposes of information sharing, these agreements will conform with the standards for such agreements as recommended by such recognised international bodies as IOSCO and the Basel Committee.

# Chapter 3

## Enforcement

Regulated participants in the QFC are expected to demonstrate a strong compliance culture, arising out of recognition that it is in the interests of both themselves and the financial services community in the QFC to meet or exceed the Regulatory Authority's required standards.

Nonetheless, to ensure that it meets its objectives, the Regulatory Authority has been granted enforcement powers and where the Regulatory Authority's standards are not met the use of those powers may become necessary.

In light of the rigorous authorisation process, the expected culture of compliance and the risk based approach to supervision, conduct requiring redress should arise rarely. However, when such action is necessary, the Regulatory Authority will exercise its enforcement powers to the extent that is necessary to achieve its regulatory objectives and in a way that ensures the legitimate activities of participants in the QFC continue freely.

The Regulatory Authority approach to enforcement is based upon:

- **Flexibility**  
The Regulatory Authority will adopt a flexible approach to enforcement, in keeping with its risk based approach to regulation, focusing on reducing the risk of non-compliance wherever possible.
- **Acting Decisively**  
When the Regulatory Authority detects conduct that may threaten the integrity of the QFC, it will act swiftly and decisively to stop the conduct, minimise the effects and prevent similar conduct recurring, but in so doing, it will act fairly, openly and accountably in the exercising of its enforcement powers.
- **Procedural Fairness and Integrity**  
Enforcement action will be taken by the Regulatory Authority only when it is necessary to ensure that the QFC is operating efficiently and transparently, and that its participants are operating fairly and in a way that promotes the confidence of the financial services community and its customers. The Regulatory Authority will provide procedural fairness and give due respect to the rights of those with whom it deals. It will uphold principles such as legal privilege and the right of appeal. Under the QFC Law, the Appeals Body has been established as an independent body to hear appeals against decisions made by the Regulatory Authority.
- **Keeping the QFC Financial Services Community Informed**  
The Regulatory Authority will ordinarily publish outcomes arising from any enforcement action taken. This public accountability and transparency helps maintain the integrity of the QFC by deterring contraventions of the QFC regulations and rules and ensures the fair and transparent discharge of the Regulatory Authority's enforcement powers. The Regulatory Authority does not generally publicise the commencement of investigations or provide information on their progress.
- **International Co-operation and Mutual Assistance**  
The Regulatory Authority will work closely with overseas regulators and international regulatory associations outside of the QFC to ensure the effective exchange of information and adherence to the highest common standards. This is of particular significance in respect of enforcement in light of the increasing importance of being able to obtain information from other jurisdictions to complete an investigation or take disciplinary action.



## Investigations

Under the Financial Services Regulations, the Regulatory Authority is empowered to conduct investigations into suspected contraventions of relevant QFC legislation. In the course of those investigations, it may exercise its powers to:

- conduct inspections;
- compulsorily obtain books and records;
- request the production of reports; and
- require individuals to participate in interviews under oath or affirmation.

Importantly, the Regulatory Authority is empowered to pursue the investigation of suspected contraventions both in respect of Authorised Firms and other companies, limited liability partnerships and branches. The Regulatory Authority has no criminal jurisdiction and accordingly, any conduct it identifies during an investigation which could constitute a breach of criminal law will be referred to the relevant State or international authority.

## Factors Determining Action

At the conclusion of an investigation, the full circumstances of each case are considered in determining whether to take disciplinary action and the extent of the action to take. The following list, whilst not exhaustive, indicates some of the factors taken into consideration, when making this determination:

- the seriousness and nature of the suspected contravention;
- the conduct of the firm or individual following the contravention, including any actions taken to minimise the effect of the breach and to bring the issue to the attention of the Regulatory Authority;
- the regulatory track record of the firm, both in the QFC and in any other jurisdictions in which the firm operates;
- any guidance previously issued by the Regulatory Authority generally or specifically to the firm, recognising that compliance with guidance does not in itself offer a safe harbour;
- similar cases of contravention in the QFC and the arising action taken by the Regulatory Authority;
- previous disciplinary decisions made by the Tribunal (the body established by the Tribunal and Dispute Resolution Regulations to administer and enforce QFC commercial laws); and
- actions taken by regulators in other jurisdictions in respect of similar contraventions, or, in respect of the conduct of the firm or individual giving rise to the contravention.

## Enforcement Actions

Having considered the full circumstances of the case at the conclusion of the investigation, the Regulatory Authority may:

- take no formal action on the basis that no contravention has been established or, if it has, that it is capable of informal resolution through appropriate education and warning;
- publicly censure a party, publishing a statement in respect of a firm or an individual in respect of the contravention which has taken place;
- commence proceedings before the Tribunal either to seek assistance in the enforcement of the Regulatory Authority's regulatory powers or to seek specific disciplinary redress. Orders sought may include injunctions, orders for winding up or the appointment of administrators;
- impose financial penalties in respect of the contravention in an amount which it considers appropriate;
- impose prohibitions and restrictions relating to an Authorised Firm or Approved Individual. This may include imposing conditions on, or withdrawing, an authorisation or approval; or
- require enforceable undertakings from a person or Authorised Firm, stating that the parties will undertake certain actions in order to resolve an issue. The Tribunal can enforce this undertaking in the event of a breach of its terms.

# Chapter 4

## Conclusion

The Regulatory Authority's Regulatory Processes Rulebook contains rules and guidance which provide further detail in respect of the important regulatory approaches explained in this guide.

For further information please visit the Regulatory Authority website at [www.qfcra.com](http://www.qfcra.com) or contact the Regulatory Authority directly at:

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# Appendix

## Authorised Firm

### Risk Assessment

#### Business Risks

<b>Risk Groups</b>	<b>Risk Factors</b>	<b>Explanatory Notes</b>
Financial Soundness	Capital Adequacy	The risks arising from the nature of the Authorised Firm's capital position. These include the firm's capital planning framework, the composition and quality of capital, the adequacy of capital to support the level of current and anticipated business activities, the adequacy of reserves and access to further capital.
	Revenue / Profitability	The risks arising from the nature of earnings of the Authorised Firm. These include the adequacy of profitability, volatility of revenues and profitability and track record of performance against budget.
Business Strategy	Quality of Business Strategy and Plan	The risks arising from the overall strategy of the Authorised Firm. These include the quality of the strategic planning process, the achievability of the strategy, the implications of the strategy, particularly for risk appetite, and the track record of implementation.
	Regulated Activities Offered	The risks arising from the characteristics of the business that the Authorised Firm is conducting including the extent and complexity of those activities.
	Types of Clients	The risks arising from the characteristics of the Authorised Firm's client base including the types of clients (Market Counterparties, Business Customers, Commercial Customers and Retail Customers).
	Types of Products	The risks arising from the characteristics of the current products or services provided by the Authorised Firm. These include complexity, tenor and performance of the products.
	Markets Targeted	The risks arising from the markets targeted including the location of clients and the nature and jurisdiction of overseas investments offered.
	Sources of Business and Distribution Channels	The risks arising from the nature of the current sources of business and distribution mechanisms used by the Authorised Firm. These include introductions by existing clients and the use of intermediaries and sourcing of overseas customers.

# Appendix

## Authorised Firm

### Risk Assessment

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<b>Risk Groups</b>	<b>Risk Factors</b>	<b>Explanatory Notes</b>
Market and Operational	Market Risk	The risks arising from the type and nature of market risk undertaken by the Authorised Firm. These include the risk appetite of the Authorised Firm, the nature of market risk exposures involved in the Authorised Firm's products and services.
	Credit Risk	The risks arising from the type and nature of credit risk undertaken by the Authorised Firm. These include the risk appetite of the Authorised Firm, the nature of counterparty exposures involved in the Authorised Firm products and services, portfolio characteristics and the nature and extent of credit risk mitigation.
	Operational Risk	The risks arising from the type and nature of operational risk involved in the Authorised Firm's activities. These include direct or indirect loss resulting from inadequate or failed internal processes, people and systems or from external events.
	Liquidity Risk	The risks arising from the type and nature of the Authorised Firm's liquidity or asset and liability mix. These include the liquidity management framework and the composition of liquidity to allow funding of the operational and financial obligations of the business both day to day and in crisis situations.
	Insurance Underwriting	The risks arising from the type and nature of insurance underwriting risk undertaken by the Authorised Firm. These include the risk appetite of the firm, the nature of insurance underwriting exposures involved in the firm's products and services and the nature and extent of reinsurance cover.
	Legal Risk	The risks arising from the type and nature of the Authorised Firm's contractual agreements. These include the risk that contracts may not be enforceable under applicable law.

<b>Risk Groups</b>	<b>Risk Factors</b>	<b>Explanatory Notes</b>
Organisation and Regulation	Clarity of Legal Ownership and Structure	The risks arising from the structure of the Authorised Firm or group. These include the nature of the legal and ownership structure and openness of the group structure to regulators.
	Controllers and Group Entities	The risks arising from the characteristics of the controllers of the Authorised Firm. These include the jurisdiction and characteristics of shareholder controllers, directors, and nature of other group entities. The risks arising from the relationship between the Authorised Firm and the rest of the group. These include management arrangements, reliance on centralised functions, financial health and activities of the wider group and financial and other dependencies on other group entities.
	Nature and extent of Home State Laws, Regulation and Supervision	The risks arising from the content of applicable laws (such as State statutory priority to local creditors), the level of regulation undertaken by another financial services regulator and the reliance that can be placed on the supervision of the firm by that regulator.
	Political and Economic Environment in Home Jurisdiction	The risks arising from any instability in political or environmental factors in the Authorised Firm's home jurisdiction. This may include terrorism, political sanctions or likelihood of natural disasters.
	Relationship with Regulators	The risks arising from the nature of the Authorised Firm's relationship with other regulators, including recent regulatory history.

# Appendix

## Authorised Firm

### Risk Assessment

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#### Control Structure Risks

Risk Groups	Risk Factors	Explanatory Notes
Clients	Communication with Clients and Financial Promotions	The risks arising from the nature of financial promotion and advertising practices employed by the Authorised Firm.
	Client Assets	The risks arising from the firm holding or controlling of client's or user's monies and assets.
	Client Categorisation	The risks arising from customer classification and the documentation procedures.
	Advice, Management and Dealing	The risks arising from dealing and managing customer assets and the quality of advice (e.g. suitability, customer understanding of risk and charges).
	Disclosure and Reporting	The risks arising from the nature of product literature issued by the Authorised Firm and the terms of business, periodic statements and other documentation provided to clients.
Conflicts Management	Identification and Management	The risks arising from the identification of potential and actual conflicts of interest and the way that they are managed by the Authorised Firm.
	Staff Remuneration	The risks arising from the recruitment quality and training procedures for the sales force. The risks arising from the nature of the remuneration scheme for employees.
	Personal Account Dealing	The risks arising from potential insider dealing and the process for identifying and approving directors and employees trading for their personal accounts.
Management and Control	Allocation of Responsibilities	The risks arising from the nature of the allocation and definition of directors' and management responsibilities and the mechanism for ensuring that responsibilities are effectively delegated and carried out.
	Quality of Management and Corporate Governance	The risks arising from the quality of Authorised Firm's management, the nature of the corporate governance of the firm and overall compliance culture. These include management's experience and integrity, fit with the business and operation of the executive body, non-executive directors and board committees.
	Reporting Lines and Segregation	The risks arising from reporting lines between management and the board or other senior staff and the appropriate segregation of duties between functions of a risk taking nature and risk management nature.
	Compliance Function and Arrangements	The risks arising from the nature and effectiveness of the compliance function. These include its mandate, structure, staffing, methodology, reporting lines and effectiveness.

Risk Groups	Risk Factors	Explanatory Notes
	Risk Management Systems	The risks arising from the nature and effectiveness of the systems and procedures in place to identify, measure, monitor and control the risk of the business in an appropriate and timely manner. These include credit risk, insurance underwriting risk, market risk, operational risk, legal risk and new product risk.
	Complaints Arrangements	The risks arising from the procedures the Authorised Firm has in place to deal with the receipt of complaints and to consider the subject matters of complaints in order to rectify systemic issues.
	Business Continuity	The risks arising from the nature and effectiveness of business continuity arrangements. These include the adequacy of the planning process, the quality of the business continuity plan and the testing process.
	Outsourcing	The risks arising from the use of outsourcing to third party providers. These include the reliance on, and the controls over, the third party or outsourcer.
	Monitoring and Audit	The risks arising from the nature and effectiveness of the internal audit function. These include its mandate, structure, staffing, methodology and effectiveness.
	Employees and Training	The risks arising from human resources issues. These include recruitment, training, remuneration, disciplinary procedures and resources.
	Provision of Information to Management	The risks arising from the nature of management information. These include its adequacy, accuracy, relevance and timeliness as well as the effectiveness and efficiency of its distribution.
	Confidentiality and Data Protection	The risks arising from the use of personal information by Authorised Firm.

# Appendix

## Authorised Firm

### Risk Assessment

contd.

#### Control Structure Risks

Risk Groups	Risk Factors	Explanatory Notes
Financial Crime	Anti Money Laundering Procedures	The risks arising from the nature and effectiveness of the money laundering controls. These include effectiveness of the MLRO, training, identification of clients, know your business, internal and external reporting arrangements and record keeping arrangements.
	Prevention of Market Abuse and Financial Crime	The risks arising from the Authorised Firm's susceptibility to having market abuse conducted through it. These include measures to prevent abusive, fraudulent or dishonest trading practices and co-operation in market enforcement matters.
Human and Technical Resources	Approved Individuals	The risks arising from the assessment of Approved Individuals fitness and propriety and those individuals ability to comply with the Principles of Conduct.
	IT Systems and Technical Resources	The risks arising from the controls over the IT infrastructure. These include adequacy of resources, procedures for implementation and procurement, effectiveness of security framework, etc. and consideration as to whether the IT infrastructure is an adequate platform on which to run the business.





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