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# Preparing for the possibility that the CEO tests positive

by **Cydney Posner** on April 17, 2020

Given the pervasiveness of COVID-19, one issue that boards have had to face is what to do if the CEO or other executive critical to business continuity is suddenly taken ill or required to self-isolate because of exposure to the virus. What about succession planning? How should the absence be communicated? A couple of recent pieces from prominent consultants provide some guidance on these issues.

While many boards already have succession plans in place, those plans may not contemplate the potential for the rapid spread of COVID-19. Even in the fortunate event that none of the company's key personnel becomes seriously ill, the board will need to consider the possibility that executives might be absent on leave for an extended period as a result of testing positive for or experiencing symptoms of COVID-19. Because of the highly contagious nature of the virus, boards will also need to prepare for the possibility that the prospective successor or multiple executives could also become ill or need to self-isolate. As a result, boards should be looking at succession plans that are multi-layered.

In this [article](#) from comp consultant Semler Brossy, the authors maintain that "emergency succession planning"—which they distinguish from "longer-term succession planning"—should be high on boards' agendas because of the unfortunate increased likelihood that it will be needed. An emergency where one or more key executives is suddenly not available "requires Boards and other executives to be prepared to marshal resources, act quickly, and communicate with authority to employees, customers, and shareholders in the face of uncertainty. Immediate actions are critical. Effective emergency succession planning frameworks should address a variety of circumstances and allow Boards to use their judgment in what will likely be an environment that is difficult to predict." To address these potential leadership challenges, the authors advocate that the board keep in mind key principles and test the company's strategy with scenario-planning exercises.

The authors advocate that three basic principles guide the board's decision-making and communications. First, underlying all decisions is that any actions should be guided by the long-term best interests of the company. In that light, the board will need to assess which work and which roles are critical for business continuity. Second, the board will need to think through in advance the ramifications of change, keeping in mind that the assumption by executives of different roles can create "a chain reaction through the organization as responsibilities are redistributed. Thinking through these ramifications in advance helps ensure that critical gaps are managed and that corporate infrastructure can shift to accommodate new requirements. This may require thinking differently about roles and responsibilities among the team based on available skills." Third, the board should prepare a plan to communicate to customers, employees and shareholders "from a position of strength," allocating responsibilities for communications to help minimize confusion and disruption. The board will need to consider what information employees, customers and shareholders "need to hear right now," who is best to convey that information and legal disclosure obligations.

The authors suggest the following key strategies and action items:

1. *Identify an interim candidate—and a back-up for the back-up—for key roles:* As noted above, companies may need to identify multiple succession candidates for various critical positions, looking to the executives themselves for information about necessary skills and support, as well as suggestions about emergency replacements. The authors advise that interim candidates are most likely already members of management, but could also be board members. Board leadership replacements should also be identified. The authors recommend that the designated candidates "spend time with the current incumbent to ensure the transition is as seamless as possible."
2. *Engage with the executive team:* Even though succession candidates may have been identified in the ordinary course, the authors suggest that emergency planning may require "more immediate knowledge of the executive team's strengths, developmental areas, and relationships." Support from other executives and departments, as well as the board, may be need to be arranged. Boards will also need to consider how to "keep on course" if the board needs to look for an external candidate, as well as time expectations for the replacement to reach the desired level of effectiveness in the new role.

3. *Do scenario-planning exercises and create checklists:* The authors advocate that the board conduct various scenario-planning exercises, using multiple scenarios—CEO departure, multiple executives over a short period, multiple key members of single function (e.g., finance), concurrent loss of executive and emergency succession candidate—in the context of current circumstances, with employees working from home, capex and other spending cutbacks and “changing public perception.” The authors suggest allowing time “for directors and relevant executives to have an open conversation.”
4. *Prepare a communication plan:* Communication will need to focus on the company’s employees, as well as stockholders, customers and suppliers. The authors advocate that Investor Relations develop “communications plans to help the company control the messaging and deal with inbound media inquiries.” Communications plans could range from one-to-one communications in some circumstances to internal video conferences and town halls to required disclosure, company website postings and press releases.

In this [article](#), after noting recent disclosures of positive tests for COVID-19 among at least a dozen CEOs and CFOs and the possibility that perhaps many others have not made similar disclosures, two representatives from PR consultant Edelman outline the key communications issues for the CEO and board to consider when faced with the potential for a temporary or permanent departure of a CEO or other key executive as a result of COVID-19.

The authors observe that, once an executive does test positive, companies will need to be prepared “to act quickly and decisively with the right messaging and sequence of events.” However, the more conventional approach to communications may not be effective in this circumstance. For example, if there are rumors, there may be confusion in many quarters both internal and external. But, in contrast to conventional approaches to disclosure, the authors advocate that “the first audience to prioritize for a COVID-19 case should be employees, to reassure them about the health and safety of their leader and the steps the company is taking to assure the health and safety of the team, as well as the continuity of business as usual.”

How to convey the information? Recognizing that illness (or testing positive) is, first of all, personal, the authors advocate that a “personal note from the CEO is the best way to set a tone for calmness and continuity and assure all that proper measures have been taken.” Moreover, if the executive has tested positive but remains asymptomatic and working—even if in isolation—the authors advise use of video to demonstrate the executive’s continued well-being and stability. Although a positive test for COVID-19 may or may not be material, depending on the circumstances, the authors contend that, nevertheless, it is a public health issue that should be disclosed “due to public health concerns.” Disclosure would also help to remove any stigma and promote community in the fight against the virus. Plus, they urge, being transparent will showcase the executive as a leader setting a good “example for the community of being strong, brave, and disciplined about the steps everyone should take to protect themselves and others....Taking the right tone of empathy and calm will allow stakeholders to trust that they are part of the solution when told the truth about the facts.”

#### SideBar

In the event that a current executive officer steps down from his or her role, on a temporary or permanent basis, as a result of illness or perhaps the need for quarantine as a result of exposure to COVID-19, among the legal disclosure requirements that may arise is the obligation to file a Current Report on Form 8-K. If a new individual assumes the role of principal executive officer or principal financial officer (or another specified executive officer role), the company would need to report that the officer has stepped down and that another has been appointed, as well as another report when the officer returns and the temporary replacement steps down. Of course, whether and how much to report about the reason for the temporary or permanent departure (whether in a press release, 8-K, webcast or analyst call) can be a complicated and delicate question, highlighting the tension between the need to adequately inform investors and employees and the benefits of transparency



(as discussed above), together with concerns about appropriately managing the message in the face of potential leaks, on the one hand, and the privacy rights of the individual involved and his or her family on the other hand. Advance discussion and agreement may facilitate the process for appropriate disclosure.

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## Emergency Succession Planning in a COVID-19 World

April 7, 2020 by Greg Arnold (/team/greg-arnold/) and Todd Sirras (/team/todd-sirras/)

Immediate corporate response to the COVID-19 pandemic rightly focused on employee health and safety, business continuity planning, and preserving liquidity as many businesses came to a halt. Now it is clear that the direct economic and social impact will extend into the summer and create a long-term change in habits and activity.

Board attention during crises is drawn by necessity to processing real-time information to support management's time-critical business decisions. We believe that Boards must also make time to review key governance processes to understand and plan for new risks created by the COVID-19 pandemic. Emergency succession planning should be prominent in the Board's discussion because of the increased likelihood of occurrence.

Emergency succession planning is different from longer-term succession planning. Dealing with one or even multiple executives no longer in their seat in short order requires Boards and other executives to be prepared to marshal resources, act quickly, and communicate with authority to employees, customers, and shareholders in the face of uncertainty. Immediate actions are critical. Effective emergency succession planning frameworks should address a variety of circumstances and allow Boards to use their judgment in what will likely be an environment that is difficult to predict.

We wrote about this topic 18 months ago in the context of #metoo and other ethics-related CEO terminations, [Taking the 'Sudden' out of Sudden CEO Turnover](https://www.semlerbrossy.com/insights/taking-the-sudden-out-of-sudden-ceo-transition/) (<https://www.semlerbrossy.com/insights/taking-the-sudden-out-of-sudden-ceo-transition/>). COVID-19 will create a separate set of issues, but the principles for dealing with sudden executive turnover are consistent. The Board should adopt key principles and test the strategy in order to act as rationally as possible to address whatever leadership challenges arise.

The three principles below generally apply to all good Board interaction, and are paramount in an emergency succession scenario:

**1. ACT IN THE LONG-TERM BEST INTEREST OF THE COMPANY:** A key tenet of Board leadership across all activities and the key to becoming comfortable with reactions to unforeseen events is keeping the long-term interest of the company top of mind. Tying decisions and communications back to this principle gives authority to company actions and statements in difficult times.

The Board should be asking:

- What work must go forward regardless of who is leading the company?
- What are the critical roles that need an emergency plan?
- How do we manage unavailability that may be temporary due to illness?

**2. THINK BROADLY ABOUT IMPLICATIONS OF CHANGE:** Shifting roles creates a chain reaction through the organization as responsibilities are redistributed. Thinking through these ramifications in advance helps ensure that critical gaps are managed and that corporate infrastructure can shift to accommodate new requirements. This may require thinking differently about roles and responsibilities among the team based on available skills.

The Board should be asking:

- Do internal candidates have the leadership skills to step into the breach and lead the company through a crisis?
- What happens if we need to replace more than one executive?
- How do we keep on course if we need an external candidate(s)?



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- What are reasonable timing expectations for internal and external candidates to become effective in a new role?
- What support do they need in that period?

**3. PREPARE TO COMMUNICATE TO CUSTOMERS, EMPLOYEES, AND SHAREHOLDERS FROM A POSITION OF STRENGTH:** Uncertainty is the enemy. Developing a communication plan and allocating responsibilities among directors and executives to speak on behalf of the company to customers, employees, and shareholders will help the company minimize confusion and disruption.

The Board should be asking:

- What do our employees, customers, and shareholders need to hear right now?
- Who should tell them?
- What are our disclosure obligations?

Strategy and action items follow principles. Key specific steps to establish up front include:

**1. IDENTIFY AN INTERIM CANDIDATE—AND A BACK-UP CANDIDATE—FOR KEY ROLES:** COVID-19 highlights the need for multiple succession candidates for key roles. Executives likely are the best source of information about their emergency replacement and what skills and support that person will need to fill the role effectively. The interim candidate likely is from management, but may be from the Board. For example, a director may be called upon to serve as CEO, or the Audit Committee may step materially in to support a new CFO. The Board should also plan for replacement of Board leadership roles if needed. In each case, the candidate(s) should spend time with the current incumbent to ensure the transition is as seamless as possible.

**2. ENGAGE WITH THE EXECUTIVE TEAM:** Succession candidates likely have been identified through the normal succession process. However, an emergency response requires more immediate knowledge of the executive team's strengths, developmental areas, and relationships. Executives may need additional support in taking on additional roles from senior executives and Directors. HR, Investor Relations, IT, Legal, and Finance leaders should have ongoing input to ensure that information flows cleanly along a new leadership structure.

**3. DO SCENARIO PLANNING EXERCISES AND CREATE CHECKLISTS:** Create an exercise for the Board where they are faced with 3-5 different scenarios and allow some "white space" time for directors and relevant executives to have an open conversation. Develop notes and a checklist of action items and open questions from these discussions and solicit input from current executives to refine them. Incorporate specifics related to the current crisis e.g., employees working from home, furloughs, dramatic reductions in spending, and changing public perception. Refresh these as needed, but at least annually. These should have a broad view of potential outcomes, including:

- Single executive, with particular focus on CEO
- Multiple executives over a short period
- Multiple members of single function, for example CFO and VP of FP&A
- Concurrent loss of executive and emergency succession candidate

**4. PREPARE A COMMUNICATION PLAN:** Communication will need to focus on external and internal stakeholders to reassure the company's stockholders, customers, and suppliers, as well as calm employees in a tumultuous time. Investor Relations should develop and maintain communications plans to help the company control the messaging and deal with inbound media inquiries. Emergency communication plans should provide information to and support employees, customers, and suppliers directly impacted by the change. These plans should include:

- Broad external communication: required disclosure, company website, press releases
- Broad internal communication: town hall meetings, email
- Small group communication: internal video conferences between managers and teams
- Direct 1:1 internal and external conversations: among employees, and high-touch interaction with customers and suppliers

Pay strategy and disclosure requirements must be evaluated when a succession occurs. Usual approaches to compensation should be reconsidered as we all experience these unprecedented times.

Scrutiny on pay levels for external candidates always is greater in a time of crisis, especially if the company or candidate has a high profile. The CD&A and shareholder engagement become critical tools in communicating additional elements of the succession activity. There is significant room for creative compensation solutions to balance attracting someone to accept a challenging situation and providing incentives that are a fair use of shareholder resources.

Compensation for interim roles under typical circumstances is a well-worn path. The pay program for an interim candidate recognizes the additional responsibility the person took on and allows a return to the pay for the prior position when the person returns to the prior role. Temporary adjustments to salary, enhanced annual incentive opportunity, and/or special equity awards are all commonly used tools to recognize the expanded role and extra responsibilities an executive would take on in filling a temporary role.

In today's environment, increasing pay levels for internal candidates may be impossible if the company has received federal assistance under the CARES Act. Regardless of restrictions, reluctance to change executive pay levels in the current environment will exist, especially for companies experiencing significant business disruption, furloughing employees, and/or reducing salaries to conserve cash. Under such circumstances, the executive's contribution and time in the expanded role can be addressed through special cash bonuses or equity grants once a new normal is established.

The COVID-19 pandemic has highlighted the need for companies to prepare and test their emergency succession plan. By following key principles, testing against different scenarios, and having an action plan in place ready to launch when needed, Boards will be prepared to act quickly and decisively if the need arises.

