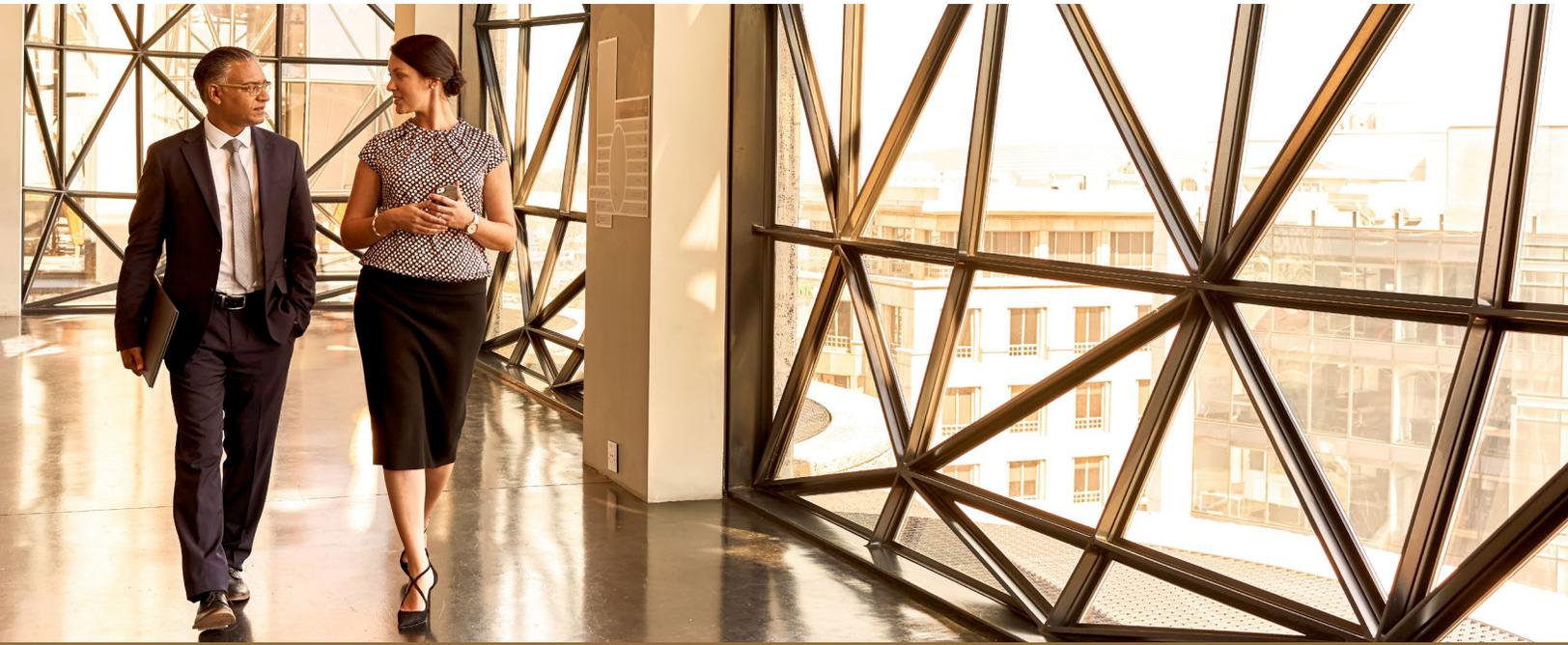


# Why every business owner needs a contingency plan

*Business Owner Advisory offered through Wells Fargo Bank, N.A.*



## ADVICE AND PLANNING UPDATE

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### **Key takeaways:**

- Having a contingency plan for your business can help address emergency situations if something unexpected occurs.
- A contingency plan should address both the continuation of the operations of the business and the ownership and control of the business.

### **What this may mean for you:**

- Talk to your professional advisors to help build your business contingency plan and revisit and update it often.

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Business owners often do not get to choose when their business goes through a transition event, especially if something unexpected occurs. In such situations, without a plan in place, decisions begin to be made in the middle of the resulting chaos. Having a contingency plan in place prior to any emergency situation helps answer the “*What do we do now?*” questions that are sure to arise.

An example of the unexpected we experienced is the pandemic. No one could reasonably prepare for the implications it had on businesses of all sizes and the economy as a whole. Businesses experienced significant declines in revenue, employee absenteeism and turnover, and numerous other challenges, each exacerbated for the business without a contingency plan in place. In the case of small and family businesses, a more common need for such a contingency plan is the unexpected death or disability of a business owner. The lack of a viable contingency plan leaves the business in a more vulnerable position than if a plan is in place.

A contingency plan should address unexpected events from two different angles. The plan should consider both the continuation of the operations of the business and the ongoing ownership and control of the business in emergency situations.

### **Contingency for operations of the business**

As a business owner, when constructing your contingency plan, one of the most important questions to consider is what happens to the business if something happens to me? And *who* is going to make decisions since I no longer am part of the picture?

Addressing who has the authority to make decisions in the unexpected absence of the business owner can be critical to the ongoing operations of a business and making sure the right person or people are identified is key. This person should be familiar with key relationships tied to the business. It also is important to identify a decision-maker who understands different parts of the business. Having key employees who are cross-trained in advance would allow someone to step in quickly if the need arises. Also, make sure the right authorizations are in place to permit those people identified to step in to make decisions and execute any necessary documents without potentially damaging delay.

Lastly, planning for cash flow needs in the event of an emergency situation is important, especially upon the unexpected death of a business owner. You may consider buying key-man insurance on the life of the business owner to provide additional monies for any future cash flow needs that come up. Also, it is important to have a plan to address any business-related debt facilities guaranteed by the business owner.

### **Ownership plan**

A plan for the ownership and control of the business in the event of an unexpected event should be addressed in the personal planning documents of the business owner, such as the owner’s will or trust documents, and in the governing documents of the business. The planning provisions in these documents pertaining to the business should be consistent with each other and provide for a common outcome.

Inconsistencies between the personal planning documents of the business owner and the governing documents for the business can be common and may be avoided through a test of the contingency plan.

If there are multiple owners, a buy-sell agreement with provisions to address the death or disability of an owner is typically recommended as part of the contingency plan. And this agreement also needs to be tested. A common mistake we see with business owners is that “what if” scenarios are run initially but are not rerun on a regular basis to take into account the changing dynamics of the business. For example, if one owner dies, can the surviving owner take on the obligations to buy out the interest of another partner? If life insurance previously was purchased on the lives of the owners, is the amount still sufficient? If, instead, the company is buying back the interest, is that going to place an unacceptable burden on the company? It is important to ensure that the buy-sell agreement between the owners continues to work and be practical throughout the duration of the company.

### **Keeping your plan up to date**

Another common mistake amongst business owners is they neglect to address their personal planning and either do not have the proper documentation in place or their documentation no longer is suitable for their needs. Business owners often are focused on the day-to-day operations and growth of the business. However, this can result in having some blind spots that a contingency plan could address. Addressing the “what if” scenarios with the right level of planning can help prevent potential future headaches.

### **Tips for contingency planning**

- Ask yourself what is the plan if I am no longer able to run the business? Who will make the day-to-day decisions? Who will be able to access the accounts? Who can contact our important customers and lenders?
- Determine if you have the right team in place to carry out the operations of the business as desired in the event you are unable to continue to operate the business.
- If family succession of the business is desired, make sure this is addressed in the personal planning documents of the owner and the governing documents of the business and that the owner’s family members are willing and able to step into the business in the event of an emergency.
- Talk to your professional advisors — CPA, attorney, and other relevant professionals — to help build your contingency plan and test the “what if” scenarios.
- Don’t allow your business to outgrow your contingency plan — revisit and update it often.

If you don’t have a contingency plan, consider getting one started. To learn more, contact your advisor.

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