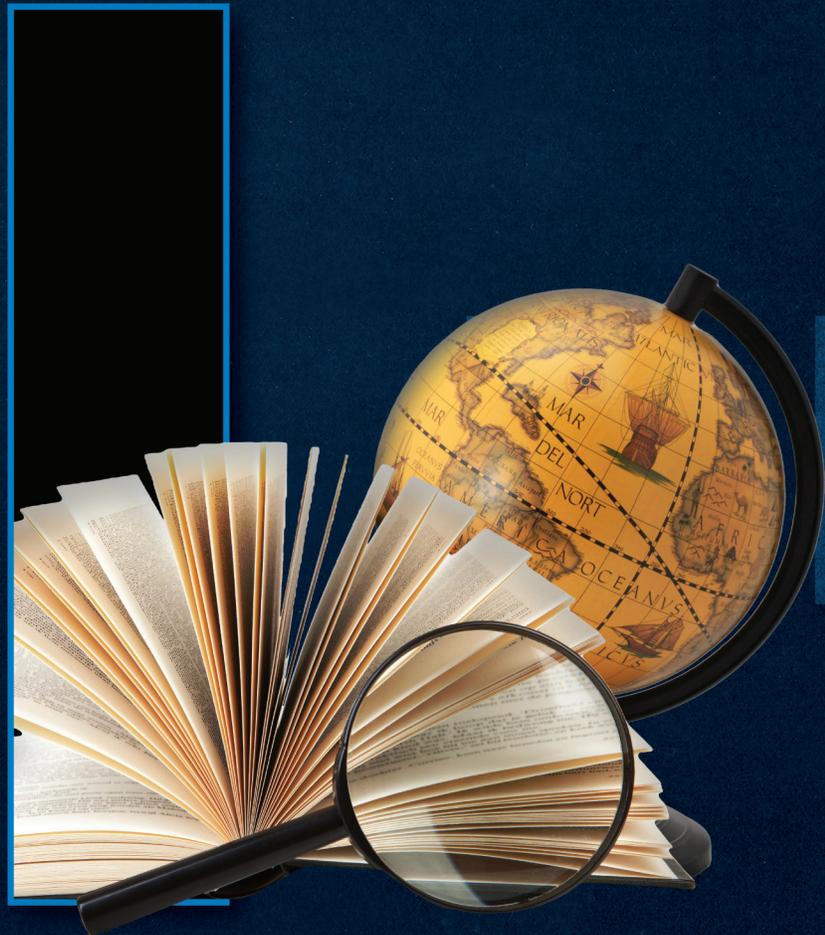


WORKING BEYOND OFFICE BOUNDARIES

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Key considerations for statutory
compliance in hybrid/remote
working models



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OVERVIEW

The last two years have catapulted organizations to reassess their workforce model. Most organizations have demonstrated immense resilience in enabling their employees to work remotely in the hour of need. As we exit the pandemic, there is a felt need to accelerate the evaluation and adoption of remote working and hybrid work models, paving the way for the 'new normal'.

This document captures our approach to the new normal from a compliance perspective, and the key learnings that can be considered by organizations while adopting the hybrid/remote work model.

At Infosys, we enabled work from home for 99% of our 260,000 global employees, in a matter of days from the announcement of the pandemic. Over the next few months, while we focused on creating an engaged, agile, and collaborative virtual workforce, we at HR Compliance were also taking necessary measures to ensure that our unexpectedly fluid workforce across 50 countries was compliant with local regulations.

As a renewed world emerges, we are seeing a paradigm shift in work, the workplace, and the workforce. Employers are straddling a bridge between today, when most employees are working remotely, and tomorrow, with the possibility of a safe return to the physical workplace. Many employers have announced or are

in the process of introducing both remote & hybrid workforce models to attract & retain talent. Adoption of alternate talent pools with part-time, flexi-time, and gig workers are being considered, to support the hybrid model.

Infosys is leading many of these changes in talent practices. To make these transformations real, we had to stay focused on the statutory implications of these changes in each jurisdiction across the globe and constantly review and align our people practices to local regulations. Not an easy task, given that in most jurisdictions, legislation and regulations had not been drafted with the remote/hybrid work model in mind.

Countries across the globe are at different stages of maturity and preparedness to transition to large-scale hybrid/remote working. Some countries in the EEA, have regulations which directly or indirectly provide



protection and guidance on remote working. Other jurisdictions, such as India, currently have limited regulations and experience with remote working, particularly outside of the tech and knowledge-intensive sectors. Most countries in the Asia-Pacific, have government regulations that provide guidance on remote working or encourage working from home to the extent necessary to curb the spread of COVID-19.

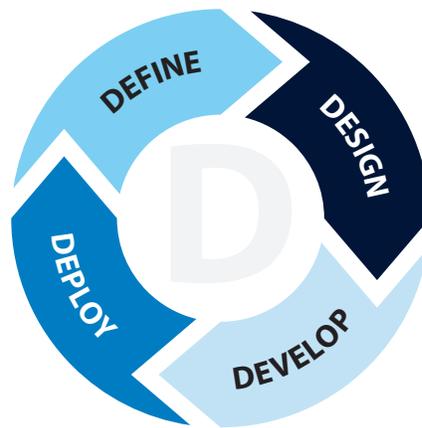
This document aims to share our perspective on key practical and compliance considerations for employers to adopt, in the long term. The perspective draws attention to the interplay between contracts, policies, data privacy, health and safety, employee wellness, tax and the permanent establishment, and related immigration angles. It also highlights the role technology will play, to make talent transformation in hybrid, remote and associated work models sustainable and scalable.



ENABLING REMOTE/HYBRID WORKING

Building a sustainable remote working model requires a dedicated and keen eye for relevant employment laws.

The HR Compliance department at Infosys is committed to ensuring compliance with labor & talent mobility laws in every market that we operate in. As always, we adopted a structured approach of Define-Design-Develop-Deploy when recalibrating compliance practices in the hybrid/remote work scenario.



Program Principles

Define – the first step was to visualize the various areas impacted by the hybrid/remote work model. Defining the areas of impact helped involve expert groups within and outside HR at a very early stage and drive a comprehensive compliance strategy. The next and most important step was to review the changing laws across the globe and revisit existing laws under new circumstances.

Design – As the COEs and Business Partner HR worked tirelessly to

bring new offerings to employees in terms of wellness, remote working flexibilities, and engagement, we worked alongside them to introduce compliance elements in the design stage - which ensured that it was not an afterthought. We continue to focus on our advisory role in all interventions.

Develop – We reviewed and reworked existing policies and practices and created new policies to ensure a balance between employee experience and compliance requirements.



Deploy – Technology plays a foundational role in deploying changes at scale in an organization of our size. We relied on our Live Enterprise suite of applications to make compliance adherence easy and hassle-free.

At HR Compliance, our **mantra is that compliance is everyone's business.** Creating awareness about employees' responsibilities in the new work models is at the center of our deployment strategy.

The rest of the document enumerates the following:

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Key considerations when embarking on the compliance journey

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A few design principles to bear in mind

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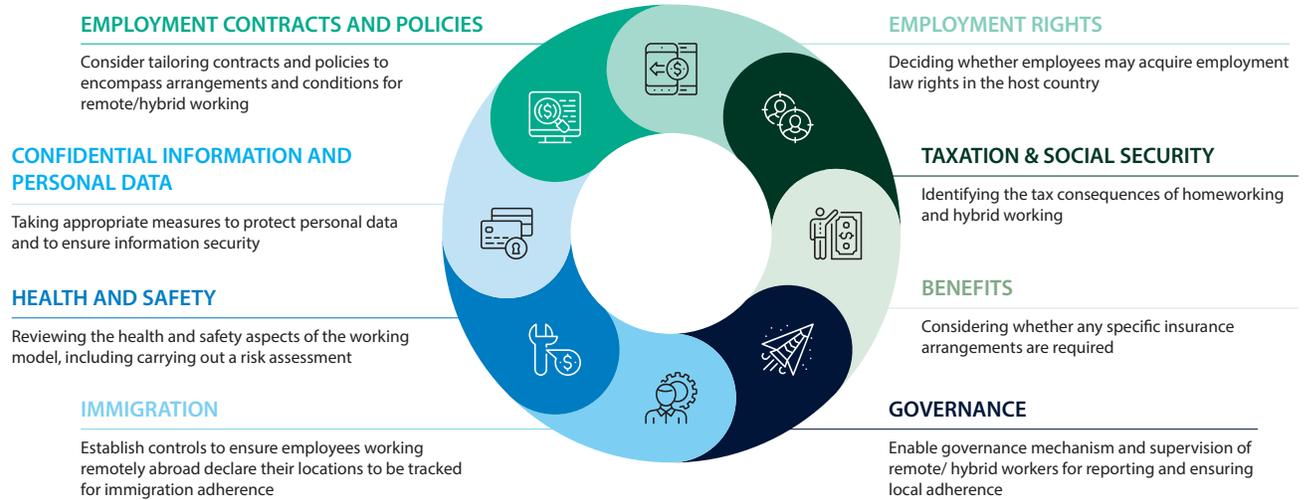
Developing a robust compliance tracking mechanism

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Change management imperatives

KEY PRACTICAL AND LEGAL CONSIDERATIONS OF REMOTE/HYBRID WORKING

Employers entering remote working arrangements or introducing a permanent hybrid work model will need to evaluate and address a multitude of requirements in different areas as indicated below, in the Circle of Compliance.



Circle of compliance - Key Considerations for remote/hybrid working

These considerations are explored further below:

Employment Contract, Policies, And Local Laws

While organizations seek to adopt the hybrid work model and enable long-term/permanent work from home and remote work models, it may attract additional obligations around employee notice, consultation, and consent. Provisions of the employment contract may require tailoring to fit the specific needs of remote working or hybrid working. An employee's place

of work is a key contractual term of employment. In many jurisdictions, a change in contractual location of work may require explicit consent from an employee. For example, in Canada and the United States, changes to an employee's work location may trigger state or provincial tax and benefits obligations. Also, when a person relocates for work to another state, he may be entitled to a new set of state/province-approved leave from work such as sick/paid/ family/ parental leave.

In addition, for countries that mandate employee consent,

employers must create a strategy to handle scenarios where the employee may refuse consent. Handling employee refusals would require a customized approach to each jurisdiction for a balanced consequence process that mitigates employee claims and engagement issues.

Employers should review local legal requirements for each jurisdiction level across a country, states, and provinces as applicable to adopt correct practices of terms of the employment agreement. Any additional obligations arising out of collective bargaining agreements or consultation agreements must also be carefully reviewed.

The new models also allow organizations to look at alternate talent pools. However, while employing gig workers, their contracts, benefits, and related employee processes may need some customization vis-a-vis the traditional full-time employees.

In our effort to institutionalize new workplace policies that deal with the shift to remote working, a review of key matters such as employer's obligations as per local employment terms, equal employment, and health and safety is important.

Confidential Information And Personal Data

A remote/hybrid work model could be more prone to data protection issues and a home office arrangement potentially increases the risks around data security. In the office environment, the necessary infrastructure and security protocols are already in place and under control; however, they are often ineffective in the virtual world. Online transfer and processing of

data in remote/hybrid working may put the security and privacy of employers at risk.

Employers need to redefine their privacy policies, security standards, and remote access policies to keep company data secure. With the ever-evolving realm of privacy laws, policies should outline guidelines and should make sure that employees are aware of company policies on confidential information and information security. Technology solutions are needed for the secure transmission of data. Any monitoring of activities should also be compliant with the legal obligations in place which differ significantly across jurisdictions.

Along the same lines, during the pandemic, Infosys quickly mobilized company laptops and desktops, with access to secure virtual work environments wherever necessary, to connect with enterprise networks compliantly and securely. SharePoint Online and OneDrive platforms with appropriate access control management, Information Rights Management, etc. were enabled and used for storing and sharing data securely while policy changes ensured employees had access to private high-speed broadband connections, allowing for business continuity while ensuring safety of data. Having a dedicated Data Privacy Office enabled these shifts.

Health And Safety When Working From Home

Remote/hybrid work changes the definition of an employee's place of work. As employers are putting in place more permanent arrangements, they will likely need to revisit any



health and safety risk assessments, as different considerations will apply where homeworking is being allowed permanently as compared to a temporary one.

The employer may want to consider the right to disconnect, with a significant number of countries across the globe being in the process of adopting or having already introduced, legal rights to disconnect. Some employees working remotely may have difficulty enforcing boundaries between work and home life, leading to an increased risk of stress. It is therefore important to establish the boundaries of working time and that adequate rest breaks are factored in.

In multiple jurisdictions employers may be obliged to reimburse some costs associated with working from home. Such obligations vary between countries (or even by state or province).

Jurisdictions, such as France and Germany, have provisions that require employers to reimburse costs related to home office and tools necessary to perform work like internet access and telephone expenses in relevant business sectors. It may also be feasible to agree on a monthly allowance policy to cover these costs. In some states in USA such as California, Illinois, and Montana, employees are eligible for reimbursement for cell phone, internet service, or home office

equipment used in furtherance of the employer's business. Pursuant to recent amendments to labour laws in Mexico, an employer is required to provide equipment and work supplies to employees engaged in telework, including at least some reimbursement of the costs of ergonomic chairs, monthly electricity fees, and internet service. Countries, such as Switzerland, in absence of a suitable workplace an employer may be expected to contribute towards cost of housing for an employee. Countries with prevalent collective bargaining agreements may also require reimbursement of certain expenses.

Immigration Obligations

There is a critical need to review immigration compliance when allowing employees to work from a location other than the approved/ authorized work location. An employee who intends to work in another location may need work authorization and/or have to complete certain notification and/or registration requirements for the new location. Also "working" is a broad term that is defined differently across jurisdictions, many of which have very specific immigration requirements attached. Special focus and considerations need to be made for the visa-dependent workforce in a country before opening remote/ hybrid work model for them. For example in the US, it is imperative that work locations are within the same metropolitan statistical area or 50 miles of the assignment location. This applies to all visa-dependent



employees (H-1B, E3, L1s) who may be required to file amendments to their work permits when there is a change to the physical work location to be compliant with US immigration laws. It, therefore, limits the flexibility of remote working for such individuals, if not planned well.

Benefits

When a regular employee works overseas, the employer is expected to maintain valid insurance coverage. The employer is also obliged to evaluate social security measures. Partnership and advisory from insurance providers is important to ensure all applicable benefits such as travel insurance, medical cover, income protection and demise in service, is made available to employees. Similarly, appropriate policies may have to be investigated to cover gig/ agency workers based on country-specific regulations.

Within a country, location/state-specific laws around leave and exemption status may apply if employees work remotely from a location that is different from the location of regular work.

Employment Rights

Employees living and working abroad may become eligible for employment rights of the host country. These rights could relate to, for example, paid time off and minimum rates of pay. They could also affect the employer's ability to terminate the employee's employment lawfully. In many European countries, the Posted Workers Directive (PWD) can apply to workers who are deployed for temporary work

duration and legally are deemed to be eligible to similar rights and entitlements as their local counterparts across terms related to working time, overtime, pay parity and health and safety.

Tax And Social Security

An employee's location of work, even temporary, has an important bearing on income tax and social security obligations.

Many jurisdictions, including various countries in the EEA, have agreed to a "double tax treaty" which intends to prevent an additional charge to tax if an employee resides in the other location for less than 183 days. This time limit though can vary, and therefore a risk assessment by jurisdiction may be critical for employers. Each tax treaty is different in scope and exemptions they intend to offer or the employer may not meet the criteria to leverage on such tax treaty. Social charges may still need to be borne and factored by employers in some cases where security treaties are in place.

KEY DESIGN PRINCIPLES FOR REMOTE WORKING ACROSS KEY JURISDICTIONS

In many jurisdictions, there is no directly enforceable right to work remotely but several jurisdictions, such as EEA countries, provide statutory protections which may make refusal of a remote working request unlawful.

Below are a few principles that organizations could evaluate before formalizing a policy on remote/hybrid working in any country.

Creation Of A Permanent Establishment

When a company has employees located in jurisdictions without business operations, it could create a risk of local corporate taxation. Obtaining permanent residence status is guided by the role of the employee and it could especially arise if an individual frequently exercises authority to conclude agreements for the employer in the foreign country.

Formalize Remote Working

In many countries, there must be an agreement between employer & employee before an employee is formally allowed to work remotely or in a hybrid model. It may also involve changes to the employment contract. In Germany & Canada generally, the employer cannot request employees to work from home or remotely. If it is a mutual agreement between employee & employer, then it should be executed through modification to the employment contract. In Singapore

on the contrary, the government encourages employers to allow working from home/remotely.

An Employee's Right To Insist On Remote Working

Legally many countries don't have specific regulations that provide employees the right to seek remote working unless the request is due to accommodation on account of disability or employees have spent a minimum time with the employer. The US allows for such provision on account of disability. In the UK, employees who have a service of at least 26 weeks may request remote work.

Work Environment For Remote Working (Health And Safety Obligations, Expense Reimbursement, Tax Allowances)

In countries where remote working is allowed, the employer may be obliged to ensure a safe work environment for employees, including their duties and obligations concerning health and safety.

Additionally, in some countries, an employer may be obliged to facilitate necessary equipment for work to employee or reimburse reasonable costs towards such expenses to execute designated work from home. These obligations may vary based on the country's state and local laws. Such reimbursements could be subject to tax. In France, for instance, costs related to phone expenses, electricity, and internet expenses should be borne by the employer. A monthly telework allowance may also be applicable.

Key Issues To Address In Employment Contracts And Policies

In general, employers should address issues listed below in the employment contracts or through a policy/guideline. These can also vary based on country-specific regulations. The document should cover - scope and process of work from home, eligibility, safe workplace practices and ergonomic considerations, performance monitoring measures, compliance with company policies, method of recording work hours, performance and productivity, agreement about the cost of equipment, and services. In Australia - adherence to working time limits, equipment availability and security to perform work, confidentiality clause, employer rights to ask an employee

to attend office when requested, insurance obligations, contract termination clause.

Considerations For Employers When Communicating With And Monitoring The Performance Of Employees

Employers should set and communicate clear goals and deadlines in the same way with workers in a physical workspace. Also, set up appropriate processes and tools to ensure that employees have access to support and can work closely with their colleagues where necessary. Where there is a performance monitoring system/toolset to monitor employee performance, then some countries mandate the express consent of the employee to such system or toolset being applied. Like in France, any mechanism of monitoring must be called out in the contract or agreement.

While organizations work through these key considerations and their influence on creating a hybrid workforce model, a change of this nature needs to be bolstered with an effective communication strategy. For better adherence and employee compliance, the framework needs the support of processes and systems that deliver employee experience.



DEVELOPING A ROBUST COMPLIANCE MECHANISM

Faced with dynamic regulatory announcements during the pandemic, Infosys has set up a robust mechanism to track regulatory mandates. We use a compliance management tool which is our one-stop-shop for compliance governance. It helps us track and report regulatory adherence to all applicable regulations across various functions globally.

The leadership at Infosys has been supportive of compliance and this has helped in a speedy roll-out of policies.

To deploy our compliance programs, we have increasingly adopted technology and have started driving change through our Live Enterprise platforms.

'Launchpad' is our award-winning app for onboarding employees. During the pandemic, it helped onboard thousands of employees remotely. This mobile app makes submitting statutory and mandatory documents effortless. The onboarding process also creates awareness about mandatory training one must

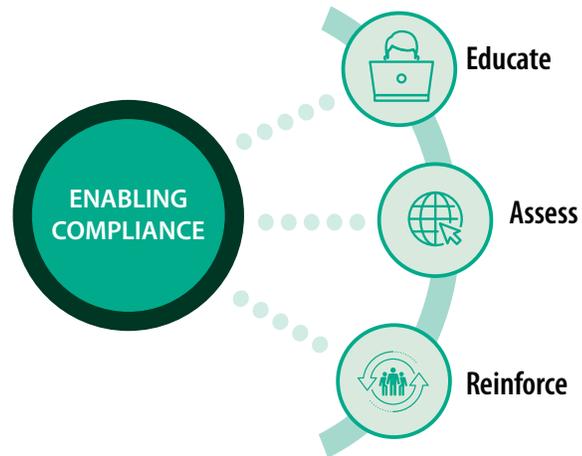
undergo and guides employees through them. InfyMe is a mobile-based app that opens the world of Infosys to our employees. It makes training, awareness quizzes, submission of a timesheet, applying for leave easy, and on the go. Lex, our digital learning platform makes byte-sized training on various aspects of wage-hour, ASHI, etc., available to all employees on their mobiles. It allows experts to effortlessly create and upload training modules on these platforms.

We have robust analytics capabilities to assess compliance health regularly and take corrective action proactively.



CHANGE MANAGEMENT IMPERATIVES

We believe each employee needs to be aware of their **Rights and Responsibilities** in ensuring compliance in the organization at large.



Communication strategy

Our efforts at awareness are consistent with our three-pronged approach of **Educate – Assess – Reinforce**. An informed workforce can work wonders in enabling a shift while ensuring we stay compliant. Reinforcing education with technology that drives the right behavior further enhances adoption.

And continued assessment through data analytics, surveys, etc., helps gauge success and in making changes on the go. All this facilitates informed decision-making and promotes an unwavering organizational reputation of being compliant.



CONCLUSION

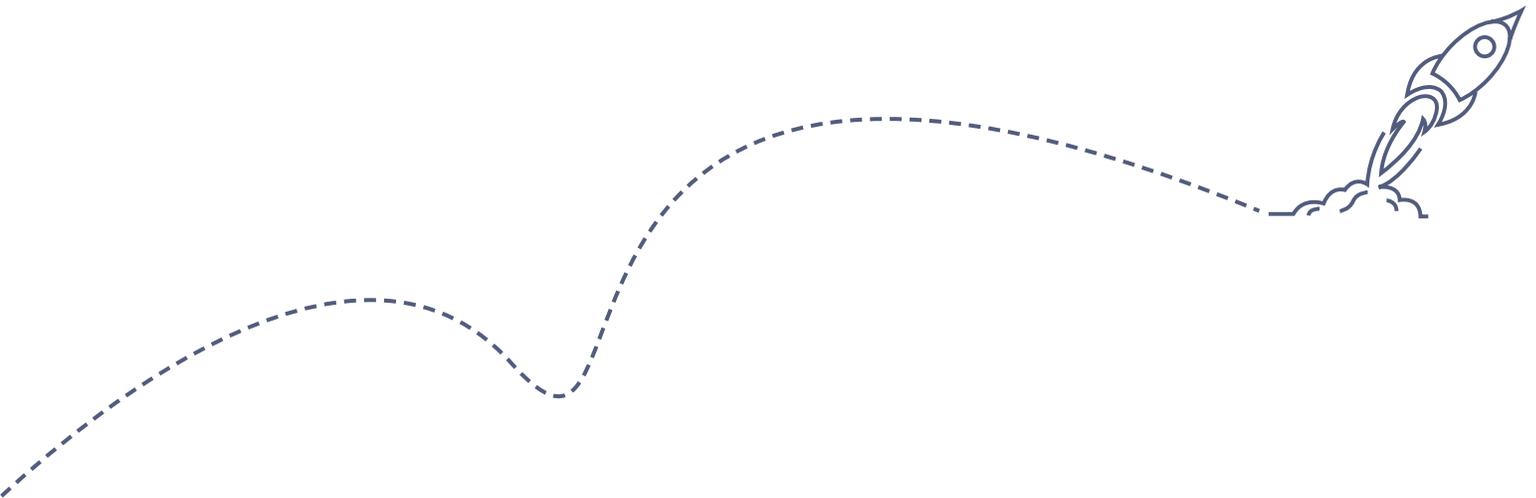
With careful planning, employers can implement remote and hybrid work models to meet business and employee needs. These models, if evaluated correctly, will allow employers to build an employee-friendly brand, with flexible work culture. They will also aid the recruitment and retention of diverse talent, and help in innovating new talent models, thereby delivering value to clients and all stakeholders. Organizations need to evaluate the model and its flexibilities that are suitable for them.

In addition to ascertaining an appropriate model for that geography, organizations should also focus on building infrastructure to manage various working models that would help them in providing compliance assurance & meeting all compliance obligations & reporting.

We firmly believe that widespread communication and employee awareness is key to creating a formula for success.

An organization's approach and policies for remote/hybrid work will succeed when employees and managers are empowered to make informed decisions on the key considerations we discussed earlier.

Finally, we need to stay aware of changes in regulations across jurisdictions, as they are still very fluid at the time of publishing this handbook.



For more information, contact askus@infosys.com

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