

**Kobre & Kim's Cross-Border
Disputes Team**

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Cross-Border Tools for Korean Creditors Seeking Recovery from Brazilian Debtors

As economic ties between Brazil and Korea deepen, Korean companies may face challenges enforcing judgments or arbitration awards against Brazilian counterparts. Given the complexities of Brazil's legal system, Korean creditors should consider a multijurisdictional strategy—leveraging offshore jurisdictions and U.S. legal mechanisms—to improve enforcement outcomes and navigate the process more effectively.

As economic ties between Brazil and Korea grow, Korean companies may increasingly need to enforce judgments or arbitration awards against their Brazilian counterparts. However, Brazil's legal system can be slow and complex. To improve their chances of recovery, Korean creditors should consider a multijurisdictional approach, especially in offshore jurisdictions where Brazilian companies often hold assets.

Strategies to Enhance Creditor Recovery Beyond Brazil

Legal proceedings in Brazil often take years and sometimes decades to resolve, largely due to the broad scope for appeals. However, these delays can be mitigated by pursuing strategies outside Brazil, particularly when there are links to offshore jurisdictions or the U.S., such as debtor assets, corporate structures (e.g., in Delaware), or key individuals who may be subject to discovery. A recovery campaign by Korean parties can include:

- **Utilizing Offshore Injunctions.** Many jurisdictions offer powerful provisional orders, such as injunctions and interim receivers, that have worldwide effect in certain circumstances. In the context of contract disputes, parties may also seek offshore injunctions—such as freezing orders—by demonstrating a credible claim, risk of dissipation, or breach of forum selection clauses. These tools can be instrumental in preserving assets and maintaining

leverage while substantive proceedings unfold.

- **Taking Discovery Offshore.** Brazilian companies often hold share interests through holding companies in offshore jurisdictions, including the Cayman Islands and the BVI. In some situations, creditors can obtain information in those places through judicial proceedings without having to notify the debtor in question.

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- **Leveraging U.S. Discovery Tools.** Many Brazilian companies have interests in the U.S., allowing international creditors to take advantage of the creditor-friendly U.S. discovery regime to increase their leverage. This includes the broad discovery powers to pursue evidence such as records from financial institutions.
- **Conducting a Worldwide Information-Gathering and Monetization Campaign.** Mapping the global structure and assets of the debtor company or other relevant parties can help creditors identify key recovery targets and support potential third-party claims for damages. These targets may include overseas receivables or IP assets.

As Korean investors increasingly engage with Brazilian counterparts, they can strengthen their position by utilizing cross-border tools in conjunction with local proceedings. While Brazilian courts still play a key role, combining them with a proactive multijurisdictional strategy offers the best chance for a timely and effective recovery.

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:

- We help clients with interests in Brazil through our team in São Paulo that routinely acts in complex, cross-border disputes, insolvencies and asset recovery campaigns.
- Native Korean-speaking lawyers from Seoul, the U.S., and other locations who assist clients in dealing with Korean regulatory and criminal authorities such as the Korean Financial Supervisory Service and the Korean Public Prosecutors' Office.
- Our team of offshore-based attorneys and former government prosecutors has deep experience tracing, freezing, and recovering misappropriated assets hidden in cross-border and offshore structures.
- Our deep experience coordinating claim enforcement and monetization strategies across jurisdictions, often involving assets and adversaries in Brazil and other Latin American countries, with enforcement lawyers across key financial centers including South America, Asia, EMEA, and the U.S.