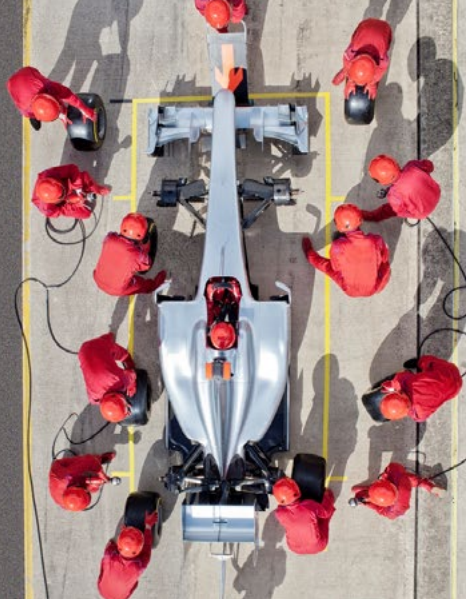
KPMG

Boardroom Questions

Board of directors in a corporate crisis



Crises are most frequently triggered by market changes and mistakes made by management. Whenever crisis situations arise, pressure on top management is particularly high and it becomes the board of directors' responsibility to step up its leadership rhythm, think and act using a scenario-based approach and deal with special issues that are anything but commonplace.

What are the most frequent causes of crises?

- **Insufficient adaptation to the market or a strategy**
- **Management shortcomings**
- **Lack of information from leadership (transparency)**
- **Investment errors**
- **Funding structure or gaps**

According to the Swiss Code of Obligations (CO), the board of directors has the following duties:

Overall management of the company and strategic leadership responsibility (CO 716a (1))

Board of directors	Management
• Strategy definition and adaptation during a crisis • Overall management and organizational aspects (frequency of meetings, exchange of information) • HR measures at the executive board level and overall supervision / instruction of the executive board • Notification of the court in the event of overindebtedness • Adequate monitoring of the liquidity situation • Preparation of several different scenarios and restructuring options («Plan B», «Plan C», etc.) • Assessment of the company's capability and worthiness of being restructured and its willingness	• Implementation of BoD strategy decisions, restructuring plan or restructuring measures • Preparation of information needed for management and decision-making (including figures) in a timely and appropriate manner • Short-term liquidity planning, development of earnings and equity capital • Timely communication with the BoD and stakeholders if central assumptions fail to materialize • Day-to-day management

Financial responsibility (CO 716a (1) No. 3)

Liquidity	Equity capital	Earning power and restructuring
• Detailed, short-term liquidity planning (13 or 17 weeks) • Liquidity improvement measures	• Ongoing monitoring to identify overindebtedness within the meaning of Art. 725 OC • Reassessment of the equity capital situation in response to important events	• Use of scenarios and sensitivity analyses in the integrated medium-term planning that reflect the restructuring concept • Consideration of divestments when determining investment requirements

Three-phase turnaround management

Stabilization	Analysis and planning	Implementation
• Gain time and regain trust (establish transparency, step up communications) • Eliminate sources of loss • Short-term liquidity planning • Immediate generation of liquidity («liquidity over profit») • Risk management	• Assessment of strategic, operating, financial and legal restructuring options • Restructuring plan development • Preparation of integrated medium-term plan (financial plan) • Assessment of company's capability and worthiness of being restructured	• Planning with respect to implementation measures and responsibilities • Negotiations with investors/creditors, employees, landlords • Reporting to investors, incl. • stakeholders (monitoring: measures/ degree of achievement) • Cultural change management

Questions for the board of directors:

- How much longer will liquidity be sufficient? How big is the liquidity gap and how can it be closed?
- Do conflicts exist between shareholders and stakeholders?
- Does the company have enough equity capital, even after a financial year with a loss? In other words, do we fall under CO Art. 725?
- Have the causes of the crisis been identified (one-time or recurring loss from the core business)?
- Have all social security (OASI) and pension fund contributions been paid? (Board members are subject to personal liability.)
- Is the company dependent on business partners that are experiencing financial difficulties?
- Will the company need to arrange refinancing in the near future?
- Do the company's financial liabilities exceed its EBITDA / operating cash flow by a factor of more than three?

Questions for the board of directors to ask the management:

- Which sources of loss can be stopped?
- Which cost-cutting measures can be taken immediately without negatively affecting the company's long-term ability to be restructured?
- Are there any customer- or supplier-side bottlenecks?
- Are banks threatening to cancel lines of credit?
- Have key employees already resigned or can this be expected?
- Is there any danger that customers might turn their back on the company?

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