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Navigating Distressed Situations in the Growing Private Credit Market

As private debt expands globally, investors and asset managers must stay alert to the growing risks that come with it. With deals becoming increasingly complex, especially in cross-border, high-value situations, a coordinated multi-jurisdictional strategy can help creditors gain stronger leverage in pursuing favorable recoveries in response to defaults.

As private debt continues to grow rapidly as a global asset class, investors and asset managers must remain vigilant to the increasing risks that accompany this expansion. Economic headwinds are likely to increase the likelihood of borrower defaults, inter-creditor conflict, or other high-stakes disputes. With deal complexity on the rise, these risks are particularly acute in cross-border, high-value credit arrangements.

As the potential for defaults becomes a growing concern, global investors may increasingly need to develop strategies to enforce personal guarantees in the non-sponsor private credit market. Recovering value from personal guarantees and other company assets often requires thoughtful planning and a flexible toolkit, including:

- **Parallel Onshore / Offshore Strategies.** Many companies utilize holding structures in offshore jurisdictions, such as the Cayman Islands and the British Virgin Islands (BVI). These jurisdictions often allow creditors to obtain valuable information, sometimes without notifying the debtor. They also offer powerful interim remedies, including worldwide freezing injunctions and the appointment of interim receivers, which can be instrumental in preserving assets during a dispute.
- **Leveraging Onshore Insolvency Tools.** Companies with operations or assets in major financial centers, such as the U.S., the UK, and Hong Kong, open the door for creditors to take advantage of creditor-friendly discovery regimes. For example, U.S. courts provide broad discovery powers that can be used to access banking records and other financial data. In Asia, cross-border recognition frameworks—such as those between Hong Kong and mainland China—offer strategic enforcement opportunities.
- **Conducting a Global Information-Gathering and Targeting Campaign.** Asset tracing

specialists can uncover a debtor's global footprint, including corporate structures, hidden assets, and related third parties with financial exposure. This intelligence enables creditors to determine where to apply pressure and identify types of assets, such as international receivables, intellectual property, or nominee-held interests, that may be available for recovery.

As global debt markets—and private credit in particular—become increasingly complex, investors require a cross-border strategy to manage disputes effectively. With the right mix of legal tools and effective information gathering across jurisdictions, creditors can protect their position, minimize losses, and enhance their chances of recovery, regardless of where the assets or challenges may be located.

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:

- Acting 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.
- Focusing 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 specialist asset tracing teams conduct in-depth research and provide valuable insights into complex asset structures.
- Maintaining 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.