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BUSINESS IN CRISIS: **STABILIZATION**
THE END IS NEAR

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In the article, "*Business in Crisis: After Week One*," the focus of a business in crisis is on maintaining operating capability, developing a near-term plan and a cash flow forecast (typically 13 weeks out) which reflects the conditions and support agreed to by the stakeholders. It is critical at this time to have a plan and funding in place so the Company can continue to operate while developing a long-term solution.

The major milestones triggering the transition from "After Week One" activities are:

- Continuing to stabilize operations
- Completing a 13-week cash flow forecast acceptable to key stakeholders
- Agreeing on near-term funding support such as: operating cash flow and use of cash collateral (bank continues to lend), customer support (payable terms shortened, price increases, material purchases, etc.), asset disposition, debt payment forbearance, and others
- Managing stakeholder interests, maintaining stand-still arrangements and assessing the need for protection under the bankruptcy code

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:

- Long-term viability assessment that is aligned and consistent with stakeholder long-term interests
- Financial forecasting and analysis for one to three years forward based on viability and stakeholder assessments
- Strategy development and negotiation of critical concessions and commitments from stakeholders to support the selected strategy: going concern (viability), sale, or wind-down and liquidation of operations
- Strategy implementation

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VIABILITY AND STAKEHOLDER ASSESSMENTS

As described in "*Business in Crisis: After Week One,*" the most critical factor in determining the long-term strategy for a 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.

It takes time to analyze the profit potential of the various components of the business, which requires identification of the profitable and unprofitable products, customers, and segments, as well as possible cost reductions, or revenue enhancement opportunities. Many other factors may need to be considered to determine if the business is viable, including assessments of potential asset or segment dispositions, customer demand and their commitment to not resource the business, employee cooperation and support of needed changes, and the ability to obtain long-term funding.

Understanding the true needs and leverage the stakeholders have is an on-going process. As stakeholders become more knowledgeable about the Company's viability as well as the risks and impact of the current situation on their interests, their needs and interests will most likely change.

The viability assessment and the stakeholder assessment are co-dependent and iterative processes. A long-term viability assessment is needed for the stakeholders to assess their alternatives, positions, and willingness to support the plan. 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.

FINANCIAL FORECASTING AND ANALYSIS

A realistic, achievable, and detailed bottom-up financial forecast – including monthly income statements, balance sheets, cash flow statements with supporting schedules – needs to be prepared.

A thorough analysis utilizing activity-based costing will enable better understanding of the profitability of business segments, products, customers, and locations/regions. The sales forecast should be based on current trends, adjusted conservatively for known, or high probability, changes or improvements. Cost improvements should be thoroughly vetted and supported by a measurable and achievable action plan before being included in the forecast. Forecast assumptions should be clearly identified and the financial model should be dynamic to easily accommodate changes in the assumptions and "what if" scenarios. The assumptions and forecast must be believable and credible for the stakeholders to commit to support the Company.

The forecast will provide the basis for stakeholder commitments, obtaining funding (interim and long–term), and strategy development and acceptance. In the end, a decision has to be made as to whether the company can be restructured either in or out of bankruptcy, sold in whole or in part, or liquidated.

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STRATEGY DEVELOPMENT AND STAKEHOLDER NEGOTIATION

Based on the stakeholder and viability assessments, strategies, including alternatives, need to be identified. If the Company can reasonably demonstrate it's viability and the stakeholders are cooperative and supportive, the primary strategy may be to restructure (in or out of bankruptcy). In this case, existing management and possibly equity ownership could remain in place. However, if the stakeholders lack confidence in the existing management team, or are unwilling to support the prior management or ownership, the stakeholders may only support the Company if it is sold to an acceptable buyer. The stakeholders may also require a sale if the viability assessment is marginal and the Company could benefit from synergies or the financial or strategic strength of a purchaser.

Many times, Companies will go down parallel paths and pursue more than one strategy. For instance, the Company may want to restructure on its own while concurrently preparing for a sale process should it be unable to obtain the financing needed for a restructuring.

If the Company cannot demonstrate it is viable after restructuring it needs to assess whether the Company, or parts of the Company, could be sold as a going concern for an amount in excess of liquidation value. When the Company is at the point of having to sell or liquidate, it has a fiduciary responsibility to maximize the value of the "estate" for the benefit of its creditors. This is true whether the sale or liquidation is conducted in or out of bankruptcy. Legal counsel should be consulted when any sale or liquidation transaction is contemplated to ensure that the transaction is done properly and in accordance with the secured or unsecured creditors' rights.

If the Company is unable to sell as a going concern, the assets must be liquidated. The stakeholders need to determine what type of wind-down is required and for how long, and how it will be funded. In a manufacturing, just-in-time environment, customers usually need a wind-down period to build a bank of parts to allow time for moving production to a new source. In this case, the customers may fund the wind-down period to protect production. In a retail environment the Company can cease operations and liquidate without a significant or costly wind-down of operations. In this case, the creditors would probably fund the wind-down to maximize the liquidation value.

Following is a chart summarizing some of the key considerations that stakeholders may assess to determine their preferred strategy and the degree of support they are willing to provide.

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BUSINESS IN CRISIS
STAKEHOLDER CRITERIA FOR STRATEGY SUPPORT

STAKEHOLDER CRITERIA	ASSESSMENT		
Secured creditors:	→		
Secured Position	Under secured		Over secured
Capability / integrity of Management	Low		High
Ability to meet future debt obligations	Low		High
Concessions required	Low		High
Unsecured creditors			
Volume and profitability of business with Company	Low		High
Probability and magnitude of repayment	Low		High
Capability / integrity of Management	Low		High
Employees			
Current and expected employment market			
Union support	Low		High
Capability / integrity of Management	Low		High
Shareholders			
Recovery of investment	Low		High
Customers			
Capability / integrity of Management	Low		High
Price, quality and delivery performance	Poor		Good
Ability to resource to new supplier	Easy		Difficult
Degree of support	**Low**	**Medium**	**High**
Probable outcome	**Liquidation**	**Sale**	**Restructure**

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During this period, assessments should be made regarding the need to file for protection under the Bankruptcy code, as bankruptcy may become necessary to preserve the value of the estate and/or return to viability. Factors that influence this decision include:

- Are creditors uncooperative and unwilling to stand still?
- Are there significant executory contracts that need to be rejected?
- Do significant debts exist that need to be restructured?
- Are there outstanding litigation issues or liens on assets?

During this period of a business in crisis, one of the most difficult challenges for the Company, legal counsel and turnaround professionals is aligning the stakeholders around the preferred strategy and negotiating and documenting a comprehensive set of agreements supporting the strategy and commitments required.

STRATEGY IMPLEMENTATION

Once the strategy is determined, the agreements are documented and executed, and the forecast reflects the strategy and the terms, an action plan needs to be developed and implemented. Planning consideration needs to be given to various items, for example:

- What are the sources, timing and amount of funding required?
- What distributions will be made to stakeholders, if any? From what proceeds?
- How will the Company be sold? Have minimum values been determined that are deemed acceptable to the stakeholders? Will an investment banker be retained and if so, which one?
- In a wind down, how long will operations need to continue? What size part bank is required? How will the parts bank be packaged and stored? How will employees be incentivized to stay through the wind-down period?
- If assets are to be liquidated, will an auction be conducted? If so, who, when and under what terms? In what condition will the facilities need to be upon exit? Are there environmental issues to resolve?
- Which employees will remain and for how long? Is a WARN Act notice required?

In addition to the above, there are other planning considerations based on the strategy and agreements in place. On-going reporting to the stakeholders will continue and, if filing for bankruptcy is part of the strategy, additional reporting and legal processes will need to be incorporated into the plan.

If the strategy does not require filing for bankruptcy, care needs to be taken to maximize value for the creditors and, distributions, if made, need to be in accordance with the agreements. Those managing and executing the plan must fulfill their fiduciary responsibilities to all of the various stakeholders.

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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 initial 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.

Finally, as the title of this article suggests, "The End is Near" one way or another, a direction will be taken that either preserves some or all of the business as a viable going concern, or the assets will be liquidated. Getting to an end, while maximizing value to the stakeholders given their claims, priorities and interests, requires patience and tenacity on the part of those responsible for managing and concluding the Business in Crisis process.

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Authored by Scott Smith, CTP, CIRA, Senior Director at HYDRA Professionals, LLC.
Contact Scott at (248) 766-0885 or by e-mail at ssmith@hydrapros.com.

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