Business Continuity & Succession Planning

December 12, 2018
Webinar Information

• Experiencing problems with WebEx?
  – Call in number: 1-240-454-0879
  – Access Code: 926 705 417

• Have questions?
  – Use the Chat Function in WebEx to ask a question
  – Email questions to claire.mchenry@nebraska.gov
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 Gilssmann / 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?
Sent from my iPhone

Begin forwarded message:

From: "Optimal Dental"
Date: August 23, 2018 at 9:01:41 AM CDT
To: Michael Cameron
Subject: TELEPHONE SERVICE OUTAGE
Reply-To: 

OUR TELEPHONE SERVICE IS DOWN TODAY. We are told it is a widespread outage with no estimation of when service will be restored. You can TRY to call us, but if you don't connect, please communicate with us by replying to this email. Thank you for understanding and we do apologize for the inconvenience.
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

- FINRA adopted Rule 4370 regarding business continuity planning and has published a Small Introducing Firm Business Continuity Planning Template for broker-dealers