



Resilience Checklist

Helping organizations navigate the business and legal impact of the COVID-19 pandemic



Resilience Checklist

Resilience means acting quickly to minimize damage and preserve options. Taking these steps can help you avoid being severely impacted by a major negative event:

Workplace strategies

- ✓ Review applicable government health alerts
- ✓ Take measures to protect health and safety of employees, vendors and customers who enter your premises or handle your product
- ✓ Take measures to protect employees affected by travel bans or quarantined abroad
- ✓ Implement a consistent approach to paying employees who are quarantined or otherwise affected by COVID-19
- ✓ Facilitate remote working where possible
- ✓ Examine policies, procedures and agreements around paid time off, short-term working, pay reductions and layoffs
- ✓ Maintain regular and transparent communications with employees
- ✓ Assess whether data privacy regulations allow you to collect and process health data such as body temperature and travel information

Data security

- ✓ Make organization-owned devices available to employees working remotely
- ✓ Implement best practices for devices used to work remotely, such as two-factor authentication, security software and patches and other security controls
- ✓ Issue appropriate privacy notices and obtain consents for planned monitoring of remote devices
- ✓ Review privacy terms with new vendors or third parties accessing data from your devices
- ✓ Harden defenses to malware and phishing

Contract obligations

- ✓ Review contracts with particular regard to force majeure provisions
- ✓ Consider mitigation and options for non-performance of existing contracts
- ✓ Explore remedies such as contract frustration, the doctrine of changed circumstances or material adverse change clauses
- ✓ Consider proactively engaging with counterparties to renegotiate contracts and minimize disruption.
- ✓ Be aware of changes in the regulatory and legal environment that may impact commercial agreements

Tax impact

- ✓ Monitor special tax measures (e.g., postponements of declarations and payments; stimulus packages) in relevant jurisdictions
- ✓ Review transfer policies and how they will be affected by an economic downturn
- ✓ Review potential customs duty impact of changes in supply chain
- ✓ Review advanced pricing agreements
- ✓ Analyze tax implications of potential restructuring or insolvency
- ✓ Assess permanent establishment risk created by key personnel working remotely
- ✓ Assess tax residence risk arising from directors unable to attend board meetings
- ✓ Plan for loss utilization

Liquidity solutions

- ✓ Gauge immediate working capital requirements
- ✓ Review the terms and conditions of any existing debt financing and re-negotiate terms if required
- ✓ Seek out available short-term government assistance

Restructuring & Insolvency

- ✓ Review financials
- ✓ Review possible liability of officers, directors and commissioners
- ✓ Consider employee obligations
- ✓ Consider obligations to creditors, including governments and tax authorities

Supply chains

- ✓ Identify any disruptions impacting business activities
- ✓ Identify products and services more likely to be exposed to potential changes in legal framework that may be considered to be sensitive (e.g., medical supplies, cybersecurity, telecommunications, AI, monitoring technologies, etc)
- ✓ Consider diversifying supply chain
- ✓ Review possible customs or export/import restrictions, particularly for important raw materials and product sales

Real estate

- ✓ Review any government limitations imposed on the use of your premises
- ✓ Comply with public health requirements such as deep cleaning or restrictions on large gatherings
- ✓ Allocate responsibility for new cleaning and other health and safety requirements
- ✓ Review lease termination provisions that may be triggered by circumstances relating to COVID-19
- ✓ Consider negotiating changes to lease provisions

Governance

- ✓ Implement business continuity plans
- ✓ Inform directors, officers, shareholders and other of the company's financial position
- ✓ Maintain communication lines among directors, officers, commissioners and key stakeholders
- ✓ Review whether by-laws allow meetings to be postponed, accelerated or held remotely
- ✓ Consider knock-on effects of changes to decision-making process
- ✓ Review insurance coverage of directors, officers and commissioners

Contacts

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