KOBRE & KIM | DISPUTES AND INVESTIGATIONS

Kobre & Kim's Claim Monetization & Dilution Team

Jef Klazen
New York
jef.klazen@kobrekim.com

Jeremy Bressman
New York
jeremy.bressman@kobrekim.com

John Han
Hong Kong
john.han@kobrekim.com

Kiran Unni
London
kiran.unni@kobrekim.co.uk

Renata Ramalhosa
São Paulo
renata.ramalhosa@kobrekim.com

Ryanne (Perio) Jackson
New York
ryanne.jackson@kobrekim.com

APRIL 23, 2026

Private Credit Lenders Face Rising Default Risk and Enforcement Challenges

Amid the rapid growth of private credit and rising default concerns, recent distress events have exposed structural vulnerabilities and underscored the need for strong diligence, ongoing monitoring, and early enforcement planning. As transactions become more complex and cross-border, lenders face increasing exposure to litigation, regulatory scrutiny, and multi-front disputes when deals unravel.

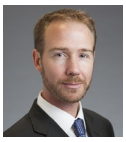
Recent insolvencies of substantial private credit borrowers have drawn attention to structural vulnerabilities that can emerge in fast-growing lending environments. Allegations in several matters have centered on loose underwriting standards, weaknesses in collateral monitoring, and failures in internal controls—issues that, once exposed, can quickly expand beyond balance-sheet losses into parallel investigations and disputes.

In some cases, borrower distress has triggered regulatory inquiries and enforcement investigations alongside insolvency proceedings, highlighting how private credit defaults can evolve into multi-front legal events. Where misconduct or misrepresentations are alleged, lenders and other market participants may find themselves navigating not only recovery efforts, but also scrutiny of their own conduct, disclosures, and oversight.

These developments are contributing to a broader reassessment of risk in private credit markets. As capital continues to flow into asset-backed and cross-border structures, the consequences of failed diligence, inadequate monitoring, or delayed enforcement planning are increasingly visible. Litigation and investigations are often pursued across multiple jurisdictions, with creditors competing to preserve value while responding to parallel claims from regulators, investors, and other stakeholders.

Key Risk Areas Emerging from Private Credit Defaults

Recent market events highlight recurring themes that lenders and asset managers should factor into their underwriting standards and recovery strategies when defaults occur:



Timothy de Swardt
BVI
timothy.deswardt@kobrekim.com

Zachary D. Rosenbaum
New York
zachary.rosenbaum@kobrekim.com

- **Proactive Diligence and Ongoing Monitoring**. Many post-default disputes stem from information gaps that emerge only after closing, including inconsistent collateral reporting, asset re-pledging, or weaknesses in internal monitoring. Establishing robust diligence frameworks and ongoing review mechanisms can help identify issues earlier, preserve leverage, and limit value erosion.
- **Advance Enforcement Planning Across Jurisdictions**. Private credit structures frequently involve guarantees or security-tied assets spread across multiple legal regimes. Conducting jurisdiction-specific enforcement analysis before distress arises can reduce delays, anticipate competing claims, and improve recovery prospects once defaults occur
- **Manage Regulatory and Investigative Exposure**. Borrower distress, particularly where fraud or misconduct is alleged, can trigger scrutiny by regulators and enforcement authorities. Early assessment of potential investigative risk allows lenders to prepare for inquiries, align disclosures, and protect against reputational and legal exposure.
- **Anticipate Investor and Stakeholder Litigation**. Defaults often generate downstream disputes with investors, noteholders, or counterparties, particularly where losses are significant or disclosures are later challenged. Integrating litigation risk into enforcement and recovery strategies can help lenders manage parallel proceedings efficiently and control costs.

As private credit continues to grow and deploy significant capital, defaults are inevitable. Recent market events, however, demonstrate that outcomes often hinge on whether lenders have identified and assessed enforcement, litigation, and investigation risks before distress occurs. Early attention to these risks can help preserve optionality and protect value when market conditions turn.

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:

- Assisting with enforcement risk assessment and planning in connection with complex private credit and asset-backed lending structures;
- Representing major corporations, investment funds, and portfolio companies in high-stakes litigation arising from defaults, restructurings, and insolvencies;
- Acting on behalf of creditors to monetize defaulted bonds, loans, judgments, and arbitral awards, often involving face values ranging from US $100 million to billions of US dollars;
- Serving as lead counsel in prominent enforcement actions and investigations involving fraud, misrepresentation, asset dissipation, and other misconduct;
- Helping clients trace and recover assets in challenging cross-border scenarios and develop integrated enforcement and dispute strategies designed to maximize recoveries; and
- Maintaining independence as advocates, ready to litigate against virtually any institution by avoiding conflicts arising from repeat client relationships.