

Thoughtful Strategies to Avoid Panic Capital Planning, Valuation, Legal & Fiduciary, and Governance



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Economic Context

Tragic and unexpected crisis

No historical context or playbook

Prudent executives are implementing disaster plans

Most companies at risk of rapid financial deterioration or insolvency

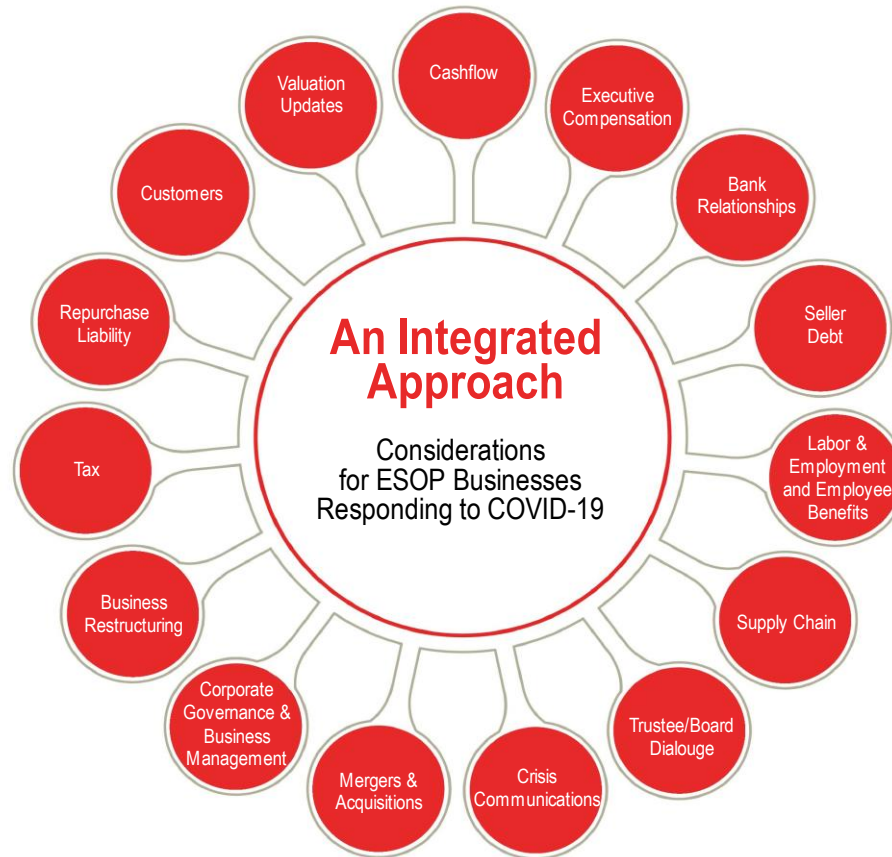
ESOP companies at greater risk *if highly leveraged*

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Considerations for ESOP Business Responding to COVID-19



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Capital Planning: General

Line of Credit

- Maximize access and amount

Preservation of Capital

- Defer CapEx
- Restructure lease payments and vendor terms

Vital importance of relationships

Utilize government lending programs *(if applicable)*

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Capital Planning: Highly Leveraged ESOPs

Renegotiating terms

- Seller notes
- Debt/Equity Swaps
- Clawbacks

Deferring Distributions

Reassessing Repurchase Obligations

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ESOP Valuation and Liquidity Issues

Most ESOPs have 12/31/2019 valuation dates

Many of these valuations have not been completed

- Relevance may be suspect

Year end valuations typically form basis of obligations to retiring employees and departing employees for whole year

Trustee/Boards need to determine if valuation should be updated

Many ESOP companies will be forced to terminate employees

- Increased repurchase obligations further complicate cashflow

Assessment of restructuring options

Reduction in workforce (furloughs, etc.)

Force Majeure

- Contracts
- Leases
- Payables
- Repurchase obligations

Communication plan

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Trustees

What should Trustee do?

- Fulfill all fiduciary duties
- Establish plan to protect company and plan participants
- Consider undertaking interim valuations
- Take into account emergency circumstances

Department of Labor concerns

- Initiate actions to preempt regulatory challenges
- Document transparency, independence and rationale for all actions

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Board Governance

Disaster recovery plans/sensitivity analysis

Dialogue with Trustees

Plan amendments

- Valuation timing
- Distribution timing

Mitigation strategies

- Divestitures (e.g. generate cash)
- Acquisitions (e.g. combine with weaker competitors with focus on synergies)
- Tender offers

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Key Takeaways

- 1) Communication is key with all stakeholders
- 2) Maximize cash
 - Bank lines
 - Seller notes and amendments
 - Deferred CapEx
 - Improved terms with landlords, vendors and customers
- 3) Consider interim valuations
 - Impact on distributions and repurchase obligation
- 4) Assess restructuring options

Questions?



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