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NY bar vetoes outside investors in law firms

By Caroline Binham, Legal Correspondent

March 21, 2012 7:04 pm

New York-based lawyers have been banned from joining a new breed of law firm that allows external investors in a move that could deal a blow to international firms considering third-party capital.

The New York State Bar Association, the biggest of America's lawyer groups with 77,000 members, said on Wednesday it had ruled that any of its attorneys who predominantly work in the state cannot be an employee of a firm with non-lawyer owners, no matter where in the world the firm is headquartered.

The UK, which lays claim to four of the 10 biggest law firms in the world by revenue, became one of the most liberalised legal markets in the world in October when it passed the Legal Services Act, which permits outside investment in firms, including through an initial public offering. It also allowed non-law firms to start selling legal advice to make buying legal services as easy as buying a tin of beans, hence the moniker "Tesco Law". Australia also permits external ownership of law firms.

So far, firms and companies that have applied for a licence under the Legal Services Act have been focused predominantly on personal injury and the high-street end of the market but several international firms, including US-headquartered ones with London offices, have admitted that they were considering how to take advantage of the legislation or at the very least examining whether they would be at a disadvantage if their competitors did.

Investors could equally be put off if the firms they were able to put money into did not have access to a meaningful footprint in New York.

The New York bar's announcement "is unfortunate," said Tony Williams, the founder of Jomati, a law-firm consultancy and the former managing partner of Clifford Chance. "But would I expect lawyers to vote for change? Probably not and especially not in an ever more challenging and competitive marketplace."

Firms that structure themselves as a verein, where a brand is shared but not profits with separate offices around the world shielded from other countries' regulations and tax laws, could be a solution, he said.

The American Bar Association, the nationwide group, is considering whether states' prohibitions on outside ownership should be dropped. The opposition to external capital is on ethical grounds, with concerns that lawyers could put their shareholders' concerns before their clients'.

Last week, a case was dismissed in a New York court brought by Jacoby & Myers, a personal injury firm. It had argued that banning external capital was unconstitutional as it hampered the firm's ability to offer legal services to poorer clients.