DENTONS LEE

Ten Ways to Prepare for a Potential Recession

Grow | Protect | Operate | Finance

Recently, Korean media has been filled with predictions of a potential recession in 2023. Whether or not a recession occurs, there is little doubt that the economy will be struggling this year and businesses should start planning now to protect themselves from an anticipated economic downturn.

This article will discuss measures your business can take to help survive in the hard times that may be ahead this year.

1.**Take care of your greatest asset – your employees.** As the economy declines, your employees are likely to grow more anxious about their jobs, affecting their ability to do good work. Remember that you are all in this together. Use their talent. Consider getting their ideas on ways to reduce unnecessary costs and improve your business to make it less vulnerable to a faltering economy. Explore options to enable you to retain staff, such as reducing hours, temporary furloughs, finding available government assistance programs. Regardless of what happens, be forthright, provide as much certainty as possible, and manage their expectations.

2. Talk to your customers. In a difficult economy, your customers may be having financial difficulties themselves, or worries about the stability of their supply chains. It's important to reassure your customers as to the reliability of your business to meet their needs. Anticipate that some of your customers may need adjusted payment terms themselves to weather the economic downturn. Think about what adjustments you might be able to make to keep your good customers operating so they can continue buying your goods or services.

3. Get your business documentation in order. When the economy is thriving, businesses may become a bit lax in making sure that all their business documentation is in good order, thinking it is not important. But when the economy declines, that's the time when you may need to utilize that documentation the most. Do you have properly signed contracts? Did you get promised collateral, enforceable and perfected security agreements or signed guarantees for payment of debts? Consider including late fees provisions to reduce the risk of your customers failing to pay their outstanding balances on time.

4. Talk to your key creditors. Just as you may be worried about your customers' ability to remain in business and continue paying you, so will your lenders and other key creditors be having similar concerns. Reaching out to your creditors, showing them that you do intend to pay them and that you have a plan for weathering the economic downturn will help to instill trust and allow for more options. In many cases, payment plans can be negotiated that will enable all parties to have a successful outcome. It's especially important to review your loan documents and pay attention to covenants that must be complied with to avoid a default. If you are going to have difficulty meeting those obligations it is important to let your lender know early to try to adjust them so that you do not default, since a default may bar you from other options. And if you don't have a line of credit now, or if your line of credit is too modest, consider obtaining credit or increasing your line now before you need it.

5. Reduce debt. Interest rates have been on the rise and this is forecast to continue until the 3rd quarter of 2023. This increasing debt burden can take a toll on your cash flow, especially if your sales are declining. Now is a time to reduce debt by paying it off or trying to consolidate it at a lower interest rate. Talk to your advisors about available options.

6. Reduce business expenses. Now is also the time to take stock of your costs and try to reduce them by eliminating unnecessary costs. This requires knowing what your costs are and projecting reasonably accurately what they will be this year. Maintain accurate financial records, prepare and monitor cash flow forecasts carefully, and review your underlying assumptions to ensure that they are realistic. Think about changes that can be made to eliminate or reduce costs without damaging your ability to operate.

7. Know your counterparties. When the economy is sagging, you want to do business with trading partners you can count on – customers that will be able to pay you and suppliers that will be able to deliver as promised. You can't afford to waste resources on those who will not be able to perform. Thus, it is important to conduct appropriate due diligence to allow you to do business with trading partners who have a good track record and financial resilience. Ask for financial information and gain an understanding of how well-placed your suppliers and customers are to continue to do business in tough times. Conduct basic online research on them as well to determine if there are any red-flags that raise concerns about their ability to perform.

8. Get professional advice early. There is an expression that prevention is better than a cure. 예방은 치료약보다 낫다! That is also true when trying to keep your business operating through a recession. Getting proper advice early can save money and prevent having much greater and more expensive problems that may not be fixable later. You should ask for advice early from trusted professionals such as lawyers and accountants to identify the best options for your business if it experiences financial distress, and to take steps in advance to maximize your chances of success.

9. Comply with directors' duties. In Korea, remember that in accordance with Article 382-3 of the Commercial Act, directors have a duty to perform their duties faithfully for the benefit of the company. Failing to take steps to plan for an anticipated recession might be considered unreasonable. Your professional advisors can provide guidance on measures that you may be considering taking and whether those measures are likely to comport with the obligations of directors.

10. Look for new business opportunities. Recessions can create new business opportunities to expand or diversify your products or services to meet changing needs. Think about how your company can leverage its existing resources and experience to create new products or services offerings without significantly increasing your expenses.

For more information about the matters raised in this article, please contact Ghil-Won Jo and Kurt Gerstner at Dentons Lee. Our thanks to James McMillan and David Shillson of Dentons Kensington Swan in New Zealand for their valuable contributions to this article.

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