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BUSINESS IN CRISIS: **AFTER WEEK ONE**

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In the article, "*Business in Crisis: Week One*," the initial focus of a business in crisis is on short-term survival, obtaining a preliminary, broad understanding of the stakeholders, and implementing key processes and controls.

The major milestones triggering the exit from "week one" activities are:

- Stabilizing funding to allow resumption of revenue producing activities for a period of one to four weeks.
- Communicating with all stakeholders regarding the current situation and the near-term (1-4 week) action plan, and agreeing on the near-term support to be provided by the respective stakeholders.
- Putting cash and other controls in place to (a) manage commitments to stakeholders, (b) protect stakeholders from further deterioration of their position for the benefit of another stakeholder similarly positioned, (c) obtain the goods and services needed to maintain production, and (d) manage cash receipts and disbursements on a daily basis consistent with the cash flow forecast.

The breathing room obtained by completing the above activities allows the Company and its professionals, legal counsel and turnaround specialists to focus on the following:

- Financial forecasting and analysis
- Stakeholder Assessment
- Viability Assessment
- On-going Activities

FINANCIAL FORECASTING AND ANALYSIS

Once the immediate cash needs have been addressed, there will be an opportunity to look at a longer time frame. Typically this time frame is 13-weeks. To demonstrate that the Company can continue operating at cash breakeven during this period, the preparation of a 13-week cash flow forecast is critical to allow time to develop and implement a long-term strategy, and stakeholders may be willing to work with the Company by providing certain concessions or support. Creditors, for example, may offer continued lending if their position does not deteriorate over the 13-week period. Customers may be willing to provide interim support such as accelerated payments to ensure that their product flow **is not** disrupted.

If the stakeholders are being asked for assistance, it is important to understand their priority and security positions, and the amounts they have at risk at this time. A detailed review and reconciliation should be done for creditor accounts, including vendors, where significant liabilities exist. To protect the interests of creditors, all creditors of similar position should be treated equally during this 13-week period. Many creditors and suppliers will not provide support or continue delivery of products or services if they feel they are being treated unfairly (i.e., if similar creditors are improving their position at the expense of others).

By preparing a thorough liquidation analysis, the extent to which the secured creditors are secured, partially secured or under-secured in orderly and forced wind-down scenarios becomes apparent. This understanding is key to determining what priority each type of creditor has, if any, the possibility and extent to which creditors can expect repayment, and provides useful negotiating information, including assessing whether filing for bankruptcy may be necessary. Recent appraisals, if available, can provide orderly and forced liquidation values of hard assets, while other analyses are required for valuing current assets and intellectual property.

STAKEHOLDER ASSESSMENT

Understanding the true needs and interests of stakeholders is an iterative and critical process. As stakeholders become more knowledgeable of the risks and impact of the current situation on their interests, their needs and interests will most likely change. If a customer discovers the business has valuable intellectual property required for the production or sale of a particular product, this could increase the cost or ability to resource production and, correspondingly, increase the customer's interest in keeping the supplier and possibly providing some sort of support.

If creditors are comfortable that their positions will not deteriorate, they may be willing to forbear, continue funding on credit lines and possibly stand still on term debt principal payments. If creditors feel confident that customers will stay and agree to pay their payables without offset and not assert damages for any production disruption or other issue, this would further encourage the creditors to cooperate with the Company. As these examples illustrate, as more information becomes known, stakeholders' needs and issues will change which in turn will affect other stakeholders' needs and concerns. This iterative process will continue as more information becomes available and terms among the parties are being negotiated and term sheets defined.

Stakeholders must come to an agreement regarding what they are or are not willing to do over the mid-term (4-13+ weeks) to provide time to develop a longer term solution. The terms of these agreements need to be documented and the financial impact incorporated into the 13-week cash forecast.

VIABILITY ASSESSMENT

Probably the most critical factor in determining the future of the business in crisis is its future viability. If a business is clearly not viable, then the decision can be made early-on to wind-down and liquidate. In most cases the assessment is not so straightforward. It takes time to analyze the profit potential of the various components of the business, which requires identification of possible cost reductions, asset or segment dispositions, customer demand and commitment, employee cooperation and support of needed changes, the ability to obtain long-term funding and many other factors.

The viability assessment, like the stakeholder assessment, is also an iterative process. As the stakeholders' interests and needs are better defined the viability is affected. As the degree of support and concessions required for viability becomes more apparent, the stakeholder needs and interests may change. For example, customers may be willing to accept a 10% price increase; however, if a 20% increase is required for viability, the customers may decide to exit from the supplier. If the employees or union are unwilling to accept changes to work rules or agree to wage and benefit concessions, the Company may be unable to reduce its costs to be viable.

An initial viability assessment is needed for the stakeholders to begin to assess their alternatives and positions. Before a long-term strategy can be defined, the Company must demonstrate that it is viable and that it has the necessary support from its stakeholders. A final viability assessment is generally required by the stakeholders before any long-term agreements are completed.

ON-GOING ACTIVITIES

After "week one" there are several on-going activities that need to be in place throughout the recovery period until long-term solutions and agreements are negotiated and implemented.

The daily tracking of cash receipts, purchases, disbursements, and line of credit availability requires real-time information and consistent management and control. Re-establishing and maintaining credibility with vendors requires that commitments are not made that cannot be met and that all commitments are honored. This takes tight control over making commitments, knowing what commitments can be made and then managing closely to make sure everything happens in accordance with the commitment.

Special reporting procedures are generally required by creditors that will need to be established and maintained. Daily or weekly borrowing base filings may be required. Other financial information may now be required or submitted more frequently, such as daily aging of accounts receivable, detailed cash disbursements, rolling 13-week cash flow forecasts and others.

It is important that the Company is responsive and consistently provides the information requested. Creditors are very concerned when a business is in crisis and the consistent receipt of good information generally increases their level of comfort and trust.

Additionally, ongoing consideration should be made regarding the need to file for protection under the Bankruptcy code. If the creditors are uncooperative and unwilling to stand still, or there are significant executive contracts that need to be rejected, bankruptcy may become necessary to preserve the value of the estate and/or return to viability. If filing becomes necessary, the Company will need to support its professionals by providing financial information required for filing and preparing certain reports and analyses for the Court going forward.

Finally, a communication process must be defined and implemented. How and when will the various stakeholders be updated? Who has authority to speak on behalf of the Company with the various stakeholders? Commitments to follow up on open issues, to provide updates, and to present new information need to be managed, controlled and executed timely. Keeping these commitments is critical to establishing trust with the stakeholders.

SUMMARY

The time period after "week one" in a business crisis is very demanding. While still dealing with multiple short-term issues, the focus needs to be expanded towards the mid-term or next 13-week period. At the end of "week one" the Company will have a short window (2-4 weeks) to develop a strategy and gain stakeholder acceptance necessary for the Company to survive through the mid-term (approximately a 13-week period).

The mid-term period allows time for the Company and its professionals to identify the longer term alternatives which may be possible given the financial, stakeholder and viability assessments. During this period it is critical to improve the trust and credibility among the Company and the stakeholders. The stakeholders must be confident that the situation is being handled by the Company and its professionals in an efficient, forthright and equitable manner.

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