



Cross-Border Strategies to Accelerate Non-Performing Loans Recoveries in Korea

The holdings of non-performing loans at Korean banks are growing, increasing their exposure to financial risk. For those holding especially large portfolios with exposure to cross-border unsecured debt and loans to high-yield borrowers, the best path forward may be a global strategy to monetize their claims.

October 12, 2023

Financial risk at Korean banks is rising as they hold an increasing amount of non-performing loans (NPLs). NPL ratios have risen at all of Korea's five major banks and delinquency rates are climbing for savings banks. Non-bank financial institutions are also at risk, given their exposure to rising interest rates. In July 2023, MG Community Credit Cooperatives closed a branch following a 60 billion won (US \$45 million) loss on real estate-related loans.

The growing exposure to NPLs threatens the health of financial institutions, lenders, and other stakeholders. For many lenders, especially those who hold large portfolios with exposure to cross-border unsecured debt and loans to high yield borrowers, sale and write down of NPL portfolios may be less than optimal. Where the size of the NPL warrants it, pursuing a global strategy to monetize claims may offer a superior alternative.

Recovering Against Non-Performing Loans

To maximize the chances of recovery, holders of NPLs should consider the following cross-border tactics:

Seek Information Around the World. Knowing where a debtor's pressure points are should be key to cross-border recovery efforts. For example, specialized discovery proceedings outside of Korea can yield wide-ranging discovery for use in pending or contemplated proceedings, potentially producing valuable information about the debtor's assets and transactions. In offshore jurisdictions such as the Cayman Islands and British Virgin Islands, creditors can obtain information from local authorities through administrative or judicial proceedings without having to notify the debtor under certain circumstances.

Insolvency Tools Are Your Friend. Insolvency strategies can help further expand the tools available to creditors. Cross-border insolvency laws such as the UNICTRAL Model Law on Cross-Border Insolvency offer remedies in jurisdictions including the U.S., UK, Singapore, Brazil and the Dubai International Finance Center (DIFC). Recognition of foreign insolvencies under Chapter 15 and similar provisions can give access to powerful judicial tools, including the discovery of local evidence and recovery against local assets.

Find Non-Traditional Pressure Points. Creditors can apply legitimate forms of near-term pressure on debtors. For example, from information obtained through cross-border discovery and investigation efforts, creditors can devise strategies to attempt to block a debtor's prospective sale or seize assets in transit. There may also be pressure points that can be leveraged against key decision makers at a debtor company, many of which may be controlled by one person or family who have personal liability in the debt.

As financial risks mount for Korean banks and institutions overly exposed to NPLs, they may need to consider ways to reduce the amount of NPLs they hold and ensure those debtors can still pay. For many, a cross-border, non-traditional strategy can give lenders the most leverage – even against borrowers in sensitive industries – to achieve an effective recovery.

About Kobre & Kim

Kobre & Kim is a global law firm that focuses on cross-border disputes and investigations, often involving fraud and misconduct. The firm:

- Focuses on helping clients realize value from their claims, developing investigative, enforcement and asset tracing/recovery plans in the pre-dispute stage, to maximize future monetization.

- Often works with other law firms as special counsel in cases beyond their geographic reach to enforce high-value judgments and arbitration awards around the world with our integrated team of former U.S. government lawyers, Hong Kong solicitors, UK solicitors and barristers (including King's Counsel) and offshore lawyers.

KOBRE & KIM

Includes native Korean-speaking lawyers and a former inspector in the Korean National Police as part of a Seoul-based team focused on advising on cross-border matters.
Maintains our independence as advocates ready to litigate against virtually any institution – including *chaebols* – by avoiding repeat client relationships, and the conflicts of interest that come with them.