

Newsletter

COVID-19 TIPS ON MANAGING FORCE MAJEURE EVENTS

Due to the impact of the Covid-19 situation on many businesses across the globe there are many parties to contracts seeking to invoke force majeure clauses. Whether the circumstances caused by Covid-19 are considered to be force majeure events should be determined on a case-by-case basis. The purpose of this newsletter is to flag some key practical issues for consideration.

1) Review wording of the current contract

As discussed in our newsletters regarding the applicability of force majeure in Thailand (see [newsletter](#)), the force majeure clause in question plays a crucial role in determining if Covid-19 and/or any related government order in response to Covid-19 can be considered as a force majeure event. If an "epidemic" and/or "pandemic" are listed as examples of force majeure events, a party to the contract is more likely to succeed in claiming that Covid-19 is a force majeure event.

2) Carefully analyze the impact on each obligation under the contract

The impact of Covid-19 and/or any government order on the ability of a party to perform each specific obligation under the contract need to be analyzed. This analysis is very context specific and is a question of fact.

3) Compliance with notice requirements

Notice requirements should be strictly complied with if a claim for a force majeure event is to be made.

4) Acting in good faith

Consistently acting in good faith before invoking force majeure including proper expectation management and communication with the counter parties could help to soften the negotiations and to maintain a good relationship among the parties.

This is one of a series of briefings to keep you informed during the Covid-19 situation. If you require any advice in relation to the issues raised, please contact the authors listed in the right hand column.

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