

**COVID-19
(Coronavirus)
A Practical
Checklist for
Boards of Directors**

As the COVID-19 (Coronavirus) outbreak continues to develop, boards of directors have a critical oversight role to play in helping their companies navigate through these uncertain times. Below is a checklist of practical steps boards should consider in responding to this crisis:

- 1. Hold board meetings early and often.** If a regular board meeting is not scheduled in the near future, call a special meeting to discuss the impact of COVID-19, and the company's response. These meetings should be virtual to eliminate the need for travel.
- 2. Convene a special committee tasked with managing the crisis.** This committee should meet regularly with management and provide oversight to the company. This committee should report to the board.
- 3. Internally monitor COVID-19 risks.** A board may have heightened responsibilities in times of crisis. Directors need to ensure there are adequate reporting processes that allow them to obtain up-to-date information about COVID-19's impact on the company's operations.
- 4. Carefully consider the company's COVID-19 disclosures.** Any known risks, trends, and uncertainties should be reported through disclosures.
- 5. Evaluate the financial strength of the company.** The board should understand how the financial strength of the organization is being affected by the pandemic. The best time to undertake aggressive steps to deal with financial distress is when the company still has some options and flexibility.
- 6. Seek Appropriate Advice.** Directors can and should retain experts and advisors as appropriate. For example, many boards have legal counsel attend all meetings. Although directors may rely on advisors, they cannot outsource the board's decision-making responsibilities.
- 7. Be especially careful about board minutes and materials.** Make sure minutes and materials reflect the thoughtful consideration given to the issues without unnecessary detail. Also, ensure that the materials are consistent with the company's public disclosures.
- 8. Review your indemnity agreements and insurance coverage.** During times of financial distress, it is important that directors have indemnity agreements with the company, as well as adequate D&O insurance coverage. Because a company

cannot indemnify its directors and officers if it becomes insolvent, insurance will likely be the only financial protection directors have if a claim is made against them. Review and consider whether you have sufficient coverage, including the policies' terms and limits. Also, consider advanced payment for policy renewals, especially if your current policy period is ending soon.

9. Be cautious in your written communications. As you ramp up virtual communications, the volume and scope of electronic communications will increase. This not only creates an increased cybersecurity risk, but it also creates a litigation risk. Be mindful of the role of increased e-mails.

In short, directors have a key role to play in ensuring that the companies they oversee will weather the uncertainty created by the COVID-19 pandemic. Please contact Middleton Reutlinger with any questions.