

## UK – Law Firms

# The Essential Role Of London In A European Law Firm Network

The Editor interviews **Richard Ginsburg**, Partner, Weil, Gotshal & Manges LLP. Mr. Ginsburg practices in the firm's London office.

**Editor: Please tell our readers about your educational background and how you came to qualify to practice in both the U.S. and Great Britain?**

**Ginsburg:** I attended the University of Texas at Austin and earned a Bachelors Degree in marketing. After graduation I was involved in a family business that operated five men's and women's clothing stores in Texas, including serving as president. In the late 1980s I decided to leave the business and return to school, attending Texas Tech University where I was awarded both a law degree and an MBA.

After joining Weil Gotshal's Dallas office my work in the banking and finance group involved many international transactions. After a very few years it became clear to the firm that there was a need for locating someone with my experience in the London office, and as a result I relocated to London in 2000. Shortly after settling in there I took and passed the English bar exam and became qualified as an English solicitor. As a result I am actually licensed in three states in the U.S. and in the UK, all of which has proved to be very helpful to my practice and to the firm.

**Editor: What attracted you to Weil Gotshal?**

**Ginsburg:** Initially it was clear to me that the firm appreciated the value of my business background. It was actually a bit of a challenge to find a law firm that didn't look at starting a second career and being a bit older than most law school graduates as being disadvantageous. Weil Gotshal valued my business background and maturity, feeling that my earlier career in business was actually a very strong positive. I was also impressed with the atmosphere of friendliness that characterizes Weil Gotshal – joining the firm was actually a very easy decision.

**Editor: Perhaps you could give a thumbnail sketch of the history of the firm in Europe, including how the London office fits in?**

**Ginsburg:** Our entry into Europe was actually a bit different from the way that most U.S. firms find their way to Europe. We opened offices in Central and Eastern Europe before we opened offices in Western Europe.

Our early offices included Warsaw, Prague, and Budapest. Their activities involved acting on behalf of a number of the U.S. development funds. The mission of these funds was to make investments that would aid these countries to move from Communism to Western style economies. As time went by it became clear that, while the general transactions might be governed by local law, such as Polish or Hungarian law, the financing aspects almost always involved English law.

As a result, the firm realized that as part of providing services to these clients it was important to develop an English practice with an office in London. The initial focus of the office in London was, in fact, banking and finance. While we continue to

have a very strong banking practice in London, today the practice is much more rounded. We started east then came west to London. Over the past few years, we have filled in the middle with offices in Frankfurt, Munich and Paris and now have a footprint in Europe that includes offices in 7 countries and about 25% of the firm's attorneys.

**Editor: Tell us more about the London office?**

**Ginsburg:** We have about 120 lawyers in what is mostly an English law practice. In fact, if you exclude our specific U.S. capital markets practice, probably 95% of the fee earners in London are English lawyers – so the London office is certainly not what you would think of as a U.S. practice. It is an English practice with mostly UK lawyers and persons such as myself who are dual qualified.

I see the office continuing to focus in each of the areas that we currently cover. We're basically a corporate practice – virtually everything that we do relates to our services to private equity investors, investment banks and established companies, including corporate banking, tax, real estate, litigation, dispute resolution and competitions practices. We cover all aspects of corporate finance, including general banking, acquisition finance and structured finance and securitizations. We have a growing insolvency and restructuring practice and have taken leading roles in almost all of the largest cross-border restructuring cases over the past few years.

I am quite certain the office will continue to grow, both organically and by lateral recruitment. We have a number of very good associates coming up the ranks. And people at other firms see the approach we take to our practice, including the type of practice we've been able to build, and typically like what they see. If we can make a marriage and a home for someone who has a good following or a good potential, that's always something that we look for.

While the London legal market includes the so-called "magic circle" law firms, each of which has hundreds of lawyers, we deal with these firms every day and believe they have come to respect our practice and what we bring to the market, whether in banking or private equity transactions. Indeed, the majority of the partners and senior associates in our London office came from those firms. We are repeatedly involved in the biggest and most complicated transactions that you see over here. Everything from Euro 50 million transactions to Euro 4.5 billion transactions.

**Editor: How do you interface with the other Weil Gotshal offices in Europe?**

**Ginsburg:** The majority of European financings are done under English law. As a result of my practice I have probably as much involvement with the other European offices as any other lawyers in London. If you have a French transaction or a German transaction, once the enterprise involves multiple jurisdictions and becomes a "European" transaction, it is likely that the financing aspects of the transaction will be governed by English law. For example, take a transaction involving a German acquisition with

assets in England, France, Germany and Holland. The Frankfurt or Munich office might handle the acquisition and all the negotiations and documentation of the acquisition agreements, but because the financing may be governed by English law the London office would negotiate and document the bank financing for the transaction. It goes the other way as well when the London office has a transaction that involves mostly the UK but has components that implicate the laws of the other countries in which we have offices. As a result of all of this, very strong relationships exist among our European offices. We work with each other week in and week out and have developed a seamless flow of work among offices.

**Editor: What do you find to be the most significant problems facing U.S.-based firms making acquisitions in Europe?**

**Ginsburg:** If the acquisition involves a number of European countries, a major problem is that the investor has to realize that the laws of each country will be different – sometimes very different. This is unlike the U.S. where, even if the transaction involves a number of states, the documentation requirements will be quite similar.

If you look at Europe, every jurisdiction is unique. As a result you need qualified lawyers in each and every jurisdiction for every aspect of the transaction that implicates that jurisdiction. All sorts of issues come up, some of which seem minor – but are essential to satisfy local requirements. For example, whether documents need to be executed by notarial deed, whether there are restrictions on financial assistance (a very complicated issue), limitations on guarantees – everything gets very specific. This makes cross-border transactions more difficult to manage – and, unfortunately, more expensive because you have multiple sets of lawyers in each jurisdiction. The most important task is managing the transaction so that the requirements of each country are met – this is essential. That is why having a network of local lawyers is so important in coordinating the work of lawyers in the countries that might be involved.

Another problem area is that of workers' rights in corporate management and transactions. For example, in many jurisdictions employees have representatives on the company board of directors. In other jurisdictions, there are Works Councils representing employees – and in both cases you have to consult with the Works Councils or employee representatives before you can do anything. And they are always worried about the impact of a transaction on their job security. It is important that the acquiring company carefully investigate the history of relationships that the business to be acquired has with its employees or their trade union to uncover information that might limit its ability to carry out its plans.

Although major issues can arise in the acquisition itself, there are not as many dissimilarities relating to raising capital, but there are different market practices and different approaches to syndication and structuring the transaction. The ability to raise capital is not very different. The right deals with the right leverage and the right financial sponsors almost always are able

to attract capital.

**Editor: Isn't the EU trying to harmonize the laws to a degree?**

**Ginsburg:** The goal, of course, is to have an overall harmonized legal system, similar to the Uniform Commercial Code in the U.S., but I don't think that we will see that in the near term. Today, EU law doesn't affect so much the substantive things you can do in terms of granting security interests and financing transactions as things like human rights and the conditions of employment. So, other than from a competition viewpoint, EU law really doesn't impact the individual transaction as much as one might think.

**Editor: Do the rules for clearing acquisitions from an antitrust standpoint differ in the UK and EU from those in the U.S.?**

**Ginsburg:** The treatment of antitrust issues is quite different. Despite an EU filing, you still may have to make filings in individual countries, whereas there is no need in a U.S. transaction to file in the various states. In the U.S., you typically make a Hart-Scott-Rodino filing and you're done. Here, you have to examine the laws of each of the countries involved to determine whether or not you have to make a filing in a given country – and then there is the overarching question of whether you need to make an EU filing.

**Editor: What deal structures seem to be favored, say for acquisitions of companies or leveraged buy-outs generally? Do you see the tiered deal as we have in the U.S. with the senior debt, subordinated debt/ preferred, equity structure?**

**Ginsburg:** It's pretty much the same as the U.S. Every deal that you see right now has multiple tranches of senior debt plus a revolving facility. They may add a second lien facility and a mezzanine facility, or – depending on the market at the time – a high-yield bond. Many deals consider what is called a Holdco PIK ("payment in kind") instrument, which is a more equity-like instrument where no interest is paid on the principal and interest is added to the principal to be paid at maturity – but these are talked about more than actually used.

**Editor: Is the taxation of corporate income similar to that found in the U.S.?**

**Ginsburg:** It really depends. You've got transfer pricing issues that you have to work through. The biggest challenge for most of the deals is tax structuring because every country wants to take its proportionate taxation of profits on operations. The bottom line is that the tax structuring of transactions is a bit more difficult here.

There's been a recent UK decision about the ability of companies to net profits and losses across jurisdictions. The case involved a retail chain based in the UK that had losses in one or two countries but nice profits in other jurisdictions. The challenge in the UK court involved whether the company could offset those losses against the profits in the UK, and the company won their argument to offset, although the government will certainly try to challenge the decision.

Please email the interviewee at [richard.ginsburg@weil.com](mailto:richard.ginsburg@weil.com) with questions about this interview.