



Kobre & Kim's Claim Monetization & Dilution Contacts



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Enhancing the Returns in Sovereign Debt Enforcement

Despite global public debt surpassing US \$300 trillion, pursuing sovereign assets can be complex, time-consuming, and highly public. Adopting cross-border strategies that move beyond the traditional litigation playbook that sovereigns expect can improve recovery outcomes and shorten enforcement timelines.

Global public debt has surpassed US \$300 trillion, providing creditors and investors in sovereign debt with new opportunities. Adopting cross-border strategies that move beyond the traditional litigation playbook that sovereigns expect can improve recovery outcomes and shorten enforcement timelines.

Focus on Outcomes, Not Assets

Pursuing sovereign assets can be complex, time-consuming, and highly public, often involving legal battles across jurisdictions and public scrutiny. Due to sovereign immunity protections, creditors cannot always rely on conventional asset recovery methods to achieve meaningful returns, especially on large positions or high-value judgments and arbitral awards.

Kobre & Kim deployed a novel enforcement strategy on behalf of ConocoPhillips, where we used the “alter ego” theory to enforce an ~ US \$11 billion award against Venezuela successfully. The U.S. Third Circuit Court of Appeals recently upheld this approach, recognizing the connection between Venezuela, its state-owned oil company PDVSA, and PDVSA’s U.S. affiliate PDV Holding, which owns the Texas-based refiner CITGO. This ruling offers a powerful precedent for drawing ownership links that can bypass traditional barriers to enforcement.

Beyond legal channels, claimants can further apply pressure by engaging trade partners, raising concerns with economic allies of the sovereign debtor, or collaborating with credit rating agencies. These broader diplomatic and financial levers can complement legal strategies and enhance the prospect of a successful recovery.

Preserve Assets with a Receivership

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A receivership is a powerful tool that can assist creditors in recovering funds in case of a debtor's default. However, when it comes to a judgment enforcement campaign, the appointment of a post-judgment receiver is an often-overlooked tool that can preserve the value of key assets while also creating additional pressure on the sovereign debtor.

While receiverships or their equivalent are not available as an enforcement tool in all countries, a receivership, when available, can be key to preserving the value of assets that either have not yet matured or need to be managed (such as an ongoing business) to produce value. The mere act of seeking to appoint a receiver can create immediate pressure, given the risks of discovery and seizure.

A Settlement Is Not the Finish Line

A sovereign's agreement to settle is not the end of the fight. Sovereigns that incurred a large liability from defaulting on their debts or expropriating assets are often just as willing to breach settlement agreements. If not adequately protected, the creditor may find themselves worse off than without the settlement if the sovereign uses the time to restructure assets further.

Crafting a settlement agreement that protects against these risks is key to securing a return in an asset realization or enforcement scenario. When the sovereign insists on paying the settlement amount over time, creditors should consider security held by third parties in enforcement-friendly jurisdictions or consent judgments. Thinking ahead to the subsequent default will help protect a hard-won victory. Investors and creditors can increase their chances of achieving an acceptable settlement and a significant return on their claims by using an unconventional judgment enforcement strategy against a sovereign debtor.

As sovereign debt dramatically escalates, recent updates advancing cross-border judgment enforcement efforts in different jurisdictions are opening newfound doors for claimants. For clients focused on collecting what is legally theirs, a clear understanding of aggressive enforcement strategies across jurisdictions can build the leverage needed to reach successful recoveries.

About Kobre & Kim

Kobre & Kim is a conflict-free global law firm focused on disputes and investigations, often involving fraud and misconduct. The firm's team:

- Acts on behalf of creditors to monetize high-value judgments and arbitration awards, with most of our matters involving awards and judgments with face values of over US \$100 million to several billion USD.
- Has extensive experience enforcing arbitration awards and judgments against sovereign governments and their related entities, understanding the unique issues and opportunities in such enforcement campaigns, and successfully recovering tens of billions of USD.
- Through its integrated global team, can act in jurisdictions across North and South America, EMEA, Asia, and key offshore financial centers, strategically coordinating cross-border proceedings.