

## COVID-19 - ROLE OF BOARDS

### Friday, April 24, 2020

## SUMMARY OF DISCUSSIONS

### Backgrounder

*Covid-19 came with not much of advance notice, and wrought, and continues to wreak, untold havoc on the lives and health of humankind, across continents, and the economic health of most nations. In the corporate world, managements are waging continuing battles to ensure crisis management of a high order. They are also seeking to put in place the building blocks of a recovery plan. Disaster Recovery and Business Continuity plans are being subjected to extreme forms of stress-testing, necessitated by this monstrous externality.*

*In this extraordinary effort to keep the ship afloat, so that it can sail, once normalcy sets in, Boards and Non-Executive Directors seem to be having an insignificant role. A few managements have reached out to Boards for advice and a few others have kept the Boards informed. A majority of the managements have chosen to deal with the crisis by themselves, without "troubling" the Board.*

## DISCUSSIONS

- VUCA world is here. Some organisations will collapse.
- This could not have been in any company's risk register as its spread and impact could not have been anticipated. Therefore, no company had a clear idea of how to deal with it.
- This situation being unprecedented, Board members and managements are figuring out their respective roles in this context.
- Managements have no clarity on the extent to which they should keep Boards informed and/or involved. Boards on their part, are not clear as to whether they should actively seek information, or passively wait for information.
- Some managements, while taking whatever steps are contemplated in this context, are keeping Boards informed and reaching out to Board members for guidance and support. Some others are sharing information periodically, with no expectation that the Boards will come back with valuable information or advice. Yet another category is not even keeping Board members informed, either because they believe that their time can be put to better use or because of the fear of unwarranted intrusion.
- Most managements recognise that when companies emerge from this crisis, they could be significantly different from what they were before this crisis.
- The response of different groups and different companies has been significantly influenced by their inherent strengths, their access to capital, their ability to leverage expertise residing in the group etc. Smaller companies, especially in the MSME sector, are suffering disproportionately, with shrinking demand, revenues that have dried up, receipts that are nowhere in sight, and payments for which they are being pressurised. The extent to which an entity is regulated has also significantly influenced the ability of that company to respond to that crisis.
- CEOs are experiencing the phenomenon of being lonely at the top. This is a situation where handholding by the Board is critical. The Board as a collective, and within it, individual Board members should quickly examine, if they have not done so, in what areas they can come to the aid of the management. Their interpersonal relationships, including, but not limited to, senior government functionaries, should be brought into play at this stage, in order to strengthen management's resolve to tackle the seemingly insurmountable problems.

- Many companies are staring at a mountain of debt. This is a global phenomenon. It is important for the Government and the Central Bank to ensure that companies, especially smaller companies, are not starved of funds at this critical juncture. Governments in some other countries have loosened their purse strings to help companies tide over the financial element of the crisis, especially for sectors and companies that are finding it difficult to raise capital.
- The situation being very stressful for companies, private equity funds are striking unconscionable deals which post-Covid, could leave companies in a much worse situation than they were in before the onset of the pandemic.
- It is also important that significant shareholders inject whatever capital they can provide in these difficult times.
- Conceptually, the role of a Board does not change. Its traditional role has been to ensure that the company has the right leadership, governance structure, strategy and tracking mechanism in place. While these aspects of the role remain unchanged, the environment in which companies exist and work, has undergone a very major change, and therefore the Boards need to reconfigure the manner in which, and the priorities with which, they will discharge the responsibilities.
- There will be increasing engagement of the Board with management, Government, Regulators, and various other stakeholders, but this engagement should not be in a manner that undermines the efforts made in the same direction by the management. Stated differently, the role of the Board would be to supplement, and not supplant the efforts of the management.
- The meetings of Boards need not be according to the predetermined annual calendar. It should be possible for Board members to meet either in formal sessions or in informal executive sessions, to determine issues, in regard to which, and the extent to which, they need to associate with the problem-solving efforts underway. While there could be Board meetings, there must be the recognition that formal meetings take up management time, and could detract management from its ongoing efforts of putting out the fires and addressing the urgent concerns.
- This is also an occasion for the Chair of the Board to demonstrate effective leadership. In a normal situation, the Chair's role is to provide leadership to the Board during Board meetings, in order to extract value from his/her colleagues on the Board. In the present context, the Chair should expand the role to engaging with Government, industry bodies as well as stakeholders, in order to serve as a bridge between them and the management, as also to signal the continuing confidence of the Board in the management.
- Independent Directors should also have informal conversations among themselves, in order to enrich the problem-solving potential that exists in the company. In the process, they should not individually reach out to the management, but bring their thoughts and suggestions to the Chair of the Board, who could appropriately communicate them to the management.
- The Board is the custodian of the moral compass of the company. Since that is predicated on values, the Board should ensure that expediency which manifests itself in difficult times, does not adversely impact on the value system.
- While management is normally presumed to act in the right manner, especially in difficult times, the tendency of some managements to shoot all over the place must be identified and discouraged. The Board should provide guardrails, and not handcuffs. Board members, who have in the past held executive positions, and dealt with crises, should empathise with the management, and lend their shoulder for the management to rest its weapons on.
- While the attention of management is expected to be almost entirely on tactical issues emerging from the problem, the Board should step back from the immediacy of the situation, and look towards the post-Covid situation, to identify the steps to be taken for the medium term to long term survival and prosperity of the company.

- Managements at the best of times have to grapple with inadequate resources. This problem gets accentuated in times like the present. Helping managements prioritise the resource allocation efforts is therefore one of the major responsibilities of the Board. The related issues of liquidity and solvency also need to be owned and addressed by the Board.
- These are occasions in which managements will have to consider unpleasant options such as wage freeze or reduction or deferment as well as the freeze on hiring, and managing pending payments with limited resources. Boards must back, and be seen as backing, managements' efforts in regard to these difficult decisions. The perception must be clear, and the message must go out loud that the Board and the management are completely united in regard to these difficult decisions.
- These are not circumstances in which managements have the luxury of time to think through all the implications of some of their decisions. Speed in decision making does generate its own risks. This should not persuade managements to be risk averse, and to search indefinitely for perfect solutions. In balancing risk and reward, the management will legitimately look to the Board for passive, if not explicit, endorsement.
- It is useful to remember that the workforce, as well as other stakeholders, will carefully scrutinise the decisions of management. There must therefore be fairness in decision making and action, and such fairness must be visible to stakeholders.
- While outstanding performers need to be encouraged, others should not get the impression that they no longer belong. Capital raising efforts constitute yet another area in which the Board should provide active leadership. This becomes even more challenging in difficult times, especially in joint venture companies, where one partner is anxious to infuse additional capital by capital raising efforts, whereas the other partner is willing to wait and watch how the situation develops.
- The importance of cash flow is a matter that does not require emphasis. Managements and Boards must recognise that in these situations, with banks being flush with funds, and with bond markets looking for credible issuers, capital can be raised at a reasonable price.
- Succession planning is one of the important responsibilities of the Board. It is entirely possible that most Boards have by now addressed this situation satisfactorily, having regard to planned exits such as arising out of superannuation etc. What assumes criticality at the present juncture is how quickly a person can be replaced, at least temporarily, if that person is rendered non-functional by Covid-19. The "here and now" replacements must be identified, and in some sense, be alerted to the possibility of additional/ higher responsibilities being entrusted to them if Covid-19 takes any incumbent out of the equation, hopefully temporarily.
- Whenever the role of the Board is discussed, strategy is identified as a major responsibility. It is however on such occasions, that the importance of strategy is fully recognised. With both the present and the future clouded by uncertainty, Boards and managements will have to look at strategic options, contingent plans, and scenario-based alternatives, so that what needs to be done gets done quickly and effectively.
- Cost consciousness has not been a high priority with some Boards in good times. This is a context in which Boards and managements should ruthlessly eliminate all avoidable costs and allocate resources appropriately. While cost structures and business models will need to be re-evaluated, with increasing focus on technology, re-inventing the organisation to cope with the changing world is clearly an imperative.
- In every crisis, it is the short term that understandably gets the highest attention. If a company does not survive short term problems, all discussions regarding the long term will be academic. This however should not take away the responsibility to harmonise short term plans and the long term strategy.
- This is clearly a time for thinking out of the box. All persons, irrespective of their position in the hierarchy, should be encouraged to come up with suggestions and solutions that seem relevant, and can possibly add value. At the same time, the Board should identify other business opportunities that are

available to the company in post- Covid times, and help the management to prepare for such an eventuality. As the saying goes, no crisis should be wasted, because therein resides an opportunity.

- One problem that has surfaced in recent times, and has tended to become a frightening possibility in Covid times, is the attack on cyber systems, and the inadequacy of many companies to recognise, identify and respond to the threats. With a large segment of the workforce operating out of their homes, the vulnerability of systems has increased and defence mechanisms must be put in place at the earliest opportunity.
- In difficult times such as this, the mental wellbeing of employees needs to be ensured. Counselling arrangements must be put in place, and employees must be made aware of the support systems that are available within the organisation. Companies must work towards ensuring that as they step into the future, they do so with a workforce that is recharged and reenergised.
- The possibility of litigations constitutes one of the unwelcomed products of the pandemic. Delay in the fulfilment of contractual obligations is expected to give rise to litigation including class action suits. Boards must work with managements to evaluate the possibility of pre-litigation mediation. At the same time, the D&O liability insurance policies and other insurance policies should be carefully scrutinised to ascertain whether they meet the requirements of the present situation.
- There could also be threat of litigation by employees who are adversely affected by Covid, and believe that the managements did not support them adequately during their times of personal difficulties. This possibility has been enhanced by the directions of the Government that persons in-charge of the establishment will be responsible if in a post lockdown situation, any employee contracts the illness in the workplace.
- It is entirely possible that without access to physical locations, as well as physical records, auditors have some difficult in carrying out a proper audit. Boards and Audit Committees must satisfy themselves by direct questions to the auditors, whether the quality of audit was in any manner adversely affected by the inability to visit premises and access physical records, as also having in-person discussions with the representatives of auditees.
- Communication is critical. All communication lines between the management and the employees, between the Board and the management, and between the Chair and the CEO must be kept open at all times. The content of the communication to employees and stakeholders must be clear, and should reflect a sharing and caring attitude. Townhalls should become more conversational, than one way monologues. The communication between the management and the workforce must be at different levels of leadership, with the message remaining identical. The CEO should seek out the Chair of the Board and, if necessary, other members to get insights and inputs that will strengthen him/her in tackling the crisis situation. Chair and Board members should also be taken advantage of for communications with the Government, Regulators and industry bodies.
- Erecting defence mechanisms against the crisis, identifying the opportunities that lie ahead, and redesigning and preparing the organisation for the challenges of the future, are tasks in which the management and the Board should completely identify with each other, with shared concerns, and demarcated responsibilities.

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