

# Business Continuity Plan



Wednesday Wisdom  
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## Business Continuity Plan - Uninterrupted Contract Span

Every [1] business operates in an environment susceptible to various incidents or disruptions that could significantly impact normal operations. Business Continuity Plan (BCP) is a strategic framework designed to ensure the continuity of critical business functions and systems in the event of a disruption particularly crucial for organizations providing essential services.

Business continuity is a recognized need since many years by statutes and states have enacted their respective Essential Services Act. In Maharashtra, the Maharashtra Essential Services Maintenance Act, 2017 is in force which specifies the categorization of essential services and provides for maintenance of such essential services.

BCPs outline the procedures and actions to be taken by business entities to minimize the impact of a crisis and restore normal operations as quickly as possible. In today's dynamic world, it is essential for systems, websites, apps etc. to ensure enough uptime for satisfaction of customers



[1]The article reflects general work of the authors, and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice

## Legal Aspects of Business Continuity Plan

RBI Master Direction- Outsourcing of IT Services (April 10,2023) <sup>2</sup>	SEBI BCP Circular (March 22, 2021) <sup>3</sup> & Modifications Circular (September 12, 2024) <sup>4</sup>	Guidance Note on BCP by NABARD <sup>5</sup>
<ul style="list-style-type: none"> <li>Regulated entities must ensure their service providers have comprehensive BCPs and DRPs to mitigate risks and minimize disruptions.</li> <li>Regular testing of BCPs and DRPs, along with contingency plans for alternative service providers or in-house capabilities, are essential for ensuring business continuity.</li> <li>Service level agreements (SLAs) should include specific provisions related to BCP and DRP requirements to ensure service continuity.</li> </ul>	<ul style="list-style-type: none"> <li>Market Infrastructure Institutions (MIIs) must have comprehensive BCPs and DRPs to maintain data and transaction integrity.</li> <li>Disaster Recovery Sites (DRSs) should be located in different seismic zones or at a minimum distance of 500 kilometers from the Primary Data Center (PDC) to minimize the impact of disasters.</li> <li>MIIs must have sufficient trained staff at their DRSs and conduct regular training programs to enhance preparedness.</li> <li>BCP-DR policies should be reviewed periodically to ensure their effectiveness and to incorporate any necessary changes.</li> </ul>	<p>Key BCP Obligations for Scheduled Entities (SEs):</p> <ul style="list-style-type: none"> <li>Comprehensive BCP: SEs must have a robust Business Continuity Plan covering all critical operations.</li> <li>Risk Assessment and Planning: Conduct thorough Business Impact Analyses (BIAs) and establish Recovery Time Objectives (RTOs) and Recovery Point Objectives (RPOs).</li> <li>Regular Testing and Review: Regularly test and update the BCP.</li> <li>Independent Audit: Undergo regular independent audits of the BCP.</li> </ul>



[2] RBI/2023-24/102 DoS.CO.CSITEG/SEC.1/31.01.015/2023-24


[3] SEBI/HO/MRD1/DTCS/CIR/P/2021/33

[4] SEBI/HO/MRD/TPD/P/CIR/2024/119


[5] EC No. 89/ DoS - 07/ 2024- 10th May 2024

## Essentials of an Effective Business Continuity Plan


It is essential to choose or create a BCP that fits the unique demands of your business. To make business continuity plan more effective following requirements should be framed as obligations to further solidify legal agreements of organisations:



1. Risk Identification and Assessment: The BCP should identify potential risks, such as natural disasters, cyberattacks, or system failures, and assess their potential impact on the business.



2. Business Impact Analysis (BIA): A BIA helps determine the critical business functions and processes that need to be prioritized for recovery. It identifies the potential consequences of disruptions, including financial losses, reputational damage, and legal liabilities.



3. Recovery Strategies and Procedures: The BCP should outline specific recovery strategies, such as data backup and recovery, alternate site operations, and crisis communication plans. Detailed procedures should be developed for each recovery strategy.



4. Testing and Maintenance: Regular testing of the BCP is crucial to ensure its effectiveness. This includes conducting drills and simulations to identify weaknesses and refine recovery procedures. The BCP should be updated regularly to reflect changes in the business environment and emerging threats.



5. Efficacy Monitoring: The BCP's effectiveness should be continuously monitored and evaluated. Key performance indicators (KPIs) can be used to track the BCP's performance and identify areas for improvement. Regular reviews and updates ensure the BCP remains relevant and effective in mitigating risks and ensuring business continuity.

Examples where BCP may be your saviour:

A data-centric company, such as a cloud service provider, can implement a mirror server strategy. By maintaining a real-time, synchronized copy of critical data on a separate server, the company can minimize downtime and data loss in the event of a server failure or cyberattack. Regular testing of the mirror server ensures its reliability and effectiveness.

Service-oriented companies such as e-commerce companies, banks, insurance companies etc. can establish a remote work capability, enabling employees to work from home or alternate locations during a disaster. By conducting regular drills and simulations, such companies can assess the effectiveness of its remote work procedures and identify any potential bottlenecks.



## **Cases related to BCP from Indian and International Perspective:**

### **A. Indian Perspective- Matter of Inspection: XYZ Inc Ltd.[6]**

XYZ Inc Limited, a Registrar to an Issue & Share Transfer Agent, faced regulatory action from SEBI due to various violations, including a significant lapse in its Business Continuity Plan (BCP). During an inspection, SEBI found that the company had failed to maintain a disaster recovery site and provide necessary documentation. This was one of the many non-compliances on part of XYZ Inc as identified in this order. Considering such non-compliances, SEBI imposed a penalty of Rs. 10 lakhs on the company. This action underscores the importance of robust BCPs for financial institutions to ensure operational resilience and protect investor interests.

### **B. International Perspective- Enforcement Action by Central Bank of Ireland on The Governor and Company of Bank of Ireland[7]**

The Central Bank of Ireland (CBI) imposed a substantial € 24.5 million fine on the Bank of Ireland (BOI) for shortcomings in its IT service continuity framework. The CBI's investigation revealed that the bank had failed to establish and maintain robust systems to ensure business continuity in the event of IT disruptions. Key findings from the investigation include the absence of a comprehensive Business Continuity Plan (BCP) to address potential IT failures and their impact on critical business operations. Additionally, the bank's internal controls were found to be inadequate, hindering its ability to identify, assess, and mitigate risks related to IT service continuity. Despite repeated warnings and identified deficiencies, the bank's slow response further compromised its resilience. CBI's action underscores the critical importance of a well-defined and regularly tested BCP for financial institutions. Neglecting a robust BCP can expose organizations to significant operational risks, financial losses, and reputational damage.

### **A stitch in time saves nine!**

In today's volatile business landscape, a well-structured BCP is not just a compliance requirement but a strategic imperative. By prioritizing business continuity, organizations can safeguard their operations, protect their reputation, and emerge stronger from even the most severe disruptions. Don't let a crisis catch you off guard, use business continuity plan as your trump card!

[6] XYZ Inc is mentioned, so as to not disclose the actual name of the company for confidentiality purpose.

[7] [Public statement relating to Enforcement Action against the Governor and Company of the Bank of Ireland](#)

For any feedback or response on this article, the authors can be reached on [atharva.amdekar@ynzgroup.co.in](mailto:atharva.amdekar@ynzgroup.co.in) and [gauri.joshi@ynzgroup.co.in](mailto:gauri.joshi@ynzgroup.co.in)



**Author : Atharva Amdekar**

Atharva is an associate at YNZ Legal. By qualification he is Bachelor of Commerce and Bachelor of Law from Mumbai University

**Co - Author : Gauri Joshi**

Gauri is an Associate at YNZ Legal. By Qualification she is Bachelor of Commerce from Mumbai University and Bachelor of Law from SNDT University

