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Keeping best talent motivates firms to add non-equity partners

By Ralph Cunningham November 07, 2024

What partnership means in international law firms continues to evolve and the growth in non-equity versions shows no sign of stopping

Cleary Gottlieb has become the latest international law firm to introduce non-equity partnerships to its structure, as firms continue to break with the traditional set-up where senior lawyers become equity partners after a certain number of years of service, entitling them to share in the firm's profits and take part in its decision-making.

Paul Weiss, WilmerHale and Hunton Andrews Kurth are three other US firms, along with Cleary Gottlieb, to have announced this year that they would alter their structures to include a non-equity partnership level. Cravath Swaine & Moore preceded them in doing so in November 2023.

At the same time, it is not a new idea. Kirkland & Ellis has had a non-equity level in its partnership for some years and this is regarded as being a key reason why it has been consistently ranked as the top law firm by revenue in recent years.

Talent contest

Recruitment consultants and other observers of the legal market have told IFLR that amid fierce competition for talented practitioners, the introduction of non-equity partnerships is a way of retaining a firm's best up-and-coming lawyers, while giving them a higher status within the firm and with clients, with a view to developing them to become equity partners. It also provides some clarity for those lawyers coming up for partner consideration about what they need to do.

"Recent trends indicate that firms may be becoming even more selective in granting equity," says James O'Brien, director at Agnew O'Brien, an international legal recruitment firm.

As a result, compensation models are evolving, with firms employing a variety of strategies. These range from merit-based bonuses to fixed-income partner roles—to attract and retain talent while managing financial risk and incentivising performance.

"It's a good retention tool, so you're not losing talented partners who might get stuck at the associate level, who don't think: "I'm going to have to move law firm to get a better chance of becoming a partner," says Seamus Hoar, partner & practice lead, partner recruiting at legal recruitment firm Major, Lindsey & Africa.

Business boost

The recent change in law firm partnership structures has not happened for one particular reason, according to James Lavan, executive director at the recruitment firm Buchanan Law. He says, apart from talent retention, there are business development and client benefits, and financial advantages, too.

"By making someone a partner in name, although not in equity, there are obviously business development advantages given," he says. "The name and title hold more sway and will grant lawyers access to firms and contacts they simply cannot get as an associate."

The financial advantages come from more profit for the firm from being able to charge higher rates and not changing what equity partners receive.

"Not making them equity partners doesn't dilute the profit per equity partner, which has often been used as the yard stick of success in a law firm, and with the title of partner, the lawyer can justify much higher charge-out rates, thus increasing their profitability," says Lavan.

Lifting status

Hoar agrees there is, what he calls, a title element to non-equity partners that helps firms and clients.

"It's a stratum in the firm which evidently been being very successful, to use Kirkland as an example, in marketing lawyers as partners able to potentially charge out higher rates," Hoar says. "Consequently, you've got a relatively sort of meaty layer of highly competent lawyers who are charged out at higher rates with a partner title. So, it will be a benefit to the clients, and to the firm."

But it is not just a question of charging out non-equity partners at a higher rate and watching the revenue flow in. In Hoar's view, the firm has to manage the non-equity partner level well.

"Probably the number one thing, as far as I can see, is the management of the relationship with the client about what they are going to get, because the non-equity partner will be charged out at a higher rate, but is not a full equity partner," he says.

"Obviously there's a great deal of scrutiny around costs and clients are going to be very, very diligent around the quality of the lawyer that they're getting," Hoar adds.

Structural change

Along with the change in what partnership means, the structures around how lawyers work together are also changing, with the growth of practitioners working independently but signed up to a network or platform that provides a typical firm's infrastructure such as marketing, business development and IT support. Though only a small segment of the legal services market as yet, entities such as Keystone, Nexa and Lawfront are bringing a different hue to the legal landscape in jurisdictions such as the UK.

"It's a shopfront for lawyers, giving them the ability to work for themselves," says John McAuley about legal consulting platform Nexa, where he is chief marketing officer and head of talent.

It adds another ingredient to the changing legal services market.

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