Dispute Resolution

Temporary Relief for Breach of Contract under the New COVID-19 Bill

1. The new COVID-19 (Temporary Measures) Bill ("**COVID Bill**") will be introduced in Parliament next week and is anticipated to be passed into law shortly after.

2. As the title suggests, the COVID Bill is intended to provide targeted and temporary relief for parties that due to the ongoing COVID-19 pandemic, find themselves unable to perform obligations under certain scheduled contracts – including contracts to which the government is a party.

Scheduled Contracts

3. The scheduled contracts are:

   - Secured loans from a bank or finance company that are (a) made to a local SME; and (b) secured against non-residential property in Singapore, or against any plant, machinery or fixed asset used for business purposes. (A local SME is defined as being at least 30% owned by Singaporean residents (including PRs) with turnover not exceeding $100 million for the last financial year);
   - Any hire purchase agreement for a commercial vehicle or any plant, machinery or fixed asset used for business purposes;
   - Leases or licences for non-residential immovable property;
   - Construction or supply contracts;
   - Contracts for the provision of goods and services for events such as weddings and conventions; and
   - Tourism contracts such as cruises, hotel accommodation bookings.

4. The list of scheduled contracts can be varied by the Minister.

Six-month Moratorium

5. A debtor under any of these contracts may issue a notification for relief if he finds that an obligation due on or after 1 February 2020 cannot be carried out due to the COVID-19 pandemic. Upon which, for a period of six months (which can be extended or shortened), the COVID Bill will prohibit creditors from taking any of the following actions:

   - Court, domestic arbitration, and insolvency proceedings, as well as execution proceedings against the debtor's property;

- Enforcement of security against immovable property or movable property used for business purposes;
- Appointing a receiver and manager over the debtor's property;
- Calling on a performance bond given for a construction or supply contract;
- Terminating a lease or license over immovable property due to non-payment of rent;
- Exercising any right of re-entry or forfeiture under a lease or license over immovable property.

6. In addition, any guarantor or surety of the debtor will enjoy the same protection.

7. Additionally, any liquidated damages for construction and supply contracts may be disregarded for so long as the debtor is prevented by the COVID-19 pandemic from performing his obligations; and such inability will also provide a substantive defence to any subsequent claim for breach.

8. Finally, parties to event and tourism contracts may enjoy relief from forfeiture of deposits once a notification for relief is served, unless the forfeiture is just and reasonable.

9. As the moratorium period essentially suspends the taking of Court or arbitration proceedings, the COVID Bill also provides for an extension of any applicable limitation period for the period of the moratorium. However, any breach of the moratorium may result in criminal penalties of a fine of up to $1,000.

New Panel of Assessors

10. The COVID Bill also introduces a new role of assessors, appointed by the Minister. The Assessor's role is to summarily determine whether a notification for relief has been properly made, or whether it is just and equitable that a deposit given for an event contract should be forfeited. It is intended to be a quick summary procedure; parties will not be permitted representation by lawyers and no costs orders will be made. The Assessor's decisions are intended to be final and cannot be appealed.

Temporary Amendments to Existing Insolvency Legislation

11. Finally, the COVID Bill will also temporarily amend the existing bankruptcy and insolvency legislation to:

- Increase the debt thresholds for bankruptcy and insolvency from $15,000 to $60,000 and $10,000 to $100,000 respectively; and
- Increase the time period to respond 4to statutory demands from creditors from 21 days to six months.

12. The COVID Bill also provides relief for directors from insolvent trading, so long as the debts are incurred in the ordinary course of business.

13. The COVID Bill is only intended to be in effect for one year. Given the unprecedented nature of the relief offered, and the fact that it is being urgently passed into legislation, it is anticipated that its impact and effects will be closely reviewed by the Ministry through this period, and tweaks and amendments are likely so as to finetune the legislation through experience.

For more articles and updates from our teams across the region on COVID-19 and related legal issues, please visit Rajah & Tann Asia's COVID-19 Resource Centre.

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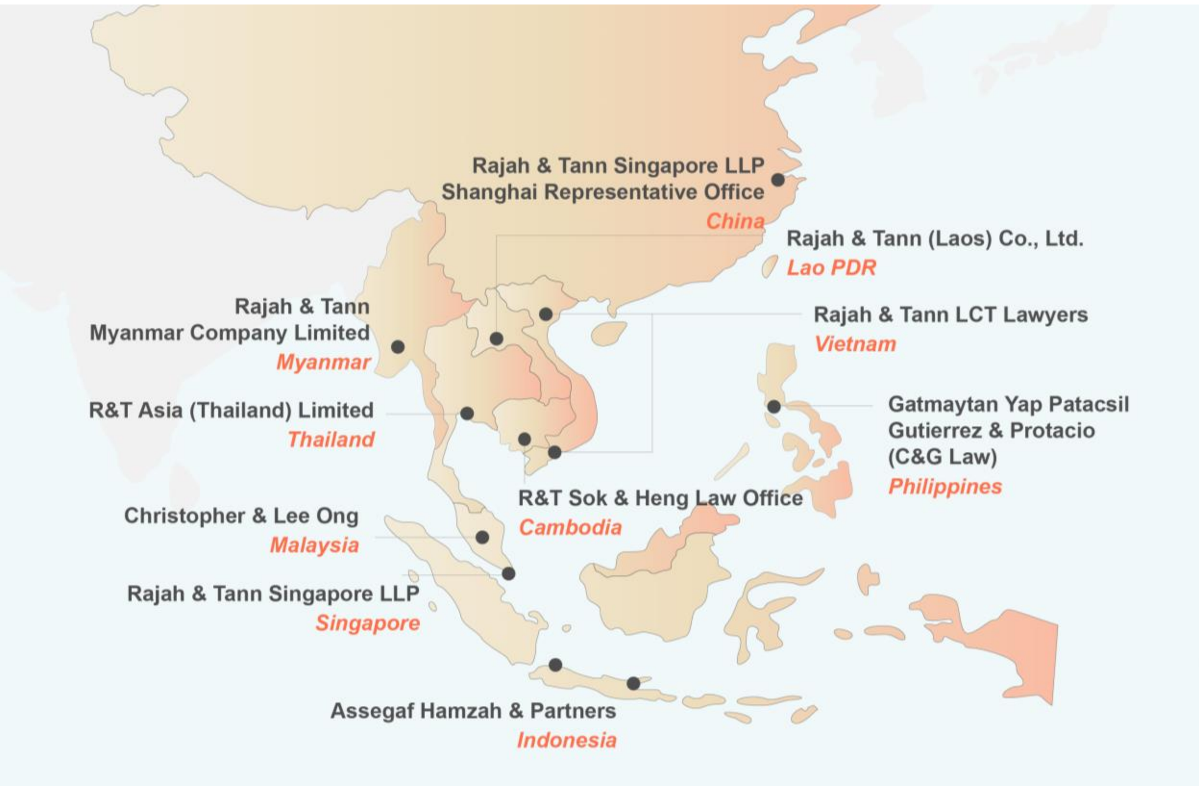

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