



## Kobre & Kim's Claim Monetization & Dilution Team



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## Kobre & Kim Enforces Over US \$2 Billion in Distressed Bonds

**While large distressed debt positions cannot always be monetized through consensual restructurings, today's shifting business environment has only intensified financial pressures. To successfully monetize credit, it is essential to deploy strategies that leverage a combination of cross-border asset recovery and creative out-of-court approaches to facilitate the voluntary resolution of claims.**

The changing business environment has exacerbated financial challenges, eroding asset values, and driven a spike in defaults. Large distressed debt positions cannot always be monetized through consensual restructurings.

Over the past 24 months, Kobre & Kim has enforced distressed debt, including offshore US dollar bonds, valued at more than US \$2 billion in jurisdictions that span Asia, the Middle East, Offshore, North America, and Latin America. Kobre & Kim has prevailed in precedent-setting decisions allowing bondholders to pursue enforcement action against bond issuers unilaterally without going through the bond trustee. This allowed bondholders to retain control of execution proceedings and avoid the costs of funding trustees and their counsel.

To successfully monetize credit, it is essential to deploy strategies that leverage a combination of cross-border asset recovery in onshore and offshore jurisdictions, as well as creative out-of-court approaches to facilitate the voluntary resolution of claims.

- **Use Receivers Instead of Winding Up.** Winding up companies results in a pari passu distribution of assets to creditors after liquidation expenses are paid, often leading to unacceptable dilution of recoveries. Creditors that pursue unilateral enforcement can achieve the same objectives without diluting their position by using execution receivers.
- **Focus on Strategic Assets.** Creditors should not shy away from pursuing assets that have a disproportionately large impact on the debtor. Beyond mere dollar values, certain assets are critical to a debtor's operations or difficult to replace. By lawfully pursuing such assets, bond creditors may improve their chances of obtaining a favorable resolution on an accelerated timeline.
- **Focus on Current and Future Operations.** Creditors can lawfully investigate the debtor's plans for other businesses and operations to identify potential sources of payment (such as payables owed to the debtor by third parties). The debtor may perceive increased risk to such enforcement efforts, creating an incentive to resolve the pending dispute.

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- **Identify Decision Makers.** Creditors should also investigate the people controlling the debtor. In such scenarios, key people can become potential sources of recovery themselves if they are involved in misconduct or interference with enforcement efforts.

Recovery campaigns against distressed targets, especially those with multi-jurisdictional footprints, must be carefully planned. A tactical approach that accounts for each target's unique vulnerabilities is ultimately necessary to drive profitable settlements effectively.

## About Kobre & Kim

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

- Maintain 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;
- Leverages our significant experience acting on behalf of creditors to develop and implement enforcement strategies to drive recoveries for aggressive claimants; and
- Advocates directly or works cooperatively with local counsel in jurisdictions in the U.S., UK, EMEA, Asia, Latin America, and key offshore financial centers.