GIBSON DUNN

April 6, 2020

COVID-19: KEY ISSUES FOR PRIVATE CREDIT AND SPECIAL SITUATION INVESTORS IN ASIA-PACIFIC

To Our Clients and Friends:

Each economic downturn creates opportunities and challenges in the credit markets for private credit and special situation investors, and this is especially true in the Asia-Pacific region today as it was impacted by the COVID-19 virus much sooner than the rest of the world.

The opportunity arises from the fact that lending in Asia-Pacific has historically been driven, to a large extent, by banks and, as borrowers' revenues plunge, a significant number of them will have to look to private credit to refinance their existing amortising bank debt. The ability of private credit investors to deliver greater flexibility than typically seen with financings from banks, with bespoke solutions including non-amortising, PIK or pay-if-you-can financings, will be a huge differentiator. Additionally, the amount of defaulted debt in the market is likely to increase dramatically, providing opportunities for investors to make returns through a variety of strategies including loan-to-own, debt-for-equity swaps, negotiated distressed sales (no formal insolvency process), negotiated sales through a pre-packaged insolvency procedure and purchases out of an insolvency process.

Of course, the challenge stems from the exact same circumstances, namely, that the virus has had (and will continue to have for some time) a dramatic adverse impact on the creditworthiness and viability of many existing portfolio companies of private credit investors. Addressing this challenge requires a thoughtful and thorough top-down review of each company's situation in terms of its business performance, obligations under its financing agreements and options for moving forward.

Key areas on which private credit investors should focus are as follows:

I. Information

Knowledge is indeed power when it comes to distressed borrowers, and all private credit investors should be engaged in a dialogue with their portfolio companies to understand (as fully as they can) the impact of the virus on each company, its business, financial condition and prospects and the mitigation actions being taken. Many borrowers will willingly engage with their lenders and provide this information after an informal conversation. There will, however, be some which do not want to provide such information, particularly while management is still assessing its options.

Information Checklist

The facility agreement will typically require the borrower to provide:

- financial statements;
- a budget;
- presentations by senior management;
- copies of documents dispatched to the shareholders or creditors of any group company;
- details of material litigation, judgements and any termination events occurring under any material contracts;
- information regarding the security and compliance with the security documents; and
- such other information regarding the financial condition, assets and operations of the group as well as any amplification or explanation of any item in the financial statements, budgets or other material provided by any obligor.

Additionally, if a default is continuing (sometimes this standard is an event of default), the facility agreement will typically require the borrower:

i. to permit the agent and/or security agent and/or accountants or other professional advisors free access at all reasonable times and on reasonable notice at the risk and cost of the Obligor or Company to the premises, assets, books, accounts and records of each member of the Group; and

ii. to allow the lender or their agent(s) to meet and discuss matters with senior management.

If the borrower is not forthcoming the lender should make a formal request for information under these provisions (through the agent where relevant).

Outside of an event of default, borrowers will typically seek to materially comply with these provisions to avoid triggering an event of default. However, where an event of default is continuing and unwaived, the borrower may feel less compelled to comply as the consequence of failing to do so is just another event of default. Therefore, the relationship between lender and borrower is important in this regard.

Understanding the issues facing the borrower over the next 12+ months is critical.

Fundamental checklist of questions for borrowers include:

- Are they facing liquidity issues?
- Critically, can they pay their debts as they fall due?
- Are there undrawn committed facilities in place and will these be available?
- Can they service the debt, including interest?
- Are they projecting breaches of financial covenants and if so, which ones and when?
- If they have equity cure rights, do they intend to exercise them?
- Are they subject to or anticipating material litigation arising from the impact of the virus for breaches of contract or the exercise of a termination right of a material contract?
- Do they have material claims to make against suppliers, which failed to deliver, that may help mitigate?
- Do they have an impending maturity with few if any refinancing options?
- Are any insolvency-related issues likely to arise?

To further flush this information out, the facility agreement also typically requires the borrower to promptly, upon request, deliver to the agent a certificate signed by two of its directors certifying that no default is continuing (or if a default is continuing, what steps, if any, are being taken to remedy it).

While there is also an obligation on the borrower to proactively notify the agent of any default (or sometimes event of default) promptly upon becoming aware of its occurrence, management will have some discretion in making this determination and may take the position that there is no default, or at least there's a defensible position that is the case. However, if two directors are required to certify that there is no default, the potential liability for fraud may concentrate the minds of directors in determining whether the issue at hand amounts to a default. Again, in some circumstances the borrower may feel less inclined to comply with such request if an event of default is continuing and unwaived.

II. Liquidity

There are five principal ways of increasing term liquidity outside of improved business performance:

i. stretching creditors through payment deferrals – this approach typically is likely to be only a very short-term fix;

ii. raising new equity (often shareholders will want to negotiate a holistic solution with the lender before committing to inject new funds even if there are permissive equity cure rights);

iii. cost cutting;

iv. selling assets; and/or

v. drawdown existing facilities (notwithstanding the increased interest cost of doing so) and/or incurring new debt.

With respect to payment deferrals, in addition to deferrals to trade creditors, we are seeing borrowers selecting the maximum length of interest periods and requesting amendments to change cash pay interest to payment in kind (or deferred interest that accrues but is not capitalised). Where there is amortising debt, we are also seeing borrowers requesting relief from repayment obligations. Similarly, some borrowers are concerned that their accountants will not be able to complete the audit in the time specified in the facilities agreement for delivery of audited financial statements, which in turn may impact the ability to calculate excess cashflow and make any required mandatory prepayment from such excess cashflow within the prescribed time. In such cases, borrowers are also seeking relief of such mandatory prepayments from excess cashflow (a number of borrowers that do not have an issue with the timing or calculation of excess cashflow but project liquidity issues arising from COVID-19 are also seeking relief from such mandatory prepayment obligations).

In the context of incurring additional debt, check to see if the facility agreement has undrawn committed facilities. If so, the question of whether a default is continuing is extremely pertinent as the lender can refuse to fund new advances if a default is continuing or the repeating representations are not true (sometimes qualified by materiality). Where a default is continuing, the lenders will then be faced with a judgement as to whether the borrower will meaningfully benefit from additional liquidity or if it is preferable to simply refuse to fund.

In the case of incremental or accordion facilities (and in a minority of deals, other baskets of permitted indebtedness which can benefit from *pari passu* security), whether lenders are prepared to commit to funding will be very fact and circumstance specific. Outside of this, the scope for the borrower to incur additional debt in most traditional facilities in Asia-Pacific is very limited (even more so where such debt is to be secured, even on a junior basis). An exception to this might be in the context of non-recourse receivables financing, but this will be subject to a cap. The borrower may also consider selling material assets (including by sale and leaseback), but subject to some de-minimis thresholds, the proceeds from any such sale will be subject to mandatory prepayment requirements and so may have limited value from a liquidity perspective absent a waiver.

III. Fatal Flaw Review

Most prudent lenders, faced with an extremely volatile economic environment as we have today, will be looking to conduct what are known as "fatal flaw reviews" of the financing documents of potentially defaulting borrowers. Parties may wish to avoid a default from occurring by anticipating in advance what potential defaults there may be. The fatal flaw report will identify the scope, ranking and effectiveness of the guarantee and security package and identify deficiencies and other issues.

Fatal flaw report will report on, among other things:

- material risks that the guarantees and security may not be valid, may not have the ranking originally contemplated, may be subject to challenge or may have timing constraints to their enforcement (especially in some jurisdictions where for example some kind of court order or auction process is required prior to enforcement/sale of secured assets);
- assets of the group which are not subject to valid and effective security;
- immediate steps that the lender can take to perfect unperfected security interests and otherwise improve its position with respect to the guarantees and security;
- whether there is an ability to appoint a receiver and control any restructuring process (in a worst case scenario); and
- an enforcement roadmap.

These reports will also identify strengths and weaknesses in the intercreditor agreement where relevant which impact negotiating leverage. In addition, the reports may extend wider and report on potentially troublesome drafting in the facility agreement which could provide arguments for the borrower to push back on the lender's exercise of its rights so that the lender fully understands its position.

A fatal flaw review will typically be conducted by counsel who did not work on the original transaction on the basis that "a fresh set of eyes is better" and they may be more likely to candidly identify drafting or other issues and flag them.

Lenders should ideally conduct the fatal flaw review ahead of a default. Borrowers are subject to further assurance provisions which lenders can rely on to the extent they require cooperation from the borrower and failure to comply by the borrower will trigger a default. However, once an event of default is continuing and unwaived, some borrowers will be reluctant to cooperate with the lender to improve the lender's position with respect to enforcement as they will see this as reducing their negotiating leverage.

By failing to comply, they are merely adding an additional event of default but not increasing the lender's right to take action. Additionally, conducting the review ahead of a default enables the lender to consider addressing the identified issues in any waiver, amendment or standstill which may be requested by the borrower.

IV. Key Provisions to Check for Defaults and Events of Default

Hand in hand with preparing a comprehensive fatal flaw review, understanding whether a default or event of default is continuing is obviously imperative from the lender's perspective. The representations and warranties, information undertakings (discussed above), financial covenants, positive and negative undertakings, material contracts, taxes and the events of default themselves need to be examined.

A. Representations and Warranties

The representations and warranties in a facility agreement serve two primary purposes:

i. to flush out information regarding the portfolio company where the consequence of a breach is an event of default; and

ii. to serve as a drawstop on new utilisations of the facilities.

A number of typical representations and warranties should be given consideration in the context of COVID-19 (there may also be other deal-specific representations which need to be reviewed).

First, consider the second limb of the "No Default" representation, which is a look forward to defaults or termination events under other agreements (not the finance documents) and is typically subject to a "Material Adverse Effect" qualification. This representation could be relevant where a company's performance under a "material contract" is adversely affected by COVID-19 or a counterparty breaches such a contract. In addition, where a company has contracts which would reach this threshold of materiality, there is often an additional "Material Contracts" representation which should be reviewed.

Second, some facilities in Asia-Pacific contain the material adverse change representation which is included in the Loan Market Association's leveraged standard form. It provides that "*Since the date of the most recent financial statements delivered pursuant to Clause 25.1 (Financial statements) there has been no material adverse change in the assets, business or financial condition of the Parent or the [Restricted] Group [or the Group]*." It should be noted that this representation does not relate to the performance of the business since the closing of the loan facility, but rather since the date of the most recent financial statements. Clearly the impact of COVID-19 virus will represent a material adverse change in the business and/or financial condition of many borrowers since the date of their most recently delivered financial statements. Equally importantly, the term "material adverse change" is not the negotiated, defined "Material Adverse Effect" standard but is a looser term. This representation could therefore potentially be triggered even where the borrower is projecting compliance with its financial covenants.

Third, the "No Proceedings" representations which relate to litigation and judgments should be reviewed. Invariably, some companies will be subject to litigation resulting from their failure to perform under their contracts, and it is likely that many parties will assert that COVID-19 is a force majeure event such that noncompliance with their contractual obligations was beyond their control and not actionable as a breach of contract. All of this could result in many businesses becoming tangled in complex and protracted litigation even when they intended to fulfill their obligations.

It is also recommended to look at the "Insolvency" representation. This representation is linked to the insolvency-related events of default and discussed below.

It should be noted that many of the representations repeat automatically and are deemed to be made on each interest payment date, the date of each utilisation request and the date of each utilisation.

B. Financial Covenants and Rating Requirements

Financial covenants often appear to be one of the easier items to be reviewed as one expects that a breach would be clearly shown in the calculations and confirmed in the compliance certificate. However, this is not always the case. In fact, it is not uncommon that borrowers calculate covenants without carefully ensuring conformity with the relevant definitions. Additionally, borrowers may take an aggressive interpretation of certain addbacks which may be contemplated. For example, we have heard reports of some borrowers contemplating adjusting EBITDA for both costs and losses arising from COVID-19. Similarly, there are some reports of borrowers contemplating including the impact of COVID-19 as an “exceptional item”. The financial statements (which should be prepared in accordance with the accounting principles as applied to the original financial statements provided at the time the facility agreement was entered into) and compliance certificate therefore warrant additional scrutiny. Also, as mentioned above, the borrower can be required to provide further amplifications and explanations if the situation demands it.

If a financial covenant breach is likely to occur, or has occurred, it is also important to understand whether the shareholder has any rights to cure the breach. If there is such a right, careful consideration needs to be given to the parameters of the equity cure provisions which typically, but not always, apply to all of the covenants.

For example, can the cure be used preemptively and subsequently be designated as a cure amount? Some shareholders will opt to provide the equity cure at the same time they deliver the compliance certificate so that they are effectively never in breach. However, others will use the additional 15-20 business-day grace period typically provided. For those who wait, the next question is whether a default continues during that cure period.

Other key questions to analyse in the context of an equity cure are the following:

- How is the cure actually implemented? Under many facilities in the Asia-Pacific region, sponsors are able to add cure amounts to EBITDA which obviously brings with it a multiplier effect, as opposed to being required to use such amount to make an actual prepayment to reduce debt (which is typically the case in Australia, outside of Term Loan Bs, for example). Similarly, where adding the cure amount to EBITDA is not permitted, under some facility agreements such cash is allowed to be retained by the portfolio company (thereby reducing net debt to the extent it remains in the company, rather than being required to be prepaid). Also, where a prepayment of the cure amount is required, the facility agreement may not obligate the company to use 100% of the cure amount for this purpose.

- What are the limits on the cure? For example, how many cures are permitted over the life of the facilities (typically 4-5)? Are over-cures permitted (often they are)? Are cures permitted in successive quarters? Where the cure amount is applied to EBITDA, does this carry over for the next three financial quarters (almost always it does)?

- Is there a mulligan? The true "mulligan" – taken from the golfing world – provides that an initial breach of the financial covenants is not a default unless the same test is breached on the subsequent test date. In the Asia-Pacific region, true mulligans are fairly rare. It is common, however, to see a deemed cure which provides that where there is an initial breach, it is deemed to have been remedied if the borrower is in compliance on the subsequent test date and the lenders have not accelerated the loans. In this scenario, where there is a projected single-quarter blip in performance, some borrowers might look to the lender syndicate to see if they have relationship lenders with blocking stakes (typically 33.35% or more in the Asia-Pacific region) which agree to prevent an acceleration event from occurring, but more often borrowers in this situation will seek a waiver or a covenant reset.

Finally, check if there are any rating requirements in the agreement as a number of borrowers have been, or will be, downgraded in the current climate.

C. Undertakings

The information undertakings have largely been covered above. However, it is worth considering the impact of COVID-19 on the ability of borrowers to deliver their audited financial statements in a timely manner. The degree to which this is a problem will obviously be affected by the timing of the end of the financial year for the relevant group together with the ability of the auditors to complete their work in light of the current restrictions.

Also, remember to bear in mind the impact of any unforeseen non-business days being declared in connection with a national state of emergency right now when determining the timing of any deliverables. In addition, notice and grace periods are typically defined by reference to business days.

Finally, if the borrower is listed on any stock exchange, check to see if there are any new emergency measures in place to assist with the difficulties of publishing timely results and dispatching annual reports. Note that such measures should not affect a lender's contractual rights under a loan agreement, but this is an additional consideration in the current climate and this may be a sensible time generally to consider re-examining time frames with the borrower for delivery of financial statements, professional or technical reports or certificates to avoid the need to seek ongoing waivers on an ad hoc basis.

D. Material Contracts

Not all groups have material contracts, but where they do, often they will be subject to a specific undertaking within the facility agreement. Where relevant, this undertaking needs to be carefully considered as the threshold for a breach of this undertaking varies significantly from transaction to transaction. In addition, the latest country-specific emergency measures being implemented may need to be assessed if there is a potential breach of contract with a causal link to the virus.

E. Payment of Taxes

We have heard reports of companies planning to defer payments of taxes, even where the applicable deadlines prescribed by law have not been extended. This approach needs to be considered on a deal-by-deal basis to determine whether a breach will occur as a result of such delay when the amount is not in dispute. However, conserving cash in the business in the expectation of the relevant governments providing additional time for tax payments may well be viewed positively by a lender in the current environment.

F. Events of Default

1. Insolvency/Insolvency Proceedings/Creditors Process

These events of default speak for themselves and are unlikely to be the first breach of the facilities for a company. However, they warrant consideration and attention because, among other things, the threshold for insolvency varies from jurisdiction to jurisdiction as do the duties of the directors.

The Asia Pacific Loan Marketing Association (APLMA) formulation of the "insolvency" event of default comprises several trigger events, where the materialisation of just one (naturally, the lowest common denominator) sounds the alarm, including a balance sheet insolvency test, i.e., that assets are less than actual and contingent liabilities. This calculation is usually on an individual-company (rather than consolidated) basis, meaning just one company within a corporate group could trigger a default.

2. Cessation of Business

This event of default in its widest form includes any member of the group suspending or ceasing to carry on (or threatening to suspend or cease to carry on) all or a material part of its business. However, it is frequently negotiated to apply to the group taken as a whole actually ceasing to carry on all or substantially all of its business, which clearly limits its usefulness significantly.

3. Audit Qualification

Often in facilities in the Asia-Pacific region, an event of default occurs if the auditors qualify their report either on a going-concern basis or owing to a failure to disclose information. In the aftermath of the last financial crisis, there was much debate around whether a projected breach of a financial covenant which is noted in the auditors' report amounts to a qualification – thus causing an event of default ahead of any actual breach of covenant. In most cases, the conclusion was that for a simple projected financial covenant default, the auditors do not "qualify" their report but include an "emphasis of matter". The emphasis of matter is a paragraph, which highlights a matter that in the auditor's opinion is of fundamental importance to a reader's understanding of the financial report but which falls short of the technical standard of an auditor qualification. However, although this has been the general conclusion in the case of projected breaches, it should be confirmed on a case-by-case basis with the relevant professionals in the local jurisdiction.

4. Litigation & Material Judgments

As discussed above, the impact of COVID-19 will inevitably be the cause of some contractual breaches, which will result in litigation and judgments, and therefore needs to be considered here.

5. Material Adverse Effect

Loan facilities in the Asia-Pacific region often have a catchall material adverse effect event of default (MAC clause). It is intended to catch unforeseen risks after signing. This entire provision needs to be considered carefully as it is often highly negotiated. At one end of the spectrum it can be a highly subjective standard of whether a material adverse effect has occurred or is reasonably likely (in the reasonable opinion of the majority lenders) in the context of a very wide definition including the "prospects" of any group company or the ability of any company to perform any of its obligations under the financing documents. At the other end of the spectrum it can be a completely objective standard where the material adverse effect relates only to the ability of the obligors (taken as a whole) to perform their payment obligations under the financing documents and must have actually occurred. There is relatively little precedent case law on enforcing MAC clauses in finance documents (and such cases tend to be very fact specific) and it is generally accepted that there is a high barrier for successfully using a MAC clause.

After an event of default has occurred

In typical facilities in the Asia-Pacific region, the occurrence of an event of default which is continuing and unwaived typically gives rise to the following:

- right of the majority lenders – typically 66.66% of the total commitments – to take any actions under the acceleration provisions, including cancelling all commitments, making all obligations under the financing immediately due and payable or placing them on demand and exercising any rights, remedies or powers under any of the finance documents or instructing the security trustee to do so;

- where there is a margin ratchet, this usually is adjusted to the highest step on the ratchet for so long as the event of default is continuing;

- where there is any payment default, default interest will become payable (typically on the overdue amount only);

- where there are undrawn commitments, this will be a drawstop event entitling the lenders to refuse to fund – this may also apply to rollover loans under the revolving facility though sometimes the drawstop threshold for this is set at acceleration event;

- where the borrower has consent rights to assignments, transfers and voting subparticipations (or similar), these typically fall away on an event of default (sometimes limited to payment and insolvency related events of default – and often any restriction on transfers to competitors of the borrower survive); and

- a default could cause a domino effect of cross-default under other agreements.

V. Reservation of Rights

Where a lender becomes aware of an event of default, unless it has already decided to take actions to accelerate the debt and enforce its security, one of the first steps it will usually take is to send a "reservation of rights" letter to the borrower.

Lenders should be aware, however, that such a letter does not necessarily do what it says on the tin. In other words, the statements and actions of the lender may override such reservation of rights letter and waive such rights through promissory estoppel or waiver by election. Similarly, although almost all facilities agreements contain a "no waiver" clause, English caselaw provides that these clauses may be defeated and overridden by promissory estoppel or waiver by election. Even where the agreement requires any waiver to be in writing, courts may infer a waiver by words or actions. Lenders therefore must proceed with caution in this regard to ensure they do not inadvertently waive any rights.

VI. Waiver Requests

For a borrower with a projected one-off financial covenant or other breach, it may seek a simple waiver of that breach. The level of lender consent required can range from majority (typically 66.66%), super-majority (typically 75-90%) in the Asia Pacific region or all lender consent, depending on the nature of the waiver request. Items such as a waiver of a financial covenant breach will typically require majority lender consent.

When considering waiver requests, lenders should consider whether the waiver should be conditional and, if so, what conditions should apply – this is necessarily fact specific. In addition to a waiver fee, commonly seen conditions include:

i. enhanced reporting obligations including additional financial information and delivery of expert reports by a specified date;

ii. addressing any issues raised in the fatal flaw review, including regarding perfection of security and taking additional guarantees and security;

iii. if the borrower has promised to take certain actions (for example to reduce costs), a condition that such actions are taken within a prescribed time period;

iv. unless it is a permanent waiver of a provision, the date on which the waiver will cease to apply and the provision will become effective again; and

v. in some jurisdictions, a solvency certificate. Additionally, the lender may include some of the conditions to amendments referred to below. Further, in all relevant cases lenders should ensure that other financial creditors have waived their rights arising from the issue at hand (including through a cross-default) to ensure that the lender has not waived its rights at a time when other financial creditors have not also waived their rights – this applies equally to amendments.

VII. Amendments

Where a borrower encounters an issue, which it sees as a longer term issue, it may seek an amendment to the financing documents. Like a waiver, the relevant lender consent threshold will be dependent on the nature of the waiver request. The conditions applicable to the amendment will be fact specific and, in addition to those mentioned in the waiver section above and an amendment fee, may include, among others, additional restrictions/prohibitions on undertakings governing mergers, acquisitions, joint ventures, disposals, loans or credit, financial indebtedness, a negative pledge, no guarantees or indemnities, limited or no dividends and share redemption (or other cash out such as vendor loans or other debt structurally or contractually subordinated), and cash management.

Similarly, if there are specific actions that the group has said it plans to take (or has agreed to take), such as non-core asset, company or business disposals or the implementation of a restructuring plan, further covenants around these (with appropriate deadlines for milestones to be achieved) should be considered. Also, in the context of resetting financial covenants, lenders should take particular care around the definitions to ensure that only addbacks which remain appropriate in the circumstances remain, so that a more accurate reflection of the financial health of the group can be measured through the financial covenants.

VIII. Standstill/Forbearance

In circumstances where an event of default is continuing and a restructuring is being contemplated, it is common for the financial creditors of the group to enter into a standstill or forbearance agreement. Standstill or forbearance agreements are bespoke agreements under which the financial creditors of the group agree to "freeze their rights" for a short period of time (typically between one and three months) and maintain their Day 1 positions by keeping their debt at drawn level (or otherwise be treated equally with respect to repayments).

There are a vast number of considerations when negotiating standstill/forbearance agreements which due to their bespoke nature are beyond the scope of this article. However, key points include:

i. all creditors should be treated equally under the agreement and share the risks and, where there are shortfalls, the costs;

ii. all financial creditors should be included and bound by the agreement and there should be restrictions on transfers of debt unless the transferee agrees to be bound by the terms of the standstill/forbearance agreement;

iii. Day 1 positions should be maintained;

iv. suspension of rights such as acceleration, demand enforcement of any of the debt or security (including crystallisation of floating charges), exercise any rights of attachment or set off, sue or commence litigation in respect of the debt, petition for the insolvency of any obligor etc. (but note that the defaults are not waived, but the rights arising from the default are suspended for the standstill period);

v. maintenance of credit lines and replacement loans for maturing contingent obligations;

vi. "new money" priority and economic terms;

vii. covenants (very bespoke and including delivery of professionals' reports (such as accountants) and additional financial information within a specified timeframe and deadlines for other key milestones) by each obligor;

viii. costs and expenses to be paid by the obligors; and

ix. confirmation of guarantees and security.

IX. Syndicated and Club Facilities

In financings with multiple lenders it will be critical to understand the composition of the lender group, what their stakes are (do they have blocking or majority lender stakes) and what their respective interests and objectives are as they may not be aligned (for example, they may have purchased the debt at a different price, have hedging obligations which are significantly in or out of the money or have debt in another level of the capital structure).

Also, in terms of different interests, it will be critical to understand whether there are disenfranchisement provisions for lenders which are within the group (or shareholders or affiliates of the group), as otherwise there could be a risk of such persons acquiring a blocking stake which would prevent the lenders taking many actions including acceleration which typically requires majority lender consent.

How We Can Help

Reviewing facility agreements and the guarantee and security package and conducting an in-depth analysis of the current and future impact of COVID-19 on your borrowing groups are necessarily complex tasks, and there is no one-size-fits-all answer. Each case will need to be examined based on the particular facts and the specific drafting of the finance documents. Gibson Dunn's global finance team is available to answer your questions and assist in evaluating your finance documents to identify any potential issues and work with you on the best strategy to address them.

Gibson Dunn's lawyers are available to assist with any questions you may have regarding developments related to the COVID-19 pandemic. For additional information, please contact any member of the firm's Coronavirus (COVID-19) Response Team, the Gibson Dunn lawyer with whom you usually work in the firm's Global Finance practice group, or the authors:

Michael Nicklin – Hong Kong (+852 2214 3809, mnicklin@gibsondunn.com)
Jamie Thomas – Singapore (+65 6507.3609, jthomas@gibsondunn.com)