

Business Continuity & Succession Planning

December 12, 2018

Webinar Information

- Experiencing problems with WebEx?
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Business Continuity Rule

- Why does it matter?
 - It's required (48 NAC 07.013)
 - You are a fiduciary and owe it to your clients
 - Your clients expect it
 - You and your family's financial well-being depends upon it
 - 40% of businesses do not reopen after a disaster

Rule

- Every investment adviser registered with Nebraska shall establish, implement and maintain a business continuity and succession plan
- The plan shall be based upon the facts and circumstances of the firm including
 - Size of firm
 - Type(s) of services provided
 - Number of locations

Rule

- What should a plan cover?
 - Protection, backup, and recovery of books and records
 - Alternate means of communication with customers, regulators, key personnel, employees vendors, and service providers
 - Office relocation in the event of temporary or permanent loss of principal place of business
 - Assignment of duties in the event of key personnel's death or unavailability
 - Other methods to minimize disruption to customers

Developing a BCP


- The first step in developing a business continuity plan is to identify the risks:



Example—Service Provider Interruption



Fumes prompt evacuation of First National Tower; more than 30 people treated at Omaha hospitals

Alia Conley and Bob Glissmann / World-Herald staff writers Nov 8, 2018  0

Example—Natural Disasters



Other examples

- Death/Disability of key employee
 - Consider Unavailability
- Equipment Failures
 - Cybersecurity event
- Terrorist Acts

Managing the risks

- Once risks are identified, the firm must determine how to manage the impact of such risks upon the firm and its clients
- Risk management strategy may vary upon the expected length of the disruption
 - First National Bank Building Evacuation

Risk Management

- Data backup and recovery
- Office Relocation
 - Home Offices
 - Temporary accommodations
 - Permanent
- Client Access to information and accounts

Unexpected Succession Planning

- Firm should have contingency plan in place in the event of the death or disability of key employee
- Especially true for smaller firms
 - Lack of capacity to shift responsibilities within the firm
 - Client Expectations

Things to consider

- Plan should address both temporary & permanent situations
 - Health issues can incapacitate a principal or key employee for a period of time
 - Consideration to other family emergency situations
- Don't assume the logical order of event
- Understand the implications of corporate structure
 - Contracts
 - Bank Accounts

Unexpected Succession

- Passwords to key systems
- Assignment to another investment adviser
 - Obtaining consents in advance
 - What authorization will the custodian require
- Licensing Requirements
- Responsibility for communication
 - Clients
 - Vendors
 - Broker-dealers/custodians
 - Regulators

Communication

- The most important aspect of any business continuity or succession plan is communication with your stakeholders
- Stakeholders
 - Employees
 - Customers
 - Broker-Dealer
 - Custodian
 - Service Providers
 - Regulator

Unexpected Succession

- Is your personal representative/successor trustee, attorney, etc. aware of the plan and their responsibilities.
- Are there buy-out provisions?
- Who will store records for the required retention period?

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Planning Considerations

- The details of the plan are less important than the thought process behind the plan
 - What works for others may not work for you
- Plan is not a straightjacket
 - Can be changed during implementation to properly address the situation
 - Proper planning keeps you “in the game” while you figure out your next move
 - The plan will provide the tools necessary to adopt to changes

Training of Employees

- The best plan in the world is useless if those responsible for implementing it are unaware of its existence.
- Have plan documents in an accessible place
 - Duplicate documents in case of inaccessibility
- Maintain contact information for all employees
- Review and revise plan as necessary
 - Annual review
 - Changes to key personnel
 - Changes to vendors

Resources

- NASAA Guidance--<http://www.nasaa.org/wp-content/uploads/2011/07/NASAA-Model-Rule-on-Business-Continuity-and-Succession-Planning-with-gu....pdf>
- SEC proposed rule and guidance--<https://www.sec.gov/news/pressrelease/2016-133.html>
- FINRA adopted Rule 4370 regarding business continuity planning and has published a Small Introducing Firm Business Continuity Planning Template for broker-dealers