

Updates

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Opportunity to Address Evolving Standards and Risk Management in the Pandemic Aftermath



As the United States and the rest of the world move toward reopening economies, businesses will begin to shift from survival mode to "back to business." But back to business may not be the same for many reasons beyond simply the economic environment.

We may see a renewed emphasis on the shifting notion of a corporate purpose being broader than solely maximizing profits for shareholders. Corporate reaction to the business realities of the pandemic could influence the degree of strength of the demand by the public, employees, the government, and investors for companies to embrace corporate social responsibility. Job security, safety, and equality could be paramount concerns not only to employees but also to the public's perception of a company and investors' views of a company's long-term success if it fails to address human capital and social issues. Examples include not only obvious matters such as health, but also reputational risks, such as whether the public perceives that employees of color have been disproportionately adversely affected by the crisis; for example, if a higher percentage of those employees were laid off and not called back to work, even if the company approached worker retention in an objective manner.

Pandemic issues, such as employee and public safety and concerns of economic disparity, will likely persist for some time. Recent widespread demonstrations might further underscore the strength of social and equality concerns. How companies address these concerns in the wake of those events may affect the extent of growing pressure to mandate corporate responsibility. For instance, a U.S. Securities Exchange Commission (SEC) advisory committee that advocates for investors urged the SEC to establish definitive disclosure policies regarding environmental, social, and governance matters. It will not be surprising to see legislative proposals seeking inflexible one-size-fits-all "solutions" to perceptions of self-interested corporate actions (or inactions) during the crisis and in its aftermath.

At the same time, the pandemic illustrates the need for proactive risk management. Many companies have done a good job rapidly adjusting to the pandemic realities. However, almost all companies should have discovered vulnerabilities. In any event, lessons are being learned.

Boards and management might work together to specifically consider these issues. If appropriate, management could highlight to the public and investors both the company's good deeds and how improvements can be made. Management might develop a playbook for future crises.

The following are some thoughts on these topics as a starter:

- **Human Capital and Social Equality:** Examples include workplace safety, public safety, similar treatment of diverse employees, and management compared to employees, while enacting business resiliency measures, and support for employees who lack childcare or have vulnerable or sick family members (which might disproportionately affect women).
- **Risk Management:** Examples include business operations (including fluidity of remote working and otherwise maintaining operations), relationships with and dependencies on vulnerable business partners, suppliers, customers, etc. (where a company is as strong as its weakest link), liquidity and capital resources, and succession or emergency planning for CEO and top management.

While there is a tendency to focus on the immediate events, boards and management should consider these topics more broadly for other types of crises. Those include not just events that more broadly affect businesses, such as a pandemic, but also company-specific crises such as a mass shooting at a company location, accusations of workplace harassment by a top executive, public reaction to a poorly designed (inadvertently offensive) social media campaign or even a single media post, or a portion of the workforce becomes incapacitated for any reason.

Ultimately, many companies can enter the recovery phase of the pandemic with more comprehensive resiliency strategies and have an opportunity to demonstrate proactive attention to corporate social responsibility.

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