

# CML: How will partner retention rates fare in 2012?



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Law firms in Asia, whether regional or international, are continually fighting for a leading position in the Asian legal market.

This year has seen an average retention rate of around 80% for Chinese law firms; rates for junior lawyers have been slightly lower, at around 73%, whilst the rate for partners rests at around 86%. With respect to US law firms, the rate for partner retention has soared at around 95%.

2012, however, is likely to see fierce competition between firms as more international firms, and in particular US firms, look to solidify their position and achieve their highly ambitious growth plans. Therefore these retention rates, in particular for Chinese firms, are likely to be considerably lower.

## **Partner moves in 2011**

Towards the end of this year, we have seen an influx of international firms creating offices in Asia in order to tap into this continuously growing market. Once established, some have actively poached prominent partners from competing firms. The view is that these partners will open the door to prolonged success and a huge client base.

According to a partner at a UK magic circle firm, it has always been important to compete on a global scale and since at this moment the competition mainly takes place in Asia, the shift towards that region and the need for experienced lawyers in Asian offices is vital.

US firms including Kirkland & Ellis, Gibson Dunn, Morrison & Foerster and Cadwalader, Wickersham & Taft have made aggressive moves to hire well known partners in the Hong Kong and China market. Chinese firms such as Jun He and King & Wood have also made moves to strengthen their practices in mainland China and Hong Kong, hiring numerous partners from international firms. In so doing, these firms hope to extend their reach and make an impact into this enormous market.

One such prominent US firm which established its office in Hong Kong only last year has been quick to poach several partners from other well-established US firms. In August of this year, a partner widely recognised as one of the region's leading finance and securitisation lawyers was hired from another renowned US firm in Hong Kong. The Asian head of said firm stated that the appointment of this high profile partner comes as part of the firm's long-term strategy for Asia.

Several leading international law firms have relocated partners from their head offices in Europe or the US to Hong Kong and China to boost their practices in Asia. These firms include Australian firm Allens Arthur Robinson, who have sent nine selected lawyers to look after the firm's new Mongolian office; Allen & Overy, who have sent a partner to Hong Kong to boost the firm's Asia Pacific energy practice; and Linklaters, relocating two European-based partners to enhance its Asia corporate practice.

For Linklaters, these mark the first corporate partner relocations into Asia and were a reaction to the increasing sense of opportunity in Asia and the increasing investments that are being made in the region, according to Linklaters' global corporate head, Jeremy Parr.

At the beginning of this year, we predicted that we would see a spike in partner headhunting as firms looked to build quickly and rapidly in Asia. Our prediction for 2012 is that partner retention is going to become a major problem for some firms as more and more law offices will realise that if they don't act, they may be in danger of being pulled apart.

### **Why these partners are in such high demand**

It may seem surprising that so much activity is taking place during a period of market turmoil, particularly given the need for extra budgets. However, these firms have indeed planned for the future, considering the long-term gain that these partner moves will create for them. Through these moves, the firms hope to gain an influential position within the market, whilst also bringing in new clients from this globally prominent market and the all-important open door to China.

Another US firm that has made a series of hires, including opening a new office in Shanghai, states that these moves may come at a difficult time at present, but they form part of a plan for the future, to stabilise the firm's presence in Asia, and in particular in mainland China.

Firms are now beginning to see the importance of Chinese language capacity, and thus understand that through hiring Chinese-speaking partners, they can add these languages to their firm's offering, as well as adding contacts in the higher echelons of the firm. Law firms are aware of the fact (and even China Daily points it out) that due to the growing economy and the rapid expansion of the market over the past 30 years, the need for Chinese lawyers has significantly increased. With 200,000 licensed lawyers in China, international firms feel at liberty to poach partners from Chinese firms, thus increasing their potential in this market.

Furthermore, these partners may well be able to bring promising associates and senior associates with them, therefore improving an already successful team, giving the hiring firm a major boost and foothold in their respective market, literally overnight.  
Incentives for partners

A firm's desire for growth and success is inevitably one of the main reasons for partner moves. In life, people will always strive to be the best that they can possibly be, especially ambitious lawyers. Many partners who see a lack of opportunities or growth within their current firm will always be looking to find new opportunities that will lead them towards fulfilling their ambitions. For example, if the pay structures laid out within a firm allow little or no room for movement or growth, partners will begin to look elsewhere for firms that will allow this movement. Likewise, if they are offered an equity share with another firm which largely exceeds their current equity share, or even at least some equity where they are currently not offered any, then this is often a huge incentive to move. Ambitious Lawyers will also look for more involvement at senior level and have some say in the direction the firm is going.

This is why we have seen prominent partners in big multi-national law firms where they have little or no say in the strategic direction of the firm, leave to join smaller outfits that they can help grow. Alternatively, another reason that partners look to move from their current firm is that they are merely looking for a change of scene and are interested in being more involved in the development of the firm.

### **Firms which are most in danger of suffering losses**

In this battle for success, firms that are most at risk of losing their partners to international and regional firms tend to be UK magic circle firms as well as other big international firms that have prominent Chinese partners. The reason for this is that partners from these globally renowned brands have a well-established reputation that could assist in bringing other firms to the fore.

These fantastic lawyers are well trained, excellent at what they do, with good contacts and reputations, but they are on packages that some of the US or other international firms (those that have a more aggressive growth strategy in Asia) can beat. In addition, other, smaller offices in Asia can potentially offer these partners a more attractive role, helping to develop the business as a whole and having a huge impact on its future direction.

For these reasons, it is becoming increasingly difficult for firms to keep hold of some of their partners.

Allen & Overy has already suffered a series of recent losses towards the end of this year, firstly to White & Case in September, and most recently to rival UK firm Simmons & Simmons, which was looking to boost its Hong Kong litigation team.

Freshfields has also seen a high number of partners and counsels depart for Wall Street firms throughout the year. A managing partner for one of these firms states that through the influx of US firms, the dominance of magic circle firms in Hong Kong has been taken away.

### **How to avoid losing partners**

Although controlling the goals that partners have for their careers and how they intend to reach these goals is ultimately impossible, there are certainly ways of giving them incentives to stay with their current firms and not look to move on quite so soon. Given the visible indications that 2012 will be a fiercely competitive year, it would be wise to start signalling these incentives now, particularly in the lead up to the New Year/Chinese New Year, which is often when a lot of big decisions are made.

It goes without saying that increasing pay packages or offering equity shares would probably be the most obvious incentive for partners. If another firm is offering more than the partner's current package, evidently the choice will often be to go with the higher salary; however, if you act first and increase partners' packages so that salary no longer remains an issue, they may reconsider their move. The vital point here is to budget for the significant drop in retention rates that are predicted for next year.

It often pays to show your current staff that you have serious business plans, by strategically and aggressively hiring other lawyers to the firm or promoting lawyers already with the firm. In so doing, partners may feel like a part of a bigger picture, particularly if you include them in the hiring plans, as they will then feel involved in the development of the firm. Clifford Chance, for example, promoted 23 lawyers to partnership, including 12 in Asia earlier this year as part of a bid to show their commitment to business in the Far East. Of these 12 new partners, nine are focused on the Greater China region alone, suggesting that the firm has important business plans in this part of the region.

As far as the question of equity is concerned, it might pay to offer younger partners some share of the firm's equity as this may increase their chances of wanting to stay with the firm.

### **Conclusion**

As the European market settles down and the world shows signs of starting to realign itself, particularly as we have seen the markets begin to pick up again towards the final quarter of 2011, we are aware that law firms will be making some significant changes in the coming year, aggressively hiring new partners from international firms in order to strengthen their presence in Asia.

Law firms must understand that it is not just their associates who could potentially get itchy feet, but also their partners, particularly when other firms are offering hugely attractive incentives to draw in top partners (particularly Chinese-speaking partners) and they may be feeling under-appreciated at their current firm.

It is important to realise that when partners move, they can take with them a long list of valuable clients, their book of business and the best associates, and this can actually be the most damaging thing to happen to a law firm. This is particularly true in China given the importance of Mandarin as a language. Law firms should take this into consideration when planning their budgets for the upcoming year in order to minimise damage to their firm.

Looking into 2012, it is a certainty that partner level hiring and headhunting will increase from its 2011 levels. Even during the global financial crisis of 2007-2009, firms were still hiring partners, so any slow down in the financial markets will not necessarily put the brakes on hiring at this level. Firms should have partner retention strategies written into their plans for 2012 and beyond or they could find themselves with some pretty big gaps to fill.