



The Changing Regulation of Int'l Lawyers

ABA Section of International Law
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Introduction to this Panel

- Changes in lawyer regulatory systems
 - *Who, what, when, where, why & how* changes
 - Ellyn Rosen will discuss US developments
 - Darrel Pink will discuss Canadian developments
- Regulatory issues of interest to internat'l lawyers
 - *Global mobility & "association" issues*
 - Sara Sandford will discuss practitioner perspectives on Asian developments
- New resources

Changes in Lawyer Regulation



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<u>WHO</u> regulates?	Self- regulation? Co-regulation? Other? <ul style="list-style-type: none"> • Congress? • The WTO? The Troika? FATF? • Other structures?
<u>WHAT</u> is regulated?	Providers or Services? Individuals and/or entities? Law firms? ABS?
<u>WHEN</u> to regulate?	Prospectively or Retroactively?
<u>WHERE</u> to regulate?	Geography v. technology mismatch
<u>WHY</u> regulate?	The “Regulatory Objectives” Movement
<u>HOW</u> to regulate?	Outcomes based regulation? One size fits all? Antitrust (competition) concerns

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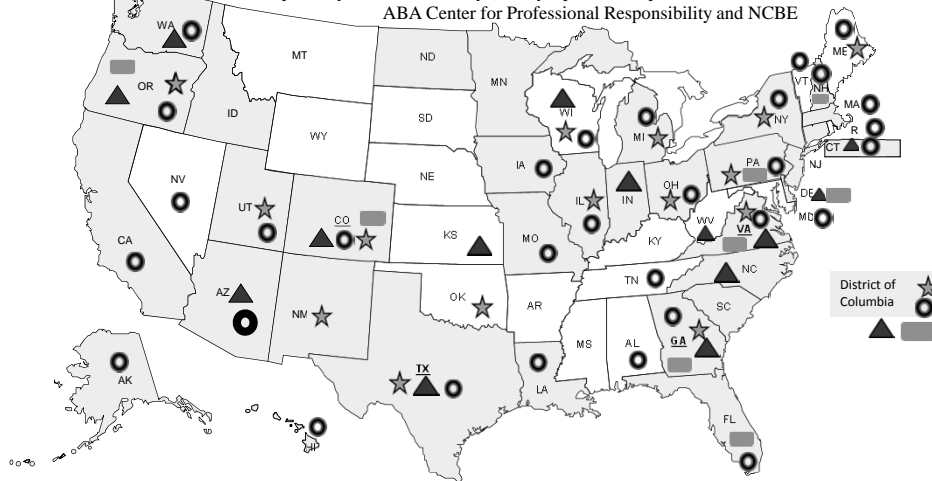
Issues: Global Mobility & Association

- The “outbound” ability of US firms & lawyers
- Foreign lawyers “inbound” to the US
 - Limited practice: FLCs, FIFO, Pro Hac, In-house
 - Full admission: via a bar exam or by motion
- Association addresses RELATIONSHIPS
 - Partnerships between US & foreign lawyers
 - US lawyers employ foreign lawyers (& vice versa)
 - *Association does not address practice rights of foreign lawyers*

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Jurisdictions with Rules Regarding Foreign Lawyer Practice

Prepared by Prof. Laurel Terry (LTerry@psu.edu), April 29, 2015, based on data from the ABA Center for Professional Responsibility and NCBE



LEGEND (see back page for additional information)

Yellow shading = has a foreign legal consultant rule

■ = rule permits temporary practice by foreign lawyers (also known as FIFO or fly-in, fly-out)

★ = rule permits foreign pro hac vice admission

▲ = rule permits foreign in-house counsel

● = has had at least one foreign-educated applicant sit for a bar exam between 2010 and 2013.

Jan. 2015 CCJ Resolution

CONFERENCE OF CHIEF JUSTICES

In Support of Regulations Permitting Limited Practice
by Foreign Lawyers in the United States
to Address Issues Arising from
Legal Market Globalization and Cross-Border Legal Practice

Resolution 2

“[The CCJ] strongly encourages its members to ***adopt explicit policies*** that permit the following qualified activities by foreign lawyers as a means to increase available legal services and to facilitate movement of goods and services between the United States and foreign nations:

[association + ABA inbound foreign lawyer policies]

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Regulatory SYSTEM Resources



COMMISSION ON
THE FUTURE OF LEGAL SERVICES
AMERICAN BAR ASSOCIATION



ABA Commission on Ethics 20/20



NOVA SCOTIA
BARRISTERS' SOCIETY

Client & public protection are important regulatory objectives but there is increasing recognition that client needs should not be ignored

ABA Center for Professional Responsibility

The Professional Lawyer Volume 22, Number 1 2013

Why Your Jurisdiction Should Consider Jumping on the Regulatory Objectives Bandwagon



THE INTERNATIONAL CONFERENCE OF LEGAL REGULATORS

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Mobility-Association Resources

Task Force on International Trade in Legal Services
AMERICAN BAR ASSOCIATION
1050 Connecticut Avenue, NW, Suite 400
Washington, DC 20036



**International Trade in Legal Services and Professional Regulation:
A Framework for State Bars Based on the Georgia Experience¹**

**THE
Bar Examiner**

Volume 83 | Number 4 | December 2014
A publication of the National Conference of Bar Examiners

**IBA Global Regulation
and Trade in Legal
Services Report 2014**

<http://tinyurl.com/2014IBAReport>

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Other Useful Resources



**Task Force on
▶ International Trade in
Legal Services**
<http://tinyurl.com/ABAITILS>

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SIL Panels that Illustrate our Topic

- Stranger in a Strange Land: Cross-Cultural Issues in the Courts
- Martial Arts Ethics: Offensive and Defensive Techniques
- Transatlantic Trade and Investment Partnership (TTIP): Negotiating the Lawyers' Interests
- Attorney Client Privilege in a Global World: An Interactive Workshop
- Partnerships Models for Law Firms of the Future
- The Legal Landscape in India is Changing for Foreign Lawyers: What is Coming and When

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DICKINSON LAW PRACTICE GREATNESS

PENNSTATE
The Dickinson
School of Law

Laurel S. Terry, Professor of Law (LTerry@psu.edu), [Return to Personal Webpage Home](#)

Penn State's Dickinson Law
(the older of Penn State's two law schools)

NOTE: Penn State now has TWO ABA-accredited law schools.

I am located at the older of the two schools, which is Penn State's Dickinson Law in Carlisle, Pennsylvania.
For more information, see <https://dickinsonlaw.psu.edu/news/revitalized-approach>

DICKINSON LAW | PRACTICE GREATNESS



Selected Presentations

These and other slides are posted here:

<http://tinyurl.com/Laurel-Terry-slides>

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To Read More About It...

- ABA ITILS Webpage & Toolkit, <http://tinyurl.com/ABAITILS> and <http://tinyurl.com/statetoolkit>
- The “Map” of US Foreign Lawyer Rules & my webpage, http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/mjp_8_9_status_chart_authcheckdam.pdf and <http://tinyurl.com/LaurelTerry> (see Dec. 2014 Bar Examiner article)
- IBA Global Regulation & Trade in Legal Services Report 2014, http://www.ibanet.org/PPID/Constituent/Bar_Issues_Commission/BIC_ITILS_Map.aspx and <http://tinyurl.com/2014IBAREport>
- Laurel Terry’s articles (including “Trends,” “Regulatory Objectives,” & Global Mobility articles, http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=340745)