



Kobre & Kim's Claim Monetization & Dilution Team



Daniel J. Saval
New York
daniel.savval@kobrekim.com



Elina Sfongali
Cyprus
elina.sfongali@kobrekim.com



John Han
Hong Kong
john.han@kobrekim.com



Michael Brasky
Tel Aviv
michael.brasky@kobrekim.com



Timothy de Swardt
BVI
timothy.deswardt@kobrekim.com



Udi Karklinsky
Tel Aviv
udi.karklinsky@kobrekim.com

MARCH 13, 2025

Israeli Investors Should Apply Cross-Border Solutions to Distressed Situations

When a debt issuer falls into distress, Israeli investors need advice informed by deep knowledge of international insolvency and enforcement regimes, coupled with capabilities to aggressively protect and pursue their rights across the relevant jurisdictions. Israel's recent adoption of the Model Law on Cross-Border insolvency puts creditors on a firmer footing to leverage global insolvency tools by coordinating foreign and Israeli proceedings.

When a debt issuer falls into distress, Israeli investors need advice informed by deep knowledge of international insolvency and enforcement regimes, coupled with capabilities to aggressively protect and pursue their rights across the relevant jurisdictions. Insolvencies are seldom confined within national borders—distressed firms have global assets, and their debt is acquired and sold in international markets.

Israeli investors in global debt markets increasingly deal with two types of situations:

- **Creditor-on-Creditor Violence and Liability Management Exercises (LMEs):** Israeli funds that invest in syndicated debt markets are increasingly exposed to LMEs, in which the majority of holders seek to improve their own position at the expense of other holders. Detecting early warning signs of LMEs depends on informal methods of information gathering. In addition, informed and strategic pre-LME activity can put clients on better footing to pursue their rights. As non-U.S. issuers also explore LME options, creditors must understand the interplay between the debtor-creditor laws of multiple jurisdictions.
- **Private Credit and Non-Performing Loans:** Israeli investors are increasingly investing in private debt. When private debt goes into default, monetizing the claim is often a function of an aggressive multi-jurisdictional enforcement strategy that combines litigation tools with innovative out-of-court solutions.

Israel's recent adoption of the Model Law on Cross-Border insolvency puts creditors on a firmer footing to leverage global insolvency tools by coordinating foreign and Israeli proceedings. A multi-jurisdictional approach allows international investors and creditors to gain leverage toward a favorable recovery. Effective monetization requires a strategic approach and a diverse toolkit, including:

This content provides information on legal issues and developments of interest to our clients and friends and should not be construed as legal advice on any matter, specific facts or circumstances. The distribution of our content is not intended to create, and receipt of it does not constitute, an attorney-client relationship.

© 2025 Kobre & Kim LLP. All Rights Reserved. Prior Results DO NOT Guarantee A Similar Outcome.

- **Bringing Proceedings Offshore.** Companies, including in Israel, often use holding structures in offshore jurisdictions such as the Cayman Islands and the British Virgin Islands. Creditors can often obtain information in those locales without having to notify the debtor. In some circumstances, most offshore jurisdictions also offer powerful provisional orders, such as worldwide freezing injunctions and interim receivers.
- **Leveraging U.S. and Other Onshore Insolvency Tools.** Many Israeli companies have interests in the U.S. and other onshore markets, including in the UK and Asia. This creates opportunities for international creditors to leverage creditor-friendly insolvency and discovery regimes. For instance, the U.S. provides broad discovery powers that allow creditors to pursue bank records from U.S. clearing banks. As another example, bilateral recognition agreements between Hong Kong and China provide creditors with viable enforcement options in Hong Kong against Chinese debtors.
- **Conducting a Worldwide Information Gathering and Targeting Campaign.** Deploying asset tracing specialists can help identify the debtor's worldwide structures and assets as well as implicated deep-pocketed third parties. This informs creditors' strategic considerations and helps determine where and on what assets (e.g., overseas receivables and IP) to focus their recovery efforts.

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:

- Acts on behalf of creditors to monetize high-value judgments and arbitration awards, with many of our matters involving awards and judgments with face values of US \$100 million+ to several billion USD.
- Focuses on helping clients recover misappropriated assets in challenging cross-border scenarios, realize value from claims in a host of legal and jurisdictional contexts (including in distressed and bankruptcy settings), and develop investigative, enforcement, and asset tracing/recovery plans in the pre-dispute stage to maximize future monetization. Supporting our onshore and offshore lawyers, the firm's investigative teams—comprising professionals—conduct in-depth research and provide valuable insights into complex markets and a wide range of specialized financial products and asset structures.
- Closely collaborates across firm's offices worldwide, and also cooperates with existing and local counsel in various jurisdictions, including Israel.
- Maintains our independence as advocates ready to litigate against virtually any institution, by avoiding repeat client relationships, and the conflicts of interest that come with them.