

A long-exposure photograph of a starry night sky, showing numerous bright white streaks (star trails) against a dark purple and blue background. The trails are curved, suggesting the Earth's rotation. The bottom of the image shows a dark, silhouetted horizon line, possibly of a mountain range or a forest.

# Tough Times Call for Tough Action: A Decision Framework for Nonprofit Leaders & Boards

April 2020

SeaChange

# Executive Summary

- Executive Directors and Boards will need to take decisive action if the nonprofit they lead are to survive the COVID-19 crisis
- We see a set of best practices in the field for making decisions in this environment:
  - 1. Refocus on the mission**
  - 2. Understand Your Type of Organization**
  - 3. Conserve Cash**
  - 4. Resist Magical Thinking, Shorten Time Horizons (i.e. act fast)**
  - 5. Explore Strategic Alternatives (M&A, Divestment, Restructuring, Dissolution)**
  - 6. Understand the Nexus of Mission, Cash, and Control**
  - 7. Get Help**
  - 8. Plan for the Future**

# 1 Refocus on the Mission

- The foundation for all Board and Executive Director decision-making must be: *“What best advances the **long-term** mission of our organization?”*
- Board duty of obedience to the mission
- Mission – what the nonprofit does for its beneficiaries – takes primacy over concern for all other stakeholders
  - May imply the organization hunker down in a minimally viable state
  - May be hard on staff / funders / partners / vendors
  - May require a restructuring or even dignified dissolution

## 2 Understand Organization Type

Organization Type	Hibernators	<ul style="list-style-type: none"><li>o Unable to operate during crisis (don't pretend otherwise)<ul style="list-style-type: none"><li>– Includes arts organizations, after-school providers, etc.</li></ul></li><li>o Must reduce monthly cash burn to a minimum to enable post-crisis restart</li></ul>
	Responders	<ul style="list-style-type: none"><li>o Increased program demand due to COVID-19<ul style="list-style-type: none"><li>– Includes primary health clinics, homeless shelter operators, food pantries, residential facilities for the developmentally disabled, etc.</li></ul></li><li>o Service delivery now more difficult and costly (e.g., due to spend on personal protective equipment for staff); largely government funded with the associated complexities</li></ul>
	Hybrids	<ul style="list-style-type: none"><li>o Most complex situation particularly for multi-services organization</li><li>o Able to operate to some degree, but programs not directly related to COVID-19<ul style="list-style-type: none"><li>– Includes workforce training and development, advocacy, reentry for the formerly incarcerated, etc.</li></ul></li><li>o Service delivery costs may still rise, but staffing levels / structure may need to change</li><li>o Will funders continue to support these organizations or will their priorities shift?</li><li>o Can Hybrids become Responders through adaptation?</li></ul>

### 3 Conserve Cash

Actions	Reduce Expenses	<ul style="list-style-type: none"><li>○ “Zero-based” budgeting can help identify and prioritize necessary spending</li><li>○ Consider staff reductions / layoffs, reduced / deferred compensation for higher-paid staff</li><li>○ Review leases to understand grace periods, ability to tap security deposits, any <i>force majeure</i> clauses allowing for nonpayment<ul style="list-style-type: none"><li>– Avoid paying rent before asking landlord about any rent reduction / deferral programs</li><li>– Consider paying only a portion of rent or withholding entirely</li></ul></li><li>○ Ask lenders for payment deferrals</li><li>○ Turn off any automatic direct debits to ensure all payments are a deliberate choice</li></ul>
	Delay Payments	<ul style="list-style-type: none"><li>○ Vendors for vital, ongoing services may need to be paid; consider nonpayment for others</li><li>○ Require written Board Chair or Treasurer approval for outgoing cash payments above a <i>de minimus</i> threshold</li></ul>
	Accelerate Revenue / Cash	<ul style="list-style-type: none"><li>○ Ask funders / Board members with outstanding grant commitments to accelerate grants / gifts</li><li>○ Ask funders providing restricted grants to loosen restrictions<ul style="list-style-type: none"><li>– If a funder cannot be reached, consider Uniform Prudent Management of Institutional Funds Act (“UPMIFA”) regulations</li></ul></li></ul>
	Explore New Fundraising Opportunities	<ul style="list-style-type: none"><li>○ Proactively examine all possible government and philanthropic initiatives offering grants / loans<ul style="list-style-type: none"><li>– Initiative size / duration may be limited; may also come with restrictions</li></ul></li><li>○ Read the fine print: Programs offering <i>reimbursement</i> may not help with immediate cash flow (unless they can be borrowed against now)</li></ul>

## 4 Resist Magical Thinking & Act Fast

- Leaders under duress can unknowingly suffer from “magical thinking”
- Magical thinking delays action in an environment with no margin for error
- Protect against magical thinking by mapping out scenarios and *pre-committing* to actions
  - For example, if we don’t get PPP by May 1 then we will . . . stop paying rent or discontinue a certain program
- Board Chairs and Executive Directors must deliver a critical message to other Trustees: Time and *money* is more important than ever
  - Active Board involvement can help a nonprofit stay nimble
  - Daily or “no notice” calls to allow for action and governance

## 5 Explore Strategic Alternatives

- A nonprofit's mission, in light of the current crisis, may mean it and / or its programs / assets are best housed elsewhere
- Strategic alternatives include:
  - **Mergers and acquisitions:** Combine with or acquired by another organization, enabling the new / surviving entity to better serve beneficiaries
  - **Divestments:** Spin off a non-core program to another nonprofit able to provide more resources for it
  - **Restructuring:** Renegotiate debt, leases, or other contracts to regain financial viability
- If a nonprofit concludes it cannot survive the crisis, a dignified **dissolution** can minimize harm and may enable the transfer of assets to other nonprofits

## 6 Understand the Nexus of Mission, Cash, and Control

- Leaders must understand nonprofits' legal obligations, opportunities, and pitfalls
  - Know “who can do what to whom” though it may feel too “tough-minded”, “hard-nosed” or “ruthless”
  - Be able to make swift, dispassionate decisions – even if those decisions may upset staff and other stakeholders in the near term
- Key legal obligations / opportunities include:
  - A nonprofit cannot be put into bankruptcy involuntarily by its creditors
  - A lender—if it also holds the deposit accounts—may be able to freeze a nonprofit's accounts for nonpayment, though not accounts at other banks
  - Unpaid payroll taxes expose Board members to joint and several personal liability
  - Gift restrictions cannot be challenged by creditors or vendors, even in bankruptcy court.
    - For example, a grant which says, “Must be held in a separate account and used only for payroll” cannot be used to repay debt or rent
  - A nonprofit that shuts down may be able to cancel some insurance coverage and get a rebate
    - However, nonprofits should reserve the funds to renew critical coverage (e.g., D&O).



## 7 Get Help from Advisors

- Nonprofit executive staff and even Boards may lack restructuring expertise
- Boards must ensure members with relevant skills must ramp up involvement
  - Boards should also tap *pro bono* counsel and consultants to inform decision-making
- If an Executive Director cannot carry out the requisite actions, Boards should consider appointing an interim Chief Restructuring Officer to lead the organization
  - Candidates could be internal (e.g., the CFO) or external (e.g., a consultant)

## 8 Plan for the Future

- Even nonprofits that survive the crisis may still falter later in the aftermath
- Pre-COVID revenue streams and fundraising will may not return
  - City and state budget allocations for nonprofits will experience significant cuts
    - Government agencies may reduce future payments for existing contracts
  - Market declines have hit foundation endowments and reduce the investment income available for nonprofit grants
- Visibility into future revenues is limited
- Nonprofits can respond by:
  - Maintaining an open and regular dialogue with important funders
  - Mapping out scenarios for different revenue streams and pre-commit to requisite actions (e.g., reallocating staff or closing a site)
  - Explore creative fundraising structures, such as a “restart fund” of grants / loans accessible only when the crisis has passed
  - Forecasting cash burn to ensure existing reserves are adequate for a post-crisis restart; put those reserved in a safe place.

The background of the slide is a photograph of a city street, possibly in an urban area, with various buildings and signs. The image is heavily overlaid with a semi-transparent purple color, which serves as a background for the text. The street scene includes storefronts, utility poles, and what appears to be a construction site or a street with debris in the distance.

# Discussion

John MacIntosh

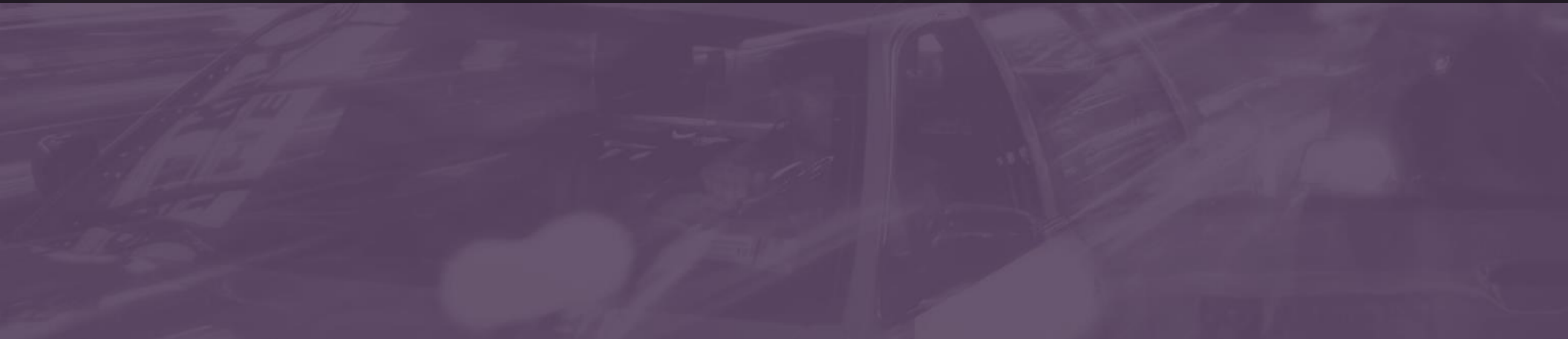
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## Appendix



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# SeaChange Background

## MISSION

Nonprofits are critical, yet the deck is stacked against them—they're under-resourced and have inadequate outside support. We use our experience, financial resources and connections to help nonprofits navigate complex challenges. We create new ways for funders to support them. Together with our nonprofit and funder partners, we relentlessly fight for a healthier and more just society.



## HISTORY & EXPERIENCE

SeaChange was founded as a nonprofit in 2007 in the belief that some of the skills developed in finance, technology, and real estate could, if combined with empathy and humility, help nonprofits facing complex challenges while meeting the needs of funders.

Over time we have expanded into grant-making in support of mergers and sustained collaboration, high-impact lending, and consulting( with a focus on financial analysis, restructuring and distress). We also share the insights from our on-the-ground work with nonprofits. In total, we have been involved in more than 1,000 situations. Our work will evolve in response to the challenges facing nonprofits and needs of funders.



## GUIDING PRINCIPLES

- We are guided by the facts.
- We are professional and level-headed even in challenging and delicate situations.
- We are entrepreneurial in seeking new ways to fight for nonprofits.
- We are creative in drawing upon the best practices of the nonprofit, for-profit, and public sectors.
- We value our independence and financial stability.
- We respect our partners—nonprofit and funder—and one another.
- We strive to do no harm.