KOBRE & KIM | DISPUTES AND INVESTIGATIONS

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A Strategic Playbook for Managing Risk in Private Credit Investments

As pressures build across parts of the private credit market, lenders are increasingly focused on strategies to protect value before distress occurs and maximize recoveries when it does. Key considerations include strengthening governance and monitoring rights at origination, verifying guarantor assets and ownership structures, and preparing for cross-border enforcement efforts that can improve recovery outcomes in complex default scenarios.

Kobre & Kim's Steven Kobre and Jef Klazen joined private credit industry leaders at the M&A Advisor's 2026 Distressed Investing Summit to discuss how lenders can better protect investments at origination, identify early warning signs of distress, and maximize recovery when deals go sideways.

During the discussion, the speakers explored practical strategies for managing risk throughout the life cycle of a private credit investment—from underwriting and governance protections to cross-border asset recovery and enforcement. Against a backdrop of growing concerns about distress in portions of the private credit market, the panel highlighted steps lenders can take both before and after default to preserve value and improve recovery outcomes.

Several key insights emerged from the conversation:

- **Build Structural Protections Before Problems Emerge.** As competition and capital inflows continue to pressure underwriting standards, lenders should place greater emphasis on robust collateral packages, governance rights, monitoring mechanisms, and clearly defined secondary repayment sources at the origination stage. Panelists noted that many workout challenges arise not from the absence of legal rights, but from insufficient visibility into a borrower's operations, assets, and decision-making before distress occurs.

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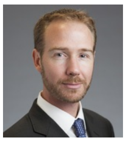

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- **Use Corporate Governance as an Early Risk Management Tool.** The speakers emphasized that independent directors can serve as a critical safeguard for both lenders and borrowers, particularly in stressed situations. Whether appointed at loan origination or automatically upon default, independent directors can provide real-time visibility into operations, facilitate informed decision-making, and help balance stakeholder interests as businesses navigate periods of financial uncertainty. Pre-negotiating acceptable candidates before distress arises can also reduce friction when intervention becomes necessary.
- **Monitor Borrowers Continuously Rather Than Relying on Historical Disclosures.** Lenders should not assume that asset disclosures, personal financial statements, or guarantor reporting will remain accurate over time. The panel highlighted the value of obtaining direct access to key financial information—including read-only access to bank accounts and operational systems—to identify developing issues earlier and avoid relying solely on borrower-provided information.
- **Verify Personal Guarantees and Asset Ownership Before Distress Hits.** Personal guarantees can provide an important secondary recovery source, but only if lenders understand the true ownership structure of the underlying assets. Assets that appeared to belong to guarantors could in fact be held through offshore entities or transferred to family members before enforcement efforts began. Thorough diligence into ownership structures, beneficial ownership, and asset location at the outset can significantly improve recovery prospects later.
- **Prepare for Recovery on a Cross-Border Basis.** When defaults occur, valuable assets often span multiple jurisdictions and ownership structures. There are examples involving global enforcement campaigns targeting assets ranging from bank accounts and art collections to vineyards and a $50 million superyacht. Successfully monetizing claims increasingly requires coordinated cross-border litigation, investigations, asset tracing, and enforcement strategies, whereby the actions are sequenced to maximize the overall impact of the campaign.
- **Expect Distress to Create Both Risk and Opportunity.** While there are growing signs of strain in portions of the private credit market—including increased payment-in-kind structures, borrowers with negative cash flow, and significant recent fundraising—dislocation may also create opportunities for investors, distressed buyers, claims purchasers, and other specialized market participants capable of identifying value in troubled situations.

Listen to the complete conversation on YouTube, Spotify, or Apple Podcasts.

About Kobre & Kim

Kobre & Kim is a global law firm focused on cross-border disputes and investigations, including high-stakes judgment enforcement matters. The firm:

- Represents creditors, funds and investors seeking to monetize defaulted private credit loans, judgments, and arbitral awards against individuals and entities with assets across jurisdictions
- Operates through integrated teams in key jurisdictions, including the U.S., Europe and offshore financial centers such as the Cayman Islands and the BVI as well as Greater China, the Middle East, and Latin America.
- Deploys coordinated, multi-jurisdictional enforcement strategies spanning onshore and offshore forums to locate, preserve and recover assets
- Combines litigation, offshore discovery and asset-specific enforcement tools—including receiverships and seizures—to convert judgments into realized recoveries