

Coronavirus: economic challenges and room to maneuver

In addition to the other problems we all face, the coronavirus COVID-19 outbreak will present significant economic challenges for most businesses. Revenues may be significantly reduced, while spending continues to accrue. This is a situation that the management and board of any business must deal with and it is important to start early while there is still room to maneuver.

1. Liquidity

The most important thing to deal with is corporate liquidity. Liquidity budget for the next 3-4 months should be set up as swiftly as possible and be continuously reconsidered with regard to changes in development. We recommend a strongly conservative approach in the current situation. What needs to be quickly considered is:

- **Cost.** Consider opportunities for cost cuts or cost postponement such as reducing headcount or cancelling/delaying deliveries.
- Consider **the income side** carefully. For example, can invoices be expected to be paid as normal, and how will cancellations, fewer new orders or non-payments affect the situation? If there are key employees who are prevented from meeting at work, and how can this be solved when redistributing tasks for example?
- **Financing/debt.** Contact bank connections or other funding sources as early as possible and clarify the possibility of additional financing or payment postponement. Also contact the largest and most important vendors and clarify payment delay options should it be necessary.
- **Insurances.** Are there insurance policies that can cover all or part of losses that arise from the

situation? This must be checked and reported to the insurance company as early as possible.

2. Ongoing contracts – force majeure

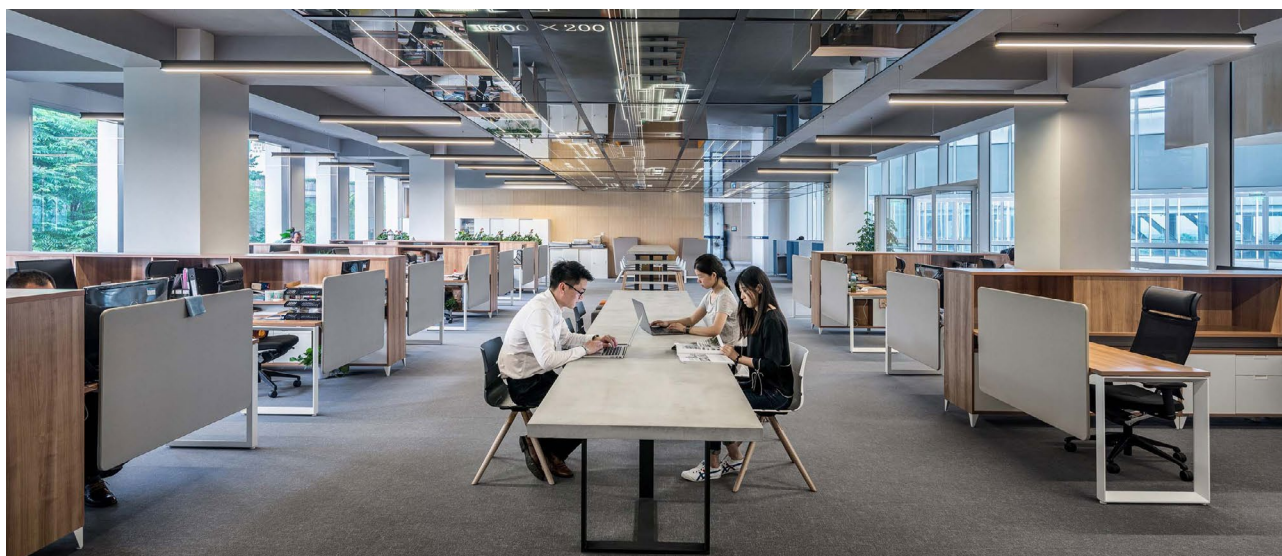
Make a careful assessment of whether the company is able to meet ongoing contracts and, if not, if it is a case of a so-called force majeure situation that entails exemption from delivering contract performance. If it is clear that not all contracts can be met, it is important to prioritise.

3. Employees – leave

Keep a close and good dialogue with employees and their elected representatives so that cost cuts that have negative impact on employees' situation can be carried out in the best possible way without negatively affecting work effort and productivity in other respects.

4. Overview, control and documentation

The board and management have a responsibility to treat creditors on an equal footing and not operate the business at creditors' expense - unless the individual creditor has accepted the risk. It is therefore important at all times to have up-to-date information on the financial situation in the company. This will enable a conscious relationship as to whether an assumption of continued operations is present and enable swift decision-making. Be sure to have updated reports



and forecasts for liquidity, production, and performance development, and to hold frequent board meetings/decision meetings.

It is also important to maintain good documentation that shows the basis for decisions made. While it is fine to have realistic optimism on behalf of the company, in retrospect it may be important to be able to document the decisions made and what they were based upon.

5. Seek advice if necessary

The coronavirus crisis will mean that a number of business leaders will face decisions that they have no experience in dealing with. It will therefore often be necessary to contact advisors who are accustomed to dealing with financially difficult situations. These might include auditors, economists or lawyers, who work on these kinds of issues on a daily basis. Being able to point out that a decision has been made based on the advice of a reputable external adviser may in practice also be the best insurance against any later personal liability.

DLA Piper has one of the country's largest and most competent legal environments in restructuring, insolvency and board responsibility, and regularly

advises management and boards of financially vulnerable businesses.

Examples of frequently arising questions are:

- Which creditors can and should we pay if we have to prioritize?
- Should we introduce suspension of payments?
- Can we operate the business on until the situation improves?
- Do we risk the bank terminating its commitment?
- Can I renegotiate or cancel ongoing contracts – what will the consequence be in such case?
- Do I risk personal responsibility?

Contact persons



Egil Hatling
Partner
+47 92 81 01 50
egil.hatling@dlapiper.com



Johan Ratvik
Partner
+47 92 83 30 80
johan.ratvik@dlapiper.com



Frode Finnøy
Partner
+47 48 01 65 32
frode.finnoy@dlapiper.com