The Growing Importance of Alternative Business Structures in Asia

The emergence of Alternative Business Structures (ABS) in major legal markets throughout the world are changing the legal services landscape. At the Fall Meeting of the Section of International Law, in Tokyo on October 20, 2016, the Transnational Practice Management Committee and the International Ethics Committee presented a discussion about the various patterns of ABS that are emerging in Asian law firms and legal markets. The speakers and the commentators in the audience agreed that the Asian experience is instructive for law firms elsewhere.

The traditional structures and service-delivery processes of most law firms still meet the basic requirements of some clients; but they have become more cumbersome to configure to meet the expanding and more sophisticated expectations of many clients in increasingly competitive and fast-changing legal markets worldwide, as especially in Asia. The dynamic growth of Asian economies and the highly competitive nature of their legal markets make the region an excellent cluster of laboratories for the innovation of better governance, practice management, and client service.

L-Martin Desautels, the Managing Partner of DFDL, described how he and his partners used insightful anticipation of economic trends and changing client needs in South East Asia to build a multidisciplinary practice that now has more than 300 people in offices in nine countries, ranging from the Philippines to Bangladesh. DFDL won the Financial Times “Innovative Lawyers” award for the Asia-Pacific region in 2015, and has been named the “Most Innovative ASEAN Law Firm of the Year.” One of the key factors in DFDL’s success has been a flexible and highly country-specific approach to governance and practice management, which are required by the multiplicity of regulatory regimes under which DFDL operates. Mr. Desautels also emphasized the importance of having talented, innovative, and
dependable people in regional and local management positions, both in the professional practices and on the business side.

Sai Ree Yun, the Managing Partner of the Korean-based international law firm Yulchon, told how his firm has grown dramatically in the past seven years, not only in terms of numbers of lawyers and offices, but, more significantly, in terms of the firm’s movement beyond the traditional practice of law and into new ancillary services for Yulchon clients. He described in detail Yulchon’s innovative new service unit that conducts sophisticated economic and business research, which enables Yulchon to integrate better their legal advice into the strategic business context in which their clients operate, and delivers unique value directly to the clients. Like DFDL, Yulchon has established a strong reputation for innovation, having won the Financial Times awards as “the Most Innovative Law Firm in Korea” for two years in a row.

Bonnie Dixon, is a partner in the Tokyo firm of Atsumi & Sakai, and was the first foreign lawyer ever to be named a partner of a Japanese law firm. In 2015, it became the only Japanese law firm to open an office in London, to serve clients in Europe, the Middle East, and Africa. Ms. Dixon summarized how the traditional restrictions on multidisciplinary practice and sharing of fees with non-lawyers have resulted in a very conservative approach in the development of Japanese law firms and have kept the ratio of lawyers to the population much lower than in other developed countries. However, she noted, that may soon be changing. She briefed the audience on new regulations, proposed only days before the session, the could liberalize some of the restrictions and limitations on law firms and could facilitate the development of ABS concepts and approaches used in other countries in the region.

Two members of audience were invited to offer observations and comments. Eric Jiang, the senior partner of the Beijing firm Jurisino, summarized the entrepreneurial approach that Chinese law
firms were taking as they expand the scope of legal services beyond traditional boundaries. This has proven to be a significant competitive advantage over some foreign firms that might assume that they can enter the Chinese legal market with traditional definitions and orientations about the nature of legal services, business development by professional services providers, and client expectations.

Stephen Denyer, of the Law Society of England and Wales, related the Asian experience to the Law Society’s global perspective, based on its observations and experiences in the introduction, regulation, and evaluation of the ABS concept in England and Wales. He also discussed the continuing activity of the Law Society as a resource for the legal profession worldwide about issues that can arise from the many different varieties of Alternative Business Structures.

Ultimately, the opportunities to operate ABS models in the legal profession will vary among jurisdictions, even within countries with multiple jurisdictions, such as the United States of America and Canada. The decision to adopt an ABS structure or model should be based on a solid business case, based on facts, and grounded in the ethical standards and customs of the jurisdiction. The decision must be driven by more than aspirations or overly-optimistic assumptions. The leaders of a law firm should not automatically assume that some form of an ABS is the best strategic option for them, even if it has become something of a fad in one’s local legal market. Nor should a firm reject it out of hand, simply because the concept might appear to be too radical for local tastes or too complicated to implement.