

Inside Information: Mastering Disaster

Conference call with Linda Shirkey, Shirkey Consulting, Inc.
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What does the SEC require in business continuity and disaster recovery plans? We're finding that it considers these as two separate issues, and that examiners are looking for customization. The plain-vanilla, off-the-shelf plans from manual companies just aren't good enough.

Examiners want to see specifics. You need to show that you've thought through these two important issues, and that your clients are not at risk should you face an emergency. Today, we're going to give you some tips for how to create effective business continuity and disaster recovery plans.

First let's talk about business continuity. What happens if you lose your "key man" or "key woman?" What kind of succession plan do you have? When I ask clients these questions, some will answer that their junior people will just take over the firm. But when I start drilling down and asking exactly how that works, I find they haven't really thought things through. Does part of the revenue go to the estate of the key man or the key woman? What kinds of terms have really been ironed out? If there are two junior people, are they going to become 50% owners? I encourage clients to answer these types of questions today, in anticipation of the possibility that the ownership of the firm may have to change quickly.

For many of us sole proprietors, if something happens to the key man or woman – if they become permanently disabled or unable to run the firm for whatever reason – the business is just going to unwind. So what does that mean?

Here's one issue to consider if the business closes: If you are charging fees in advance, you'll have to remit the fees that the clients prepaid for the portion that has not yet been earned. If the key man or key woman isn't available to sign the checks, how will clients get their money back? Is there another individual in the firm or in your family who has signing authority on your firm's checking account? Does somebody else, either in the company or in the family, have your client information so they can contact clients to let them know what's happening? Does somebody else have keys to the office so that they can get in, should something happen?

Those are just some of the basics of business continuity. Do you have any questions or comments on that?

[Caller] *Linda, I have a question. If you're a single person shop, should you have some sort of arrangement with another institution to take over? Can clients contact the custodian on their own to get the money back?*

[Linda] That's a good question. Custodians don't have the right remit the fees back to the individual. I'd be happy to call Fidelity and Schwab and ask what they would do, because I'm sure they've had to deal with this issue.

One of my clients has made an arrangement with a family member who also runs an investment advisory firm; he has signing authority on her checking account. He cannot continue to manage the money for her, because that's not in the terms of the agreement.

Some of my sole proprietor clients have made arrangements to host each other if there's an emergency and one of their offices isn't available. And one firm would help the other if their business had to be shut down.

It's ideal to have such an arrangement with someone in another city, in case there's a city-wide emergency. In Houston, during Hurricane Rita last year, many of my clients went to Dallas and Austin to "camp" with colleagues.

That leads us to disasters and how to plan for them. There are a number of different kinds of disasters, and we're certainly becoming more and more aware of them. I moved here from California, where earthquakes were a real issue. California companies often have an emergency backpack in the office stocked with basic survival equipment.

So, here's the scenario: You're in the office and you have three minutes to leave. What do you take with you? Here's a list of what you may want to include in your emergency backpack:

- water
- energy bars
- space blanket
- extra set of keys to the office and office file cabinets
- the most recent version of your disaster recovery plan
- flashlight
- whistles

Another form of emergency, which is more likely for us in Texas, is that our building suddenly becomes disabled. There's a fire and we're not allowed in the building. Or there's a hurricane and we have to evacuate the city, and we know we're not going to be able to get into our office for some time. We need to have a method for restarting our business in a remote location.

Besides the emergency backpack, I recommend that you have a fire proof file that's small enough to take with you if need to evacuate to another city. It contains business critical information including:

- the address of your alternative location and a map and driving directions on how to get there
- hard copies your client list with names, account numbers, email addresses and phone numbers
- a list of the cell numbers and home number of your employees
- regulators' phone numbers because you need to contact them if you have to operate from another location for more than 10 days
- computer password lists
- an extra set of company credit cards
- a CD-ROM that contains your client agreements
- a CD-ROM with your company insurance policies
- back up tapes or back up data and data restoration instructions
- an equipment and software inventory, both for insurance purposes and to get your business restarted quickly.

[Caller] *If you're paperless like we are, and everything is saved offsite, is this relevant to us?*

[Linda] Is all of your information resident on the same system? If that system goes down, what happens? You want to have hard copies available somewhere in case the electronics, for whatever reason, are not available. If all of your information is on the Internet, what happens if the Internet goes down? How do you reach your clients?

We can't think of every contingency, but in this era of terrorism, it's important to think in terms of entire systems going down. For example, you may want your staff members to contract with different cell phone companies, in the event that landlines aren't available, or one company's cell phone towers go down.

Back to your fireproof file: You'll need to keep it current, so add it to your calendar to update on a periodic basis. That way, if you have to rely on the file, you won't be working with old data. Update your file information at least quarterly so you know things are pretty current.

Should you test your disaster recovery plan to see if it really works? This is a good idea, but I haven't seen anyone actually do it. You could tell your staff, "Okay, the office is closed today and you have to work from your home. Let's see what works and let's see what doesn't." This will let you see where the holes are. Does your restoration program really restore the way you thought it would? What are you using that is not on the list? If you decide to test your plan, do it during the summer when things are pretty slow.

I don't have the perfect disaster recovery plan. To me, the pieces that are really important are the lists, including

- employees
- vendors and vendor contacts
- way to reach regulators
- passwords list
- list of insurance policies
- inventories of equipment and software

The mission critical issues are how to reach clients and vendors, account numbers, all of that basic information. The plans that I like are those with detail in them, rather than verbiage about how you're going to handle things responsibly.

You don't have to spend a lot of time writing this plan. What's important, especially for smaller firms, is to think through who will back you up if something should happen, either for business continuity or for a disaster.

[Caller] *Was there any comment made by the regulators if we are responsible for checking with our broker-dealer or our custodians to find out what their disaster recovery plans are? Do we have to have any documentation about that?*

[Linda] All you need in your plan is to say that you know your broker-dealer or custodian has a disaster recovery plan. Every financial institution is required to have one. That's part of their regular audit just like it's part of yours. You don't need to have a copy of their plan in your office.

[Caller] *But if we could say on this day we talked to them and they have it and it's available if anyone wants to see it...*

[Linda] Right, I think that's appropriate. And if clients ask, you can say you've checked with your broker-dealer or your custodian and you also know that they have plans in place.

As a service for your clients, you could prepare a list of things they need to take with them in a disaster. And if you can, let your clients know what's going on during a disaster. During Rita, our server was down. We notified all our client to let them know what we were doing so that they wouldn't worry. I think they really appreciated hearing from us. So if something like this should come up, try to notify your clients and send out a blast email. Let them know where you're going, things are under control, and it's business as usual.