

# Unpacking *Force Majeure* Contract Clauses and Supply-Chain Disruptions

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## Introduction

For more than 18 months, the COVID-19 pandemic has disrupted global supply chains across all industries. Notwithstanding improving outlooks, the pandemic continues to be viewed as a significant risk to growth with recent surveys showing a majority of reporting companies continue to experience supply chain disruption.<sup>1</sup> In June, the Biden administration announced initiatives to bolster America's supply chains, with six industrial sector reports due by February 2022.

In addition to supply shortages, companies are dealing with supplier efforts to invoke *force majeure* contract provisions to avoid paying damages for their failure to supply. While commercial contracts often contain such provisions, few parties have a full grasp of their application. Many wrongfully leap to the conclusion that...

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## About the Authors



Wendy Clarke focuses her practice on corporate, finance and securities law. Wendy represents global companies, private equity funds and other entities in connection with mergers and acquisitions, dispositions, syndicated financings and other commercial transactions, as well as general corporate governance matters. Wendy also counsels brokerdealers in connection with regulatory, securities enforcement and transactional matters.



Jason Adams has more than 20 years of experience helping clients navigate the world of large commercial bankruptcies. Today, his practice focuses primarily on creditors' rights, debt restructuring, distressed M&A and bankruptcy litigation. Jason has substantial experience in the retail, restaurant, technology, industrial and financial services industries. He consistently strives to bring practical and streamlined solutions to his clients' challenges in both an efficient and cost-effective way.

<sup>1</sup> Knut Alicke, Richa Gupta & Vera Trautwein, Resetting supply chains for the next normal, MCKINSEY & COMPANY: OUR INSIGHTS (July 21, 2020), <https://www.mckinsey.com/business-functions/operations/our-insights/resetting-supply-chains-for-the-next-normal>; Economic conditions outlook, June 2021, MCKINSEY & COMPANY: OUR INSIGHTS (June 29, 2021), <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/economic-conditions-outlook-june-2021>.