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KPMG offices in Washington, D.C. Photo: Diego M. Radzinski/ALM

ANALYSIS

KPMG Wants to Provide Legal Services in the US. Now All Eyes Are on Their Big Four Peers

"If KPMG can't make it successful, then maybe nobody can in the U.S.," said University of Miami law professor Michele DeStefano. "It's a good test for this type of structure."

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🕒 8 minute read



By Jon Campisi

Business of Law Reporter

What You Need to Know

- Big Four accounting firm KPMG seeks an alternative business license in Arizona that would permit a subsidiary to engage in legal work.
- So far, KPMG is the first of the Big Four to seek to become an ABS in the U.S., which would allow nonlawyer law firm ownership.
- Legal industry experts predict that others will likely follow suit.

Recent news that Big Four accounting firm KPMG is seeking an alternative business license in Arizona that would allow it to operate as a law firm has industry experts wondering whether the move might spur the other three Big Four firms and others to also try and get in on the legal business in the U.S.

The potential impact to Big Law is not yet entirely clear, but some industry experts caution that KPMG's application in Arizona may inspire copycat actions or perhaps might even lead to the American Bar Association considering revising Rule 5.4, a longstanding professional rule in the legal industry that generally prohibits nonlawyer ownership of

law firms, and one that has been under attack by legal reformers over the years.

Some observers see the Arizona move as significant for its shakeup potential to both the regulatory landscape and possibly Big Law operations.

"There are questions as to what does this really mean for the ABA and what is it going to mean for [Rule] 5.4 as we go forward," Mike McNamara, CEO and partner with Baretz & Brunelle, and former CEO of global law firm Dentons U.S., said. "Will there be a shift within the ABA to better embrace this?"

An ABA spokesperson said that the association does not have a position on KPMG's application at this point in time because Arizona's rules of professional conduct no longer operate under ABA Model Rule 5.4 as the state version of the rule was scrapped.

Big Law and 'Big Four' Implications

Some wonder whether KPMG's Arizona application could impact Big Law's ability to maintain a monopoly on legal services, as nonlawyer-operated entities see the potential value in branching out and offering legal services in an era where exclusivity appears to be diminishing.

"I wouldn't be surprised if Deloitte didn't make a move just because they seem to have been sort of significant players at the fringes of the legal marketplace," said retired attorney and legal news blogger Stephen Embry, referencing one of the other Big Four accounting firms. "I suspect they'll wait and see how the [KPMG] thing plays out."

One legal industry source who spoke with *The American Lawyer* anonymously because of potential conflicts said he's been keeping an eye on the KPMG application and is curious to see whether others would follow suit.

"I tend to think KPMG is trying to get their feet wet in a way that has supportable revenue and strategic fit, but I don't think they're going to try

to stretch the license beyond its expected reach in a way that will draw negative attention," the source said.

The source noted that KPMG has already established a legal footprint around the globe in jurisdictions that support alternative business structure legal practices, including areas like the United Kingdom, and he assumes the firm would try to integrate the Arizona license into its larger portfolio and "might give them something to use with overseas clients who are interested in joining their local work-up with U.S.-based capabilities."

McNamara is keeping his eye on the situation to see if the other Big Four accounting firms use this news as a springboard to try and launch their own legal practices.

"Obviously, there'll be a whole bunch of questions as to what Deloitte and PwC, EY and others within accounting will do," he said.

Other observers are also keeping a close eye on the situation.

"If KPMG can't make it successful, then maybe nobody can in the U.S.," said University of Miami law professor Michele DeStefano. "It's a good test for this type of structure."

McNamara questioned whether other states will change course on bans on nonlawyer ownership of law firms given the apparent success of the Arizona program, which now has over 100 approved ABS licensees.

"The question that we'll all be following is, will it be harder for other states to resist?" he said. "Will other states be apprehensive to regulate and provide oversight to lawyers and their privilege, which is one of the most valuable things that lawyers have to offer clients."

At the same time, any sky-is-falling argument at this juncture is likely to be premature, McNamara said.

"Do I think that the most elite law firms in the United States, let alone global law firms, are panicked about this? No," he said.

Just One of 50 States

Other legal industry analysts also said it may be too early to tell just how much of an effect KPMG's foray into the Arizona legal space might have on traditional law firms, even though the move may have the potential to inspire similar action by others.

"There's only so much you can do being an Arizona law firm, and it's only one of the Big Four," said legal industry strategist Brad Blickstein, of Blickstein Group. "If there's a moment where the Big Four is going to disrupt Big Law, this isn't it yet."

That sentiment was shared by Jeffrey Lowe, a legal recruiter with CenterPeak. Lowe said the Big Four accounting firms are a different animal than Big Law firms, and KPMG moving in on the legal action may not be as disruptive as some might imagine.

"Their business interests are so much more diverse than law firms are," Lowe said. "So, I think it's always interesting to see, but I don't think it's going to have a material effect on Big Law as we know it."

DeStefano, the law professor, also said the impact to Big Law might not be as dire as some predict.

"I don't think Big Law is going to be running scared right now because there aren't that many jurisdictions where ABS is allowed and there's going to be regulatory scrutiny, there's going to be challenges," she said.

Some experts say it would be helpful to the discussion to see how things have shaped up in Europe after England and Wales loosened similar legal industry restrictions through a 2007 law change.

"Some of us in the commentary circles thought it would really shake up the large law firm market," said Ron Friedmann, a senior director and analyst with Gartner. "I think it's had a noticeable impact when you look at the diversity of the legal ecosystem in England and Wales, especially in some of the areas that are not [home to] Big Law."

Friedmann said the key takeaway from the observing the U.K. is that while ABS firms may have had some impact on the legal market, the impact may simply be subject to natural limits. These new players have been able to make a dent in what's commonly regarded as "commodity work," while high-stakes litigation and transactional work has remained solely within the purview of law firms.

"It won't be transformative for the large law firm market," he said. "It might have some impact incrementally in, say, higher volume businesses where they're already been competitors in the form of alternative service legal providers."

Potential U.S.-Wide Business

While KPMG's petition would permit KPMG Law U.S., the subsidiary seeking the license, to practice within Arizona, the company itself noted that there could be potential for it to offer legal services outside of that state, although the specifics were unclear, and the firm didn't respond to a request to elaborate on how the Arizona license may actually enable it to work in other states.

"As an Arizona ABS, KPMG Law US would be able to practice law in the United States, subject to legal rules in its various jurisdictions, which is something that no Big Four network firm can currently do," KPMG said in a statement.

KPMG says it will provide a "focused and important set of integrated business solutions for legal teams."

"KPMG Law US will primarily deliver large-scale, process-driven work, such as volume contracting, remediation exercises, M&A-driven harmonization of contracts, and other legal managed services," the firm stated.

The Arizona Supreme Court's Committee on Alternative Business Structures is expected to take up KPMG's application during a review proceeding on Jan. 14.

The news of KPMG seeking to cash in on the law business follows an announcement from this past September that Rocket Lawyer subsidiary Rocket Legal Professional Services successfully won approval as an alternative business structure in Arizona.

The move by the state's Supreme Court paved the way for nonlawyer law firm ownership, which has long been barred by American Bar Association professional rules.

Utah approved a similar rule change in 2020, but the change was temporary, and has a sunset clause of 2027. Arizona's change was permanent. And in early December, the Washington state justices gave their approval for a pilot program permitting nonlawyer entities to provide legal services in the state.

In its Dec. 5 ruling, the Washington Supreme Court said that professional rules barring nonlawyer ownership of firms and prohibitions on fee-sharing with nonattorneys, "while serving important public protection purposes ... serve as barriers to the exploration, and data-driven testing, of legal regulatory reforms that would permit entities to provide legal and law-related services to consumers in Washington, whether or not the provision of those services would constitute the practice of law."

Supporters of allowing the expansion of legal services to nonlawyer entities cite access to justice as one major reason for branching out.

In September, after Rocket Legal Professional Services won its approval as an alternative business structure, the firm told *The American Lawyer* that making legal services affordable and accessible to consumers was of utmost importance, in a day and age where legal fees, like other costs, continue to creep upward.

Correction: An earlier version of the story imprecisely stated the ABA's reaction to KPMG's application. The story has been updated.

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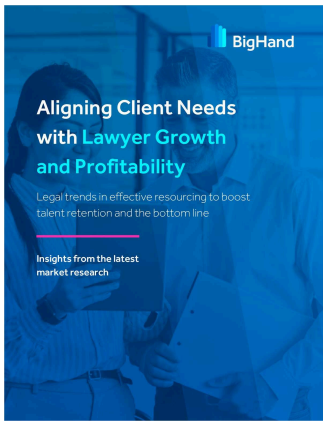
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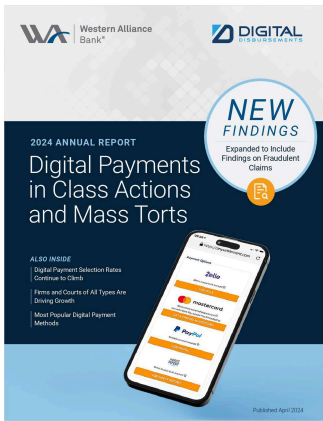
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