

1 **Rule 5.7. Responsibilities Regarding Law-Related Services.**

2 (a) A lawyer shall be subject to the Rules of Professional Conduct with respect to the
3 provision of law-related services, as defined in paragraph (b), if the law-related services
4 are provided:

5 (1) by the lawyer in circumstances that are not distinct from the lawyer's provision
6 of legal services to clients; or

7 (2) in other circumstances by an entity controlled by the lawyer individually or with
8 others if the lawyer fails to take reasonable measures to ensure that a person
9 obtaining the law-related services knows that the services are not legal services and
10 that the protections of the client-lawyer relationship do not exist.

11 (b) The term "law-related services" denotes services that might reasonably be performed
12 in conjunction with and in substance are related to the provision of legal services, and
13 that are not prohibited as unauthorized practice of law when provided by a nonlawyer.

14 **Comment**

15 [1] When a lawyer performs law-related services or controls an organization that does
16 so, there exists the potential for ethical problems. Principal among these is the
17 possibility that the person for whom the law-related services are performed fails to
18 understand that the services may not carry with them the protections normally afforded
19 as part of the client-lawyer relationship. The recipient of the law-related services may
20 expect, for example, that the protection of client confidences, prohibitions against
21 representation of persons with conflicting interests and obligations of a lawyer to
22 maintain professional independence apply to the provision of law-related services
23 when that may not be the case.

24 [2] Rule 5.7 applies to the provision of law-related services by a lawyer even when the
25 lawyer does not provide any legal services to the person for whom the law-related
26 services are performed and whether the law-related services are performed through a
27 law firm or a separate entity. This Rule identifies the circumstances in which all of the

28 Rules of Professional Conduct apply to the provision of law-related services. Even
29 when those circumstances do not exist, however, the conduct of a lawyer involved in
30 the provision of law-related services is subject to those rules that apply generally to
31 lawyer conduct, regardless of whether the conduct involves the provision of legal
32 services. See, e.g., Rule 8.4.

33 [3] When law-related services are provided by a lawyer under circumstances that are
34 not distinct from the lawyer's provision of legal services to clients, the lawyer in
35 providing the law-related services must adhere to the requirements of the Rules of
36 Professional Conduct as provided in paragraph (a)(1). Even when the law-related and
37 legal services are provided in circumstances that are distinct from each other, for
38 example, through separate entities or different support staff within the law firm, the
39 Rules of Professional Conduct apply to the lawyer as provided in paragraph (a)(2)
40 unless the lawyer takes reasonable measures to ensure that the recipient of the law-
41 related services knows that the services are not legal services and that the protections of
42 the client-lawyer relationship do not apply.

43 [4] Law-related services also may be provided through an entity that is distinct from
44 that through which the lawyer provides legal services. If the lawyer individually or
45 with others has control of such an entity's operations, this Rule requires the lawyer to
46 take reasonable measures to ensure that each person using the services of the entity
47 knows that the services provided by the entity are not legal services and that the Rules
48 of Professional Conduct that relate to the client-lawyer relationship do not apply. A
49 lawyer's control of an entity extends to the ability to direct its operation. Whether a
50 lawyer has such control will depend upon the circumstances of the particular case.

51 [5] When a client-lawyer relationship exists with a person who is referred by a lawyer to
52 a separate law-related service entity controlled by the lawyer, individually or with
53 others, the lawyer must comply with Rule 1.8(a).

54 [6] In taking the reasonable measures referred to in paragraph (a)(2) to ensure that a
55 person using law-related services understands the practical effect or significance of the

56 inapplicability of the Rules of Professional Conduct, the lawyer should communicate to
57 the person receiving the law-related services, in a manner sufficient to ensure that the
58 person understands the significance of the fact, that the relationship of the person to the
59 business entity will not be a client-lawyer relationship. The communication should be
60 made before entering into an agreement for provision of or providing law-related
61 services, and preferably should be in writing.

62 [7] The burden is upon the lawyer to show that the lawyer has taken reasonable
63 measures under the circumstances to communicate the desired understanding. For
64 instance, a sophisticated user of law-related services, such as a publicly held
65 corporation, may require a lesser explanation than someone unaccustomed to making
66 distinctions between legal services and law-related services, such as an individual
67 seeking tax advice from a lawyer-accountant or investigative services in connection
68 with a lawsuit.

69 [8] Regardless of the sophistication of potential recipients of law-related services, a
70 lawyer should take special care to keep separate the provision of law-related and legal
71 services in order to minimize the risk that the recipient will assume that the law-related
72 services are legal services. The risk of such confusion is especially acute when the
73 lawyer renders both types of services with respect to the same matter. Under some
74 circumstances the legal and law-related services may be so closely entwined that they
75 cannot be distinguished from each other, and the requirement of disclosure and
76 consultation imposed by paragraph (a)(2) of this Rule cannot be met. In such a case a
77 lawyer will be responsible for ensuring that both the lawyer's conduct and, to the extent
78 required by Rule 5.3, that of nonlawyer employees in the distinct entity that the lawyer
79 controls complies in all respects with the Rules of Professional Conduct.

80 [9] A broad range of economic and other interests of clients may be served by lawyers
81 engaging in the delivery of law-related services. Examples of law-related services
82 include providing title insurance, financial planning, accounting, trust services, real

83 estate counseling, legislative lobbying, economic analysis, social work, psychological
84 counseling, tax preparation, and patent, medical or environmental consulting.

85 [10] When a lawyer is obliged to accord the recipients of such services the protections of
86 those rules that apply to the client-lawyer relationship, the lawyer must take special
87 care to heed the proscriptions of the rules addressing conflict of interest (Rules 1.7
88 through 1.11, especially Rules 1.7(a)(2) and 1.8(a), (b) and (f)), and to adhere
89 scrupulously to the requirements of Rule 1.6 relating to disclosure of confidential
90 information. The promotion of the law-related services must also in all respects comply
91 with ~~Rules 7.1 through 7.3~~Rule 7.1, dealing with advertising ~~and solicitation~~. In that
92 regard, lawyers should take special care to identify the obligations that may be imposed
93 as a result of a jurisdiction's decisional law.

94 [11] When the full protections of all of the Rules of Professional Conduct do not apply
95 to the provision of law-related services, principles of law external to the Rules, for
96 example, the law of principal and agent, govern the legal duties owed to those receiving
97 the services. Those other legal principles may establish a different degree of protection
98 for the recipient with respect to confidentiality of information, conflicts of interest and
99 permissible business relationships with clients. See also Rule 8.4 (Misconduct).