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International Initiatives that Affect Your Job as a Regulator:

The 2007 UK Legal Services Act



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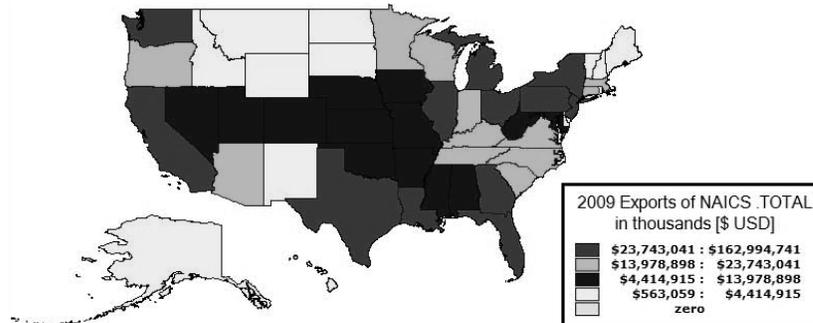
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ABS is Part of a Larger Context

- ABS=“alternative business structure” developments
- Global *ABS* is part of a larger pattern of global events (see handouts on NOBC conference USB), including:
 - Global trade agreements (GATS, NAFTA & FTAs)
 - Global money laundering & anti-terrorism initiatives
 - Global antitrust (competition) initiatives
 - Global regulatory reform initiatives
 - Global legal education initiatives
 - Market developments, including widespread global MJP



Globalization Affects All States



- **28 states** had 8-figure exports in 2009 (\geq \$10 billion)
- Despite a big recession dip, 42 states had more exports in 2009 than in 2005 – sometimes significantly so
- **All states** except Hawaii and Wyoming had exports *in the billions* (and Wyoming exported >\$900 million & Hawaii >\$550 million)

The 2007 UK Legal Services Act [LSA]

- The LSA became final on Oct. 30, 2007
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 - The LSA applies to England and Wales only (but I will call it the “UK” in these slides)
- The Legal Services Act has 3 main parts:
 1. It created a new Legal Services Board (LSB)
 2. It established an Office for Legal Complaints
 3. ***It permits*** (but doesn’t require) rules allowing alternative business structures (ABS) such as legal disciplinary practices (LDPs), MDPs, outside equity, and publicly-traded firms

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The New UK Legal Services Board:

- is independent of the government & legal profession
- must have a non-lawyer majority & non-lawyer chair
- oversees the work of the “front-line” regulators
- *An Aside*: to do “reserved” [transactional] work, you must be a solicitor (the UK has a smaller monopoly)
- the LSB applies the LSA’s specified regulatory objectives



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Expect to See Publicly-traded UK Firms

- **As of 3/09, the UK solicitors’ rules permit LDPs (Legal Disciplinary Practices); permits outside ownership**
- **As of 7/09, solo practitioners are regulated as “firms”**
- **The Legal Services Board says that as of October 2011, publicly traded law firms will be allowed**
- **The UK Solicitors Regulation Authority (SRA) & the Bar Standards Board (BSB) have conducted extensive consultations on these & many other issues**

6

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Australia Already Has ABS

- Australia has several publicly traded law firms
- Australia's changes were imposed by the legislature
- The "ILP" statute required "appropriate management systems" – regulators seized this as an opportunity
- The NSW Legal Commissioner (Steve Mark) and stakeholders identified 10 potential problem areas
- Firms had to develop "appropriate management systems" for these ten areas
- Firms had to fill out a self-assessment form
- Empirical studies show a decrease in client complaints

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As an aside....(and a plug):

- Most Supreme Courts have a similar tool available by adding 2 questions to lawyers' annual dues statement:
 - 1) *Are you subject to Rule 5.1?*
 - 2) *If so, have you made the required reasonable efforts?*
 - *The Dues Statement could also say...lawyers...if you want guidance about what Rule 5.1 means, see our helpful website*
- Rule 5.1 Responsibilities of Partners, Managers, & Supervisory Lawyers
- (a) A **partner** in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, **shall make reasonable efforts** to ensure that the **firm has in effect measures giving reasonable assurance** that all lawyers in the firm conform to the Rules of Professional Conduct.

8

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The UK Reforms & US Implications

- Many think *ABS* can't happen here, but globally, regulators have been surprised at some of the changes they've seen
- As the financial crisis shows, developments elsewhere can have an impact in places one might not expect
- *ABS* may place pressures on US/UK firms (see next slide). They may treat US and UK branches differently:
 - ▶ If this development "jumps the pond," you may have to deal with it
 - ▶ My bias: It's better to think proactively than have to react quickly.
- To continue to protect clients and the public, it may be necessary to consider these developments

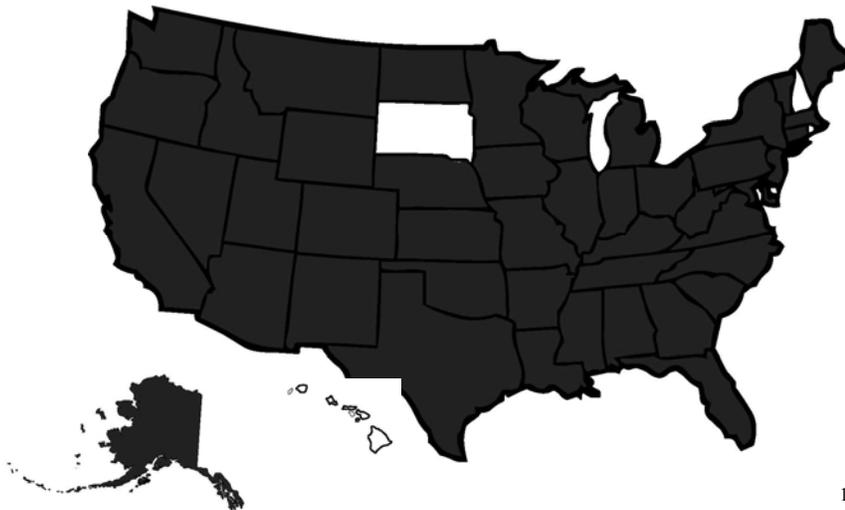


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Slide by Jim Jones at the May 2009 CCJ-Globalization Conference:

- NOTE: Many NLJ 250 Firms Have London Offices

States in Which NLJ 250 Firms Have Offices



10

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To Read More About It....

- **UK Legal Services Board**, <http://www.legalservicesboard.org.uk/index.htm>
- **Solicitors Regulation Authority Consultations on the Legal Services Act**, <http://www.sra.org.uk/sra/consultations.page>
- **Law Society of England and Wales (includes links to the Hunt and Smedley reports)**, <http://www.lawsociety.org.uk/influencinglaw/policyinresponse.law>
- **5-09 Conference of Chief Justices Conference Webpage**,
<http://www.law.georgetown.edu/news/documents/CCJ-2009-WebMaterials-final.doc>
- **Georgetown Symposium, The Future of the Global Law Firm (4-08)**,
<http://www.law.georgetown.edu/LegalProfession/GlobalLawFirm.html>
- **ABA Commission on Ethics 20/20**,
http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html
- **Laurel Terry “Presentations” Page (includes UK, EU & 5.1 developments)**, <http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm>

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