**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 (≥ $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
- 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
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

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
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

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.
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.

States in Which NLJ 250 Firms Have Offices

NOTE: Many NLJ 250 Firms Have London Offices
To Read More About It….

- 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
- 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/ls3/presentations.htm