



Preparing to Survive and Thrive Amidst the Next Crisis

Posted by Jonathan Ocker and Amanda Halter, Pillsbury Winthrop Shaw Pittman LLP, on Wednesday, October 21, 2020

Editor’s note: Jonathan Ocker and Amanda Halter are partners at Pillsbury Winthrop Shaw Pittman LLP. This post is based on their Pillsbury memorandum.

This checklist will help boards enable their companies to anticipate, manage, and survive the next crisis, even as the novel coronavirus pandemic continues to cause unprecedented disruption and uncertainty.

Takeaways

- Learning from the Covid-19 pandemic and the overall heightened turbulence of 2020, boards can take crisis management to the next level and oversee “foresight” or “look-around-the-corner” management teams that develop response strategies for multiple contingent scenarios.
- Based on this planning, and to stay ahead of the next normal, boards should consistently reevaluate and update the company’s strategic and social relevance and purpose.
- Boards should consider recalibrating their agendas and time commitment to these increased oversight responsibilities and persistent “war-like” conditions and establish a special or new contingency planning committee with additional compensation.

A novel coronavirus (COVID-19) pandemic, wildfires of unprecedented scope, numerous hurricane threats, heightened social and geopolitical unrest, increased cybersecurity breaches, asteroids, etc.—what a year! If 2020 has taught us anything, it is not “if” but “when” the next crisis will hit. It is the responsibility of the board of directors to ensure that the company is well positioned to navigate the turbulence of crisis conditions by contingency planning—proactively—at a heightened level. To that end, this post identifies 5 high-level items that can serve as a framework for sound contingency planning.

1. The Board’s Composition and Role.

One thing the current pandemic and social unrest teaches us is the necessity to enlist a diverse board with a broad array of age, gender, race/ethnicity, professional and personal backgrounds, experience and expertise—a panoply of perspectives that diminish blind spots in critical decision-making. When management is accountable to and able to turn to a board that operates with a variety of different perspectives, management is in turn better prepared to confront challenges—and capture opportunities—that may emerge in the next crisis.

In addition, if it does not already have one, the board should consider creating a special or new standing committee that focuses proactively on contingency planning and crisis management.

Members of these committees should be compensated appropriately for their planning and emergency, quick-action responsibilities.

2. Management Succession and Capacity.

An essential ingredient of any sound contingency planning is the determination of who steps up in the event of an emergency where the CEO or other members of the executive leadership team are unable to function. Equally important is the need to make sure there are backup or alternative members of a cross-functional crisis management team that are in communication with the board. It is often helpful if this team is spread out across different time zones, which offsets risks of localized disruptions and also buys working hours that can maximize the team's ability to get ahead of the crisis.

3. Health and Safety of Human Capital/Culture.

One of the board's greatest responsibilities is the health and safety of the company's workforce. Employees must have access to reliable and ongoing information about the crisis as it pertains to their workplace, workplace safety protocols and measures, site closures, and availability of employee resources, as well as the company's expectations of them. These include on-the-job safety measures, special employer-provided health insurance coverage, employee benefit features such as child or elder care or access to retirement savings and federal and state response activities pertaining to the business, and crisis relief programs. Employees working remotely must also have adequate remote work technology and tools to maintain business continuity, including collaboration tools and protocols, protections against cybersecurity and data-privacy breaches.

4. Communications Strategy.

Excellent communication is essential to successfully managing any crisis, because there is no time to waste on misunderstanding and because change inherently requires more communication than routine matters. From the board perspective, in the face of the heightened uncertainty inherent to any crisis, it is especially incumbent that directors set the tone, and that they communicate that tone from the top. This means making sure board members are both providing and demanding leadership that is overtly principled, solid, and empathetic. When the tone is right, employees feel that they are participating members of a well-designed, grounded and coordinated crisis response team within a mission-driven organization. They are more inclined to row in the same direction, forgive the inevitable mistakes, and collectively traverse traumatic terrain from a place of strength that enables the company to travel to the new normal in a way that is durable and profitable.

5. Refreshing the company's strategic relevance and social responsibility.

Effective corporate crisis management benefits from intentional anchoring to the company's long-term mission and purpose. It keeps the crisis response from devolving into a series of reactive, inadvertently short-sighted actions, and keeps it tethered to where the company wants to be when the crisis subsides. Similarly, contingency planning gives the board a unique moment in time to assess, and if beneficial, update the long-term mission and purpose of the company. For example, by thinking through the implications of the pandemic, climate change and the social

justice movement, boards can plan for doing business in a more environmentally conscious world, in a world in which momentum toward greater equality of opportunity and justice is growing, a world in which safe, disaster-proof and affordable housing and transportation, universal medical care, and digital access to healthy food, clothing and entertainment are potentially part of the emerging new normal. The new contingency planning committee of the board is a good place to enhance and invest in bold new strategic long-term planning for the company's future.