



Kobre & Kim's Cross-Border Disputes Team

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Cross-Border Remedies for Chinese Investors in Brazilian Companies in Distress

Economic volatility across Latin America is driving a new wave of restructurings that expose Chinese investors to complex, cross-border disputes affecting recoveries. Because many companies operate through offshore structures and hold assets across jurisdictions, effective recovery strategies often require coordinated insolvency proceedings, while navigating growing geopolitical and regulatory sensitivities in strategic sectors, to protect value and maximize recoveries.

Economic volatility across Brazil and Latin America, driven by elevated interest rates, currency pressure, and shifting geopolitical dynamics, is fueling a new wave of restructurings affecting Chinese investors. As capital continues to flow into strategic sectors such as infrastructure, energy, mining, and technology, defaults and insolvencies are increasingly giving rise to cross-border disputes that can affect control rights, priority positions, dilution risk, and ultimate recoveries, often extending far beyond domestic proceedings.

Brazilian and Latin American businesses frequently operate through offshore holding structures, issue debt governed by New York law, and maintain assets and networks across multiple jurisdictions. For Chinese investors, this means that recovery strategies are rarely confined to domestic processes. Instead, they often depend on coordinated approaches that combine local proceedings with U.S. litigation, actions in offshore jurisdictions, and global enforcement efforts to trace assets, obtain discovery, and apply pressure where value is held.

Geopolitical considerations are also reshaping the recovery and control landscape. Heightened regulatory scrutiny, sanctions sensitivity, and political attention surrounding strategic industries are increasingly intersecting with restructurings and defaults. In sectors

such as energy and mining, Latin America has seen a surge in investment-related disputes and contentious regulatory shifts as governments tighten control or alter frameworks governing strategic assets.

In this environment, Chinese investors benefit from deploying coordinated, multi-jurisdictional strategies. Key tools include:

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- **Utilizing Offshore Vehicles.** Many Latin American groups are structured through offshore vehicles in jurisdictions such as the Cayman Islands, BVI, or Bermuda. Proceedings in these forums can provide access to critical information about ultimate beneficial owners through inspection rights and other remedies that create leverage over management, preserve value, and open paths to asset recovery.
- **Pursuing Parallel Asset Tracing and Interim Relief.** Simultaneous coordinated applications for freezing orders, disclosure orders, and receiverships in multiple jurisdictions can be deployed to restrain transfers and preserve enterprise value, particularly where state-linked entities or cross-border transfers are involved.
- **Integrating Insolvency Processes With Enforcement Actions.** Investors can combine insolvency proceedings over key operating subsidiaries with overall enforcement strategy to challenge dilutive transactions, unwind improper transfers, and pursue guarantors and affiliates.
- **Accounting for Geopolitical and Reputational Dimensions.** In politically sensitive sectors, particularly energy and mining, rising resource-related disputes in Latin America mean restructurings can quickly become politicized. Reputational positioning can affect regulatory engagement, timing, and counterparties' willingness to cooperate, ultimately impacting recovery efforts.
- **Leveraging U.S. Discovery Tools.** U.S. litigation and standalone discovery applications can be used to secure expansive discovery from banks, counterparties, auditors, and corporate affiliates, helping investors uncover asset flows, intercompany transactions, and potential fraud or misconduct that may not surface in local proceedings.

As distressed situations in Brazil and Latin America continue to evolve, Chinese investors who integrate cross-border strategies, governance protections, asset recovery, and enforcement tools will be best positioned to protect value, manage geopolitical risk, and maximize recoveries.

About Kobre & Kim

Kobre & Kim is a global law firm focusing on cross-border disputes and investigations, often involving fraud and misconduct. Our capabilities include:

- Helping clients with interests in Brazil and Latin America through our team in São Paulo that routinely acts in complex, cross-border insolvencies, and asset recovery campaigns.
- Deploying our team of offshore-based attorneys in the BVI and Cayman Islands and former government prosecutors with deep experience of tracing, freezing, and recovering misappropriated assets hidden in cross-border and offshore structures.
- Coordinating our deep experience of claim enforcement and monetization strategies across jurisdictions, often involving assets and adversaries in Brazil and other Latin American countries, with enforcement lawyers across key offshore financial centers, South America, Asia, EMEA, and the U.S.