Risk Manage to Position Your Firm for What's to Come

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Beyond Survival

As we navigate through what many are calling the worst economic recession since the Great Depression of the 1930s, law firms would not have been spared the widespread impact of the current economic crisis.

Whilst survival and cost cutting might be the name of the game now, it is perhaps a good idea, with the application of foresight, hindsight and sound management practice, to look beyond survival. How should your firm start thinking about emerging from the current economic slump well-positioned to capitalise on opportunities and the unexpected?

Effective risk management should play a key role in such a process.

How to Leverage Risk Management

Let's define risk management success by looking at what happens when risk management is effectively executed. Case in point: J.P. Morgan.

At the height of the credit bubble, J.P. Morgan, led by CEO Jamie Dimon, exited the business of securitising subprime mortgages when it was still booming. Identifying, assessing and effective management of risk were key to this decision and has allowed J.P. Morgan to weather the crisis far better than its rivals. From July 2007, when the crisis began, through the second quarter of 2008, J.P. Morgan took just USD 5 billion in losses on high-risk Collateralised Debt Obligations (CDOs) and leveraged loans, compared with USD 33 billion at Citi, USD 26 billion at Merrill Lynch, and USD 9 billion at Bank of America (Shawn Tully, money.cnn.com, 2 September 2008).

As Dimon demonstrates:

...leveraging risk management means that you effectively execute risk management as part of good business practice, positioning your firm with the ability to optimise earnings while staying in a well-defined risk tolerance.

Managing partners and/or the executive committee at every law firm should analyse the firm's risks and take proper steps to either eliminate or mitigate their effects. They would articulate the firm's risk tolerance and develop processes to keep losses within that tolerance. The question of '**what are the key risks my firm is likely to face over the next 12 months and how do we best manage those risks**' should frame your approach in making risk management an integral part of management best practice.

The following pages provide an example of key risks that might be highlighted through such a process.

Example of Risk Issues	Possible Ways to Manage Risk
Inability to Appropriately Service Clients • Who do/would you take on as clients? • On what terms? • Who would/might you reject?	***Establish*** clear guidelines in terms of types of clients to take on, bearing in mind the impact of such decisions in terms of risks and opportunities. ***Ensure*** that the clients you take on are appropriate in every way. Examples of considerations include: • Their cases involve matters that you are able to handle, in terms of technical expertise and service ability. • Be conscientious about avoiding conflicts of interest.
Client Concentration Over-reliance on one client's billing creates a risk to the firm's overall revenues.	***Strengthen*** relationship with client(s), while also striving to bring in additional business to lower its percentage of overall revenue.
Over-Reliance on Practice Areas Reliance on one or two practice area(s) for revenues may have a negative impact on profits if that practice area hits a rough patch and/or key members of that practice resign.	***Review*** possibilities for diversification of revenue stream. ***Take steps*** to compensate practice area properly while also diversifying and growing other areas of the law firm.
Multi-Partner Defections • There is a risk when clients associate a firm only with one partner who controls all aspects of an account. • Significant number of and/or key partners and legal assistants departing for more autonomy, flexibility and/or compensation.	***Firms*** could present their clients a "team" of lawyers which has the ability to provide quality service, instead of relying on the lead lawyer. ***Know*** which partners and legal assistants are most profitable to the firm and compensating them accordingly to retain them. ***Review*** your firm's staff development processes, working environment and/or compensation structure. ***Think*** about investing in partners/legal assistants through various means such as education.

~Clients

~Practice Areas

~HR Issues

Example of Risk Issues	*Possible Ways to Manage Risk*
Financial Impact Due to Lack of Formalised Procedures • What procedures are in place for calendaring, documenting and managing deadlines? • Are fee arrangements clearly defined, transparent and effectively disseminated so that everyone knows what is expected of them?	***Appropriate*** use of technology to accomplish these tasks. ***Establish*** good engagement letters that are available/disseminated to lawyers so that clients are able to understand: • Limits of the relationship. • Billing arrangements. • When payment is due.

Policies & Procedures~

Interruption to Your Business • What do you do when your office is rendered inaccessible for a period of days or months – How would you then go about providing seamless service to clients? • What plans are in place for staffing options and reorganisations if large clients and/or key partners/legal assistants were to depart? • Aside from the obvious income loss, you might also be faced with loss in reputation and having to deal with clients switching to competitors.	***Develop*** robust and practical business continuity management plans that go beyond IT disaster recovery. If you feel unsure of where to start, perhaps it is apt to look into making an investment to hire professional consultants to assist you.

Business Continuity~

Concluding Thoughts~

We have sought to provide some insight in how risk management can be used to position your firm for success as you ride out this economic storm.

To conclude, let's we return to Jamie Dimon to take a look at an excerpt from his recent press release (15 January 2009) relating to J.P. Morgan's fourth quarter 2008 net income:

"We are doing our part to help stabilize the financial markets and hasten recovery. We assumed risk and expended resources to assimilate Bear Stearns and Washington Mutual. We continued to lend in a safe and sound manner… JPMorgan Chase's management team is working diligently to manage through this very difficult business climate, and to position the franchise to benefit when the economy eventually recovers."

Note: J.P. Morgan's Full-Year 2008 Net Income was reported at USD 5.6 billion.