SHOULD LAW FIRMS BE ALLOWED TO TRADE IN PUBLIC EXCHANGES AND HAVE THIRD-PARTY FINANCING?

¿DEBERÍA PERMITIRSE QUE LAS FIRMAS DE ABOGADOS COTICEN EN BOLSA Y OBTENGAN FINANCIAMIENTO DE TERCEROS NO ABOGADOS?

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Abstract

Law is one of the oldest professions known, however, at a stage where law firms have achieved a high level of sophistication, law firms are more and more immerse in the dynamics dictated by the global economy, where efficiency and added value are the main drivers. Traditionally and a lot of times mandatorily, law firms have been structured as partnerships or some variations of it (e.g. two-tiers partnerships). This paper argues in favor of allowing law firms to explore different capital structures instead of the traditional partnership, since it presents several opportunities. This paper explores the arguments against and in favor of allowing law firms to trade in public exchanges and to have in their capital structure non-lawyers with ownership interests over the firm. The paper uses developed legal markets as primary source for explaining the arguments and a reference to the Guatemalan legal market is made. This paper also explores the current incentives law firms have and how that incentives can be more in line with those of the clients, if the capital structure of law firms changes.

Key Words

Partnership; publicly traded companies; capital structure; non-lawyer ownership; incentives.

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Resumen

La profesión legal es una de las más antiguas, sin embargo, en una etapa en la que las firmas de abogados han alcanzado un alto nivel de sofisticación, estas están inmersas en la dinámica dictada por la economía global, en donde la eficiencia y el valor agregado son los principales factores. Tradicionalmente y muchas veces por obligación, las firmas de abogados se han organizado como sociedades de personas o alguna variante de esta (e.g. organizaciones de dos niveles). En el presente ensayo se argumenta a favor de permitir a las firmas de abogados, explorar estructuras de capital alternativas a la sociedad de personas, puesto que presenta varias oportunidades. El presente ensayo explora argumentos a favor y en contra de permitir que las firmas de abogados coticen en bolsa y tengan como parte de su estructura de capital, no abogados como propietarios de la firma. Se utilizan mercados legales desarrollados como principal fuente para explicar los argumentos y realiza una referencia al mercado legal guatemalteco. El presente ensayo también explora los incentivos que actualmente mueven a las firmas de abogados y como dichos incentivos pueden alinearse mejor a los de los clientes si la estructura de capital de las firmas cambia.

Palabras clave

Sociedades de personas; compañías públicas; estructura de capital; propiedad de no abogados; incentivos.

Sumario: 1. ¿Permitir o no que firmas de abogados coticen en bolsa?; 2. ¿Deberían personas que no son abogados, poder tener intereses en firmas de abogados?; 3. Incentivos de las firmas deberían estar mejor alineados a los de los clientes; 4. Estructuras de capital.

Law is one of the oldest professions known, every great civilization has rooted it success in carefully designed rules that governed their interaction within the society. As a consequence, the role of the lawyer has been in constant evolution, but always the practice of a lawyer has been tied with the jurisdiction in which the lawyer is incorporated in. In the current times, an argument can be made to affirm that the role of a lawyer is in one of the most developed stages. At this stage of the profession even when there are a lot of lawyers that practice on their own or in small offices, maintaining a tight relationship to their jurisdictions, there is a growing number of lawyers that work for big law firms and in complex transactions that involve multiple jurisdictions that present different challenges. For this paper purposes, a Big Law firm is going to be understood as those law firms with 100 lawyers or more, paying the best salaries worldwide in the industry.

Lawyers and their law firms are more and more immerse in the dynamics dictated by the global economy, where efficiency and added value are the main drivers. It is within this context that law firms have to compete in a market where clients demand better solutions and more value from their outside counsels. These pressures are forcing law firms to innovate in order to keep up with the pace required by their clients and related with fee arrangements and the type of work the firm performs for their clients. Even when law firms have been trying to innovate, there is still one area that presents a very large opportunity for change, that is the capital structure of law firms.

In this paper there are arguments against and in favor of allowing law firms to trade in public exchanges and to accept third-party investments, therefore having non-lawyers with ownership interest in law firms. An argument will be made that allowing lawyers to explore different capital structures instead of the traditional partnership, can present several opportunities. Currently, the majority of law firms are organized as partnerships, most commonly as limited liability partnerships where the partners' personal wealth is shielded from liabilities arising from the partners' participation in the partnership. Some firms have two-tier partnerships where some partners, usually the more junior partners do not share ownership interest in the firm, but essentially the structure remains the same.

Several firms are organized with a fairly predictable career path, within which, one can enter as an associate and become partner in a very predictable time frame. Firms are structured in a way that allows employees (associates), to become owners of the firm (partners) within certain number of years, provided they reach certain stages of their careers. Law firms usually have a very structured career path that applies not only to associates trying to reach partnership, but also to partners that are usually subject to mandatory retirement when they reach certain age, in order to open up space for new generations of partners. When retiring partners leave the firms, they also leave their owner interest of the firm in exchange for some kind of retirement pension.

Law firms usually compensate their associates with a fixed salary plus performance bonuses and can compensate partners in a variety of ways. Law firms can distribute the profits on an equal basis between all their equity partners or they can adopt a differentiated form of compensation, where a partner can be compensated either because of the partner's level of seniority or because a metric related with the amount of business that partner generates. A law firm can also assign roles for partners, depending on whether the partner is a rain maker, a partner

that works to maintain a healthy relationship with the client or if the partner is a partner that allocates the time on doing the work for the clients, a law firm could also adopt a compensation model based on what role a partner plays within the broader organization. Partners can also receive compensation depending on how well the partner's practice area did during the year.

Regardless of the way a law firm compensates their partners, the compensation methods have in common that the partner has the incentive to perform as good as the partner can during the years the partner has an ownership interest in the firm, given the fact that after that time the partner will not be able to make as much as the partner makes during the tenure as partner. This fact creates the incentive to bill as much as possible and not to make long term investments that could yield results only after the partner has retired. This model has been appropriate for some time since the relationship between clients and lawyers has been for the most part a personal one, where a client would look after a specific lawyer.

Currently, most of the law firms are organized as partnerships where the partners pay a buy-in when called to partnership, and where the partnership renders a benefit for the partner, during the time of said partner being partner. Most US based firms are organized as Limited Liability Partnerships where partners enjoy limited liabilities for their actions. The partnership model has worked for several years, but with the growing trend of globalization of services, law firms face new challenges, coming not only from this reality but also from clients that want a more efficient way to receive legal services.

Currently Big Law firms have in place clearly defined career paths for lawyers coming their way, this means that an associate will know that in certain number of years, if the associate complies with the requirements set forth by the firm and is able to generate business, the associate will be called to partnership, where a buy-in payment will be required.

The current capital structures of Big Law firms are fairly simple ones, where the firm has a group of partners and employees that are susceptible to become partners and employees that are not on the track to become partners. This means that the capitalization of the firm will, most of the times, come from within the firm or exceptionally from outside if the firms hires a lateral partner.

Law Firms, as every human organization are moved by certain incentives. Currently law firms and their lawyers are incentivized mostly by financial metrics, making them similar to any kind of company in the market. Several law firms use the per-hour billing system, this means that associate lawyers have the incentive to bill as much hours as they can, in order to increase their base salaries, usually in the form of bonuses awarded after meeting certain threshold of billing hours. Partners also benefit from associates billing as much as hours they can, because this will increase profits for the firm, therefore benefiting the individual partner by receiving a bigger return on the investment the partner made when buying in for partnership.

The financial incentive is exacerbated by certain publications that measure firm performance by financial metrics, like annual profits per partner. This metrics, even when they come from outside sources, can create the incentive to bill more and more in order to gain some spots in the race of financial metrics. Clearly billing more is good both for the associates that receive bigger bonuses and for the partners that increase their profits in the short term, but it could come at odds with what the clients want in terms of how they pay for legal services and what they expect from their outside counsels.

Financial incentives are not bad, however within the context of legal services is worth studying how this kind of incentive is impacting the profession and if the incentive going forward is going to be the financial one, how law firms can evolve in order to match their financial goals with the obligations the firms have to their clients, the courts and their employees, which is my opinion that is something that can be done without sacrificing financial incentives for the law firms.

Law Firms and especially Big Law Firms, resemble more and more a traditional business since they are driven mostly by their financial interest, as is driven a normal business. Is true that lawyers have different duties compared with a normal business, but those should not impair the ability of law firms to benefit from different models of organization, including trading in public exchanges. Law Firms have increasingly relied in lateral hiring of partners that have the ability to increase their business book and are constantly looking for ways to increase their number of clients and their profitability, as a normal business would do. Law firms, more and more resemble a normal business, that wants to make the greater profit for their shareholders and has to balance different interests of several stakeholders, the law firm would be not different, only that they owe certain duties that are greater than making profits, but they are businesses nonetheless.

The present paper aims to explore the possibility of law firms trading in public exchanges of securities. It aims to explore the arguments in favor of the idea and opposing it, as well as the conflicts that may arise or the conflicts that can be avoided by permitting trading of law firm stocks in public exchanges and allowing non-lawyer ownership of firms. The idea of permitting non-lawyer ownership in law firms and permitting them to trade their stock in public exchanges presents a multiplicity of issues but also opportunities which are going to be addressed in this paper. This paper is going to argue in favor of allowing law firms to trade their stock in public exchanges as well as allowing non-lawyer ownership in the firms, and how the conflicts with the duties a lawyer have can be addressed, even when permitting this kind of capital structure.

A change in the current permitted legal entities for law firms, as well as a change in its capital structure, in the form of non-lawyer ownership and stocks of law firms trading in public exchanges, has been opposed based on two principal arguments.

One of the strongest arguments against law firms trading publicly is the related with the conflict of duties this could create when practicing law. Lawyer have very important duties with their clients and with the courts, making the law profession one that cannot be driven solely by financial considerations. Lawyers' duties to their clients and to the courts are often above the lawyer's personal interest which in this case can be materialized as financial interest. A normal business, and the people that manages it has the task of producing the more benefit for the owners of said business, this usually translates to more profits for the shareholders and if the company is not handing out profits to shareholders, the management has the task to increase the value of the asset that is the stock.

Opposers to allowing law firms to have the ability to list their stock in a public exchange, argue that if a law firm has its stock traded publicly, the incentive of making the stock more valuable and making profit for their shareholders will come at direct odds with the duties the lawyers have to their clients and to the courts. Is easy to understand why this argument has the strength it has. It is widely known that sometimes investors put a lot of pressure to the management of a company in order to it to behave in certain way, that may not be beneficial for all the shareholders, let alone the other stakeholders of the company. This kind of situation could heavily compromise the ability of a law firm, to meet their duties to their clients and to the courts. On the other side, the incentive to make profits could prevent the management from properly balancing the incentive of making profits with the duties

the lawyers have to their clients and to the courts, this could create a problem since the lawyers could put at risk their license to practice law and the clients could not be receiving the best quality of work available, instead they could end up getting squeezed by the law firm, whose only purpose is to generate more revenue.

Even when the predominant model of capital structure has worked over the years, it does not mean that it comes without some failures. The failures of the partnership model get accentuated in today's stage of the legal market. Partnerships work better when there is a trust relationship between the partners, which is impossible at some of the Big Law firms that count in the thousands their number of partners. Evolutionary anthropologists have found that a person's intimate relationship with other individuals is limited by that person's brain capacity. Studies indicate that a person can maintain a fairly close relationship with an average of 150 persons[2]. A partnership works better when there is trust between the partners and given the cognitive limitation an individual has to engage in meaningful relationships beyond its brain capacity, is safe to raise a question related with the capacity of Big Law firm partners to engage in meaningful relationships with their fellow partners.

The situation described in the preceding paragraph is accentuated when we consider that Big Law firms operate in different jurisdictions, not only within the United States but all around the world, making it very likely that a partner from one jurisdiction will never know another partner based in a different jurisdiction. This situation makes a firm what Jonathan Molot describes as a "… transitory associations of individuals who happen to practice law under the same roof for a particular period of time."[3] and deviates from what a true partnership is. Is also important to raise questions if the current partnership model is serving correctly to the duties a lawyer has with the clients and to the courts.

The strongest argument against permitting law firms to change the current capital structure, is the one that argues that duties to the clients and to the courts will be misaligned if the financial benefit of the shareholders gains strength, compromising the lawyers' ability to meet their duties. Even when a risk of misaligned interests, between financial gains and lawyers' duties, this problem also exists within a structure that incentivizes short-term gains. As previously described,

[2] Dunbar, R. I. M. (1992). "Neocortex size as a constraint on group size in primates". *Journal of Human Evolution*. **22** (6): 469–493

[3] Jonathan I. Molot, *What's Wrong with Law Firms? A Corporate Finance Solution to Short-Termism*, Southern California Law Review. 2 (2014)

the current organization of firms and how the firms have aligned the incentives, has evolved into a competition of who makes the most profit. Not only law firms rely more and more in financial metrics, but this metrics tend to be evaluated during a relatively short period of time. Partners in the current model, have limited years of earnings, which also makes them prone to prefer short-term gains over a longer-term approach to their ownership interest in the law firm. As Molot describes it "Short-termism is particularly acute among law firms, which obsess over current performance metrics"[4] this creates the very situation that the strongest arguments against changing the capital structure describes. The current structure also can be seen as promoting financial gains over the duties a lawyer has to the clients and to the courts, along with several problems that thinking short-term carries from a value-generation standpoint. It is my opinion that the strongest argument against permitting law firms to change their capital structure, fails to recognize that the threat to have financial interests above the duties of a lawyer to the clients and to the court, exists regardless of the organizational structure a law firm adopts. It is my opinion that preventing breaches to the duties a lawyer has to the clients and to the courts, is something that has to be addressed with the appropriate systems, regardless if a lawyer practices on his own, is part of a small firm or is part of one of the biggest firms in the world. Lawyers as humans, are prone to errors and this is not going to change if a law firms are organized in some way or another, but this fact is a reminder that in any kind of organization involving humans and in this case lawyers, there has to be a strong system in order to prevent in the best way possible, the errors that as humans, lawyers could make.

By allowing outside investors and allowing law firms to trade their stock in public exchanges, we can find, not only a threat to the duties a lawyers has, as a the above referenced argument points out, but it is my opinion that if cleverly structured, this can represent an opportunity to better police lawyers' compliance with their duties. Publicly traded companies have the obligation to disclose several information, including their financial statements, more important agreements, top management and several other disclosures required by law and by investors in order to properly assign value to the company. One of the more important tools that an investor has to value a company are the disclosures related to the liabilities and to the risk factors certain company face within their industry and because of the position in the market. It is through this required disclosure, that I find an opportunity not only to better police the duties lawyers have, but also to permit non-lawyer ownership in law firms.

[4] Jonathan I. Molot, *What's Wrong with Law Firms? A Corporate Finance Solution to Short-Termism*, Southern California Law Review. 5 (2014)

When allowing firms to trade in public exchanges, a law firm will have to clearly disclose their duties to the clients and to the courts, and very clearly state that those may come in front of the ability of the law firm to generate profit for shareholders. A clear disclosure of the duties a lawyer has and how those operate and how that can come into play when contrasted against pure financial interest, will allow the investors to introduce an adjustment to their valuation to compensate for how the duties could impair their ability to make profits out of their investments in law firms. Another opportunity that I think could arise from permitting law firms to trade in public exchanges and to have non-lawyer ownership is that shareholders could become watchers of lawyers' performance if they know that the value of their asset could take a hit if the lawyers of the firm behave unethically. It is widely known that certain investors take a more active approach than others to their investments in companies, a law firm with non-lawyer ownership could benefit from this approach if it manages to properly tie their performance – not only the financial one- to the value of the asset an investor is holding.

The current structure, by incentivizing short-term approaches to the administration of a law firm can harm the firm in the long run, therefore preventing the firm from providing the best kind of services they could if they took a different approach. Law firms plan their hiring based on the firm's business forecast for the next year, this prevents law firms from hiring strategically during the periods of low activity in the market. This is kind of model reinforces the thesis that currently, law firms are driven by financial metrics more than anything else, much like any other business in the market. This kind of approach can lead to law firms to fail to hire highly talented people, if that kind of people happens to be available during low market times.

This short-term approach also fails to incentivize long-term relationships with clients. By trying to bill as much as possible a long-term relationship with some clients could be harmed. Lawyers are in the service industry, as such the relationships with the clients should be as long as possible. The profession of the lawyer is one that is founded over the trust the client has to the lawyer, in that sense every effort to increase that trust between lawyer and client is worth it. Short-term approaches and trying to bill as much as possible, can go against the trust relationship that needs to be built between client and lawyer.

It is my opinion that allowing law firms to trade in public exchanges and allowing the firms to have non-lawyer ownership, presents an opportunity for law firms to take a long-term approach, and focus on creating long term value, which will

benefit the law firm, their clients and the partners even if the benefit does not show during the short-term. Adopting a different capital structure will allow law firms to have perpetual ownership interest, this will allow law firms to design ownership structures to allow lawyers to get benefits from a long-term approach. If a partner gets to benefit from long-term gains, the partner and the firms will be more incentivized to offer different billing arrangements to clients, looking to develop relationships for a long period of time, and this would eliminate or at least reduce the incentive to bill as much as possible, because the lawyer and the firm has the security that eventually the benefits will come and the partners will be able to capitalize on them, at any point in time since they will have a potentially perpetual ownership interest over the firm. This longer-term approach will also allow firms to hire highly qualified talent during low times, given that the firm will have the certainty that the hires will add value during the long-term. Even when this is true, law firms will have the challenge to design an ownership structure to allow them to offer longer-term ownership interest to their partners while also making room for new generations of owners without compromising the incentives to generate more business.

This different structure of capital, while also creating a challenge to structure ownership, it presents an opportunity by allowing a more flexible way to gain ownership, due to the very nature of publicly held stock. This kind of structure would allow law firms to incentivize in a different way the staff that does not have a law degree but performs a critical role in the day to day life of a law firm, such as paralegals and other kind of non-legal staff. The flexible nature of publicly held stock, would allow law firms to design ownership structures that will allow them not only to offer the prospect of ownership that could last as long as the owner wants but to offer their non-lawyer staff incentives other than money, that could prove beneficial for the law firm.

In conclusion, the strongest argument against allowing law firms to trade their stock in public exchanges, is one that can also be applied to criticize the current model of ownership of a law firm. On the other hand, allowing law firms to list their stock in public exchanges, therefore permitting non-lawyer ownership interest over the law firms, presents several opportunities that if cleverly used, a law firm can benefit from. We have noted that the apparent conflict between financial performance and lawyers' duties to clients and courts, can be addressed to appropriate disclosure. Law firms, given the fact that lawyers have several duties that go before the pure financial interest, will have a different idiosyncratic risk, and this will have to be adjusted by the market, but I am of the opinion that investors acting within a free market and from the basis of a proper disclosure of the risk factors of a law firm, will be able to adjust the price of the stock related with law firms,

to compensate for this risk. As Molot indicates "[p]rofessional concerns cannot justify the retention of an inefficient, costly organizational structure"[5] is time to allow law firms to explore different organizational structures, for the benefit of their owners and their stakeholders. Law firms should not try to escape the reality that law firms are businesses like any other, which has nothing intrinsically bad, law firms should embrace this fact and put in place measures to be able to combine the fact of being a business with the duties that a lawyer has.

Another strong argument against allowing law firms to trade in public exchanges is the one related to the duty of confidentiality a lawyer owes to their clients, and how the compliance with this duty could be threatened by having non-lawyers as owners of a law firm. Lawyers, regardless of their specialty come across with a very important amount of confidential information, and they have the duty to protect that confidentiality with very few exceptions to it. Confidentiality is one of the more important duties a lawyer has towards the clients and is fundamental for the correct practice of the law, therefore it does not come as a surprise that the breach of this duty could be a result of allowing non-lawyers to own law firms through publicly traded stock. Confidentiality lies at the very foundation of the trust relationships that need to exist in order to have a successful client-lawyer relationship, as previously described in this paper. It makes perfect sense that people tasked with creating policy related with lawyers, have the preoccupation that a change in the structures allowed for law firms, could derive in a breach of the confidentiality duty. Once again, this is an issue that can be addressed by proper disclosure, when indicating that the issue can be resolved by disclosure I do not intend to confuse it with disclosing information that, by all means, should be confidential, what I intend to say is that when law firms hand out their prospectuses to investors, law firms need to make sure that they disclose the fact that the nature of the profession requires several information to be kept under confidentiality. When looking for investors, law firms will need to make sure that they explain properly explain how the duty of confidentiality works and how that duty can be above certain interests of investors. Once again this is an issue that can be addressed by an adjustment of the price of the stock that should be valued, based on the financial analysis that investors will make when considering the idiosyncratic risk of a law firm. This kind of disclosure would enable law firms to seek outside capital, without risking a breach of the lawyers' duties.

The stage of the legal services industries, and in general across all industries is such that technology is set to disrupt industries if not disrupted already. The law profession is no exception to that reality. The role of technology within the legal

[5] Jonathan I. Molot, *What's Wrong with Law Firms? A Corporate Finance Solution to Short-Termism*, Southern California Law Review. 13 (2014)

services industry is only going to grow more and more as years pass by. The fact that technology is set to disrupt the legal services industry, puts the law firm in front of a change, not only in the way services are delivered but also how a law firm invests in the working capital needed to deliver such services. Law firms because of the type of industry they are in, have relatively low costs of working capital, therefore having the ability to directly tie their costs for certain fiscal year to their earnings, this is not true for every kind of industry. Some industries are required to invest heavily in property, plant and equipment items, costs that they need to take up-front or through some outside financing mechanism and benefiting from that expense during long periods of time. As technology increases their footprint within the legal services industry, law firms will be required to make big investments in such kind of technology. This new kind of expense will push law firms to make investments that will report benefits over a longer period of time, therefore making it necessary to take a long-term approach to expense and benefit. Considering this, the current partnership model does not allow law firms to be flexible with how they obtain financing to run the firms and invest on them. Currently a law firm needs to either ask partners foot the bill either by requiring them direct investments or by retaining earnings or seeking out loans with financial institutions. As we have observed throughout this paper, current partnership structures incentivize immediate earnings, therefore is highly unlikely that a partner will agree to have earnings retained in order to invest in long term assets, if said partner will not be able to benefit from the long-term investment. The current structure pushes law firms to turn to bank loans in order to finance their activities, this type of financing even when a responsible manager uses it in the best possible of the ways, does not come without shortcomings that could be worked around if the law firms were able to finance their activities in other ways. In this scenario a different capital structure can come in handy, allowing firms to trade in public exchanges and designing ownership structures that allow shareholders to hold their position as long as they want, will allow law firms to gain flexibility in terms of big investment in assets that will not represent immediate benefits for the partners. Knowing that benefits will come, even if those come during a longer term, will incentivize partners to allow firms to retain earnings in order to make big capital investments, as they will certainly be required when implementing new technologies to the way firms deliver services. Allowing firms to trade in public exchanges will also permit non-lawyer owners, looking to invest in assets that will report benefits in a longer term, to foot the bill of big investments that otherwise would have to be made through bank loans, with the tight requirements that come with it. Also, if law firms are allowed to trade in public exchanges, is likely that firms will have the capacity to tap into the debt capital markets, this will also allow firms to have projects financed at a more convenient rate than the one firm would get with a bank. This reality, combined with the fact that law firms can avoid breaching their duties by appropriately disclosing their risk factors to investors and having their stock

valuation adjusted by the market, makes the option of allowing law firms to trade in public exchanges an interesting option for the future.

After considering the strongest arguments against allowing law firms to trade their stock in public exchanges and their counterarguments, we need to consider the arguments in favor of allowing law firms to trade their stock in public exchanges. Allowing law firms to change their capital structure, will inevitably change how law firms are managed, which can present law firms with different opportunities if properly used. One of the areas that could drastically change for the better is how law firms organize their career paths. It is my opinion that the possibility of having longer ownership interest over a law firm, can create the possibility of having a smoother career path within law firms. Currently law firms have in place career paths where, within a certain number of years an associate can be called for partnership or not, usually associates that do not have what is required to be partners or simply do not want to stay in a law firm, leave the firm during this period. Current structures, even when associates grow in responsibilities and in salary scale, provide lawyers with an abrupt change when passing from associate to partner. An associate that is called to partnership faces a situation where passes from being an employee to an owner, with the responsibilities that said status entails, without an adaptation time. This kind of abrupt change in status, is also true for retiring partners that pass from having ownership interest in the law firm to find themselves with only a retirement pension after years of hard work for the firm. It is my opinion that law firms can benefit from having their lawyers to enjoy a smoother career path. The partnership allows only to have an ownership interest or not, it does not allow to fraction that interest. If law firms are allowed to trade in public exchanges, this will mean that the ownership interest will be divided by shares, this will allow management to design a career path where employees can receive little ownership interest and as they grow as professionals and as they grow as business creators, they could gradually increment their stake, without having to take the big leap that going from employees to owners suppose. This kind of structure will also allow managers to reward high performers without necessarily relying on cash bonuses, creating a bigger sense of loyalty to the firm that will not be dictated only by the salary. This kind of flexibility will also allow law firms to enter into a different kind of arrangements with their retiring partners, adopting this kind of structure will allow law firms not to have retiring partners renounce to their ownership interest over the firm. Allowing partners to hold onto their ownership interest, even after retiring from practicing will incentivize partners to explore different billing arrangements looking to retain clients for the long-term, because they will have the security that they will be able to realize the benefits, even after retiring, this surely will prove beneficial for the law firm and for the law firm's clients. Law firms will have to be careful when designing their plans to allow retiring partners to hold stock, in order to have sufficient flexibility to allow them to

promote new generations of partners, but with careful design, law firms will gain the possibility of incentivizing long-term approaches by the partners and from the long-term value this kind of approach adds to every business.

As I have expressed before, clients can also benefit greatly if law firms are to take a longer-term approach to ownership, this is true because the big investments in technology and tools that were mentioned earlier, will provide benefits during the long run, this will allow law firms to decrease costs in what has been called commodity work, therefore allowing law firms to charge less to their clients while delivering the same quality or better quality of work for less money.

I strongly believe that the change in the ownership structure of law firms can benefit law firms all over the world.

The United Kingdom and Australia have experimented with alternative structures for law firms and so far they have not had more problems than the traditional modeled firm, as the strongest arguments against allowing law firms to trade stock in public exchanges suggest. I also think that less developed legal markets, can benefit from having alternative ownership structures for law firms. For instance, I am a lawyer from Guatemala, a third world country whose legal market is all but developed if compared with a market like the one existent in the US, UK or any other developed country, Guatemala also has a restrictive ownership structure, where law firms are encouraged to adopt an unlimited liability partnership[6] model, although some law firms do not always abide to that because self-regulation from the Guatemalan Bar Association is not enough to make law firms to comply with what is stated in the law. Even when law firms do not always abide to the partnership model, and often adopt the form of a company divided by shares, is true that the only lawyers get to be partners in a Guatemalan law firm. Guatemalan legal market, as less developed as it is, has a lot of lawyers making a living from mechanical work, that in other markets is left to paralegals or other non-licensed staff by allowing Guatemalan firms to change their ownership structures and having non-lawyers as owners or creditors -through bond issuance- of law firms, Guatemalan law firms could take an important step toward sophistication of the legal profession, making them more competitive within the international legal services industry and pushing its professionals to a next level of professionalism, where the lawyer will be in charge of the complex work, and through investments of cutting edge technology, commodity work could be left to machines or some sort of software. Also, by allowing non-lawyer investors in Guatemalan law firms, be them owners or creditors,

[6] *Sociedad Civil*, as regulated in the Guatemalan Civil Code, Decree 106.

Guatemalan law firms could be pushed towards having a stricter course of conduct, in order to attract the largest investors in the market.

Allowing law firms to trade in public exchanges will mean a total change on how the legal services industry has worked over several years and how legal services are delivered to clients, with change inevitably there is risk that comes associated with it, but it also comes with several opportunities if change is correctly managed. I am of the opinion that by allowing law firms to trade their stock in public exchanges and allowing them to have non-lawyers as owner of the firm, a well-managed firm with capable individuals can stand to gain a lot from the opportunities that this kind of structure presents. For the reasons I have presented throughout this paper, I am convinced that law firms that trade in public exchanges will not have more risk of breaching the lawyers' duties than they have right now with the prevalent partnership model. Is true that changing the current ownership structure, will come with different risks, is also true that there are several ways to deal with these risks and a well-managed and well-advised law firm should be able to manage and seize the opportunities. In order for this model to work, is critical that the prospectuses that are to be presented to potential investors, contain appropriate disclosures, especially regarding the duties a lawyer has, duties that are natural to the exercise of the law profession and are non-negotiable. Disclosing correctly the nature of the lawyers' duties and how those duties will operate in a situation where the interest of the investors and the duties are in conflict, will be crucial for having a functional change of ownership model. Making the appropriate disclosures will allow investors to through pricing, adjust for the idiosyncratic risk that a law firm will pose and have their expectations set accordingly to that type of risk that will be unique to law firms.

We have observed that a more flexible ownership structure will allow law firms to incentivize in different ways their different sets of stakeholders, this model will allow to ease the transition between associate and partners and also will allow retiring partners to hold onto ownership interest of the firm they have invested time and effort during a long period of time. This will inevitably change the dynamics within a law firm, incentivizing lawyers of every level of seniority to think in a longer-term basis and not trying to accumulate as much benefit during the time a lawyer works for the firm. Allowing law firms to trade in public exchanges and potentially to tap into the debt capital markets, will also allow law firms to invest in long term assets without having to enter into bank loans and without retaining earnings to the disgust of the current partners of the law firm, this will allow firms to take full advantage of the opportunities that will present with technology -which will require heavy investments- disrupting the way in which legal services are delivered.

Publicly traded law firms can also benefit law firms that act within small and less developed legal markets, in a way that will enable the firms to catch up with the cutting edge practices within the international legal industry, benefiting clients with more reliable law services providers in countries where clients may not have experience.

In less developed markets as is the case of Guatemala, listing a law firm in a public exchange may not be practicable, nevertheless the benefits of having a more flexible ownership structure can prove beneficial even when the Guatemalan law firm most likely will not be listed in a public exchange. A flexible ownership structure where a non-lawyer could have ownership interest over the law firm, Most of the Guatemalan law firms are still traditional in the sense that they rarely use professional management, this could change if law firms are able to offer some kind of ownership to different professionals or even to non-professionals that could make the operations of a law firm better.

The possibility of having non-lawyers owning a law firm, even when the shares of the law firm are not listed in a public exchange would permit law firms to access a different kind of financing, one that can set its goals over a longer term than the one law firms are normally accustomed to. Having a different ownership structure could ease the pressures felt by law firms to bill as much as they can to a client, with the goal of meeting immediate financial needs and instead they could focus on building long lasting relationships with clients as I have mentioned before. Even though in Guatemala would be impracticable, because of the development stage of the market, to have law firms in public exchanges, the principal argument of this paper does not change, in the sense that a Guatemalan law firm could receive several benefits by having a more flexible ownership structure.

It is my opinion that the benefits of allowing law firms to trade in public exchanges and to have non-lawyers with ownership interest over the firms, outweigh the problems of allowing such model and that there are ways to appropriately protect the duties a lawyer has to the clients and to the courts from being harmed by a change of model. The legal industry is on the verge of radical change and with that on the horizon is important that law firms are allowed to be flexible enough to keep track of the changes and stay competitive in the more and more competitive market, where technology will come into play and it will not be enough to have a law degree to participate in the market.

References

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