



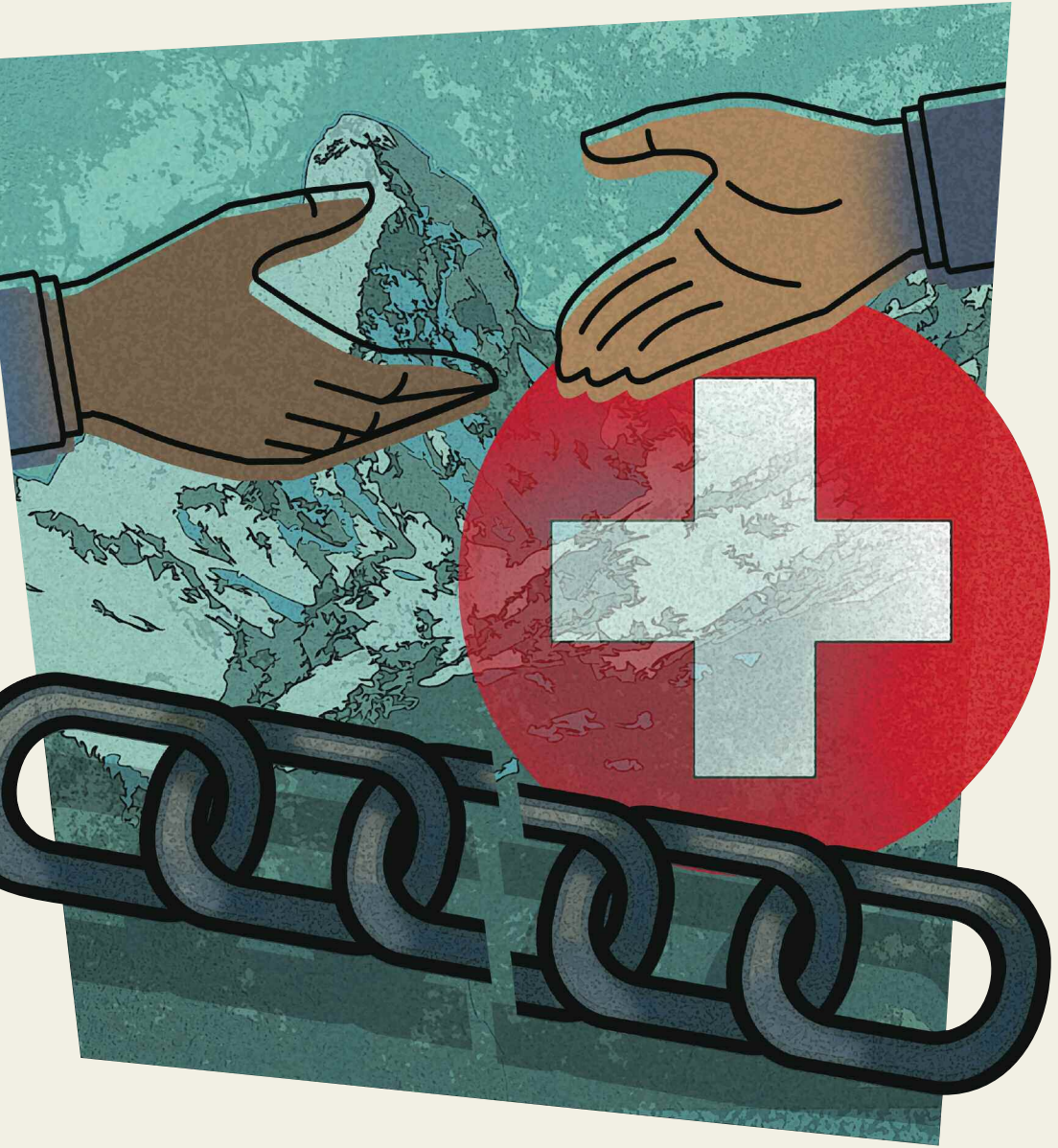
THE SWISS VEREIN

# Enter the *Swiss Verein:*

21st-century global platform  
or just the latest fad?

*After years of anticipation, true global consolidation on a significant scale is finally occurring in the legal industry. The driving influence appears to be the availability of a structural vehicle that helps firms deal with the legal and functional hurdles of international mergers. That vehicle is the Swiss Verein.*

**By Nick Jarrett-Kerr and Ed Wesemann**



**T**he Swiss Verein (*fer-INE*) is not new; it was originally designed for the international affiliation of non-profit entities (the word “*verein*” means “association” or “club” in German). The creation of a verein under Swiss law permits a variety of entities to affiliate while maintaining their status as individual legal organisations.

Through a verein structure, a collection of law firms, organised under different corporate or partnership structures in different countries, can present itself internationally as a single organisation without complying with the regulations and tax codes of each country in which the verein operates. This conveniently avoids regulations regarding the qualifications of law firm owners and the necessity of member firms filing multiple tax returns around the world. A Swiss Verein is not subject to the regulation of the Securities and Exchange Commission in the U.S. or similar regulatory bodies in other countries.

Perhaps the most significant advantage of a Swiss Verein structure is the avoidance of two of the biggest stumbling blocks to large-scale mergers. First, members of Swiss Vereins do not share commercial or professional liability for the debts or actions of other member firms. Second, there is typically no sharing of revenues or pooling of profits. As a result, the ticklish due diligence issues, differences in profitability and compensation schemes, are not a problem in a Swiss Verein.

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Despite their increasing popularity as more and more global players connect, Swiss Vereins are not new in the legal world. Baker & MacKenzie is a Swiss Verein; so are DLA Piper, Squire Sanders, Norton Rose and SNR Denton. The prospect of a huge global brand operating by local rules has driven a recent surge in adoption of the verein structure, as demonstrated by the well-publicized Hogan Lovells (U.K. and U.S.) and King & Wood Mallesons (China and Australia) Swiss Vereins.

## THE GRAND ILLUSION

Given the advantages of a Swiss Verein, why would any international law firm choose to operate as a partnership? The biggest concern is that Swiss Verein law firms are loose affiliations one step removed from law firm networks like Lex Mundi. Peter Kalis, the chairman of K&L Gates (which operates internationally without the use of a verein), told *The American Lawyer* in May 2011 that “vereins are kaleidoscopic. With spin and mirrors, two or more members can be perceived as one. They are the antithesis of a single firm.”

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Critics further argue that vereins are simply marketing platforms without the common culture, shared knowledge and standardised practices that single partnerships enjoy. These critics question whether clients will buy into the illusion of a Swiss Verein functioning as a single law firm, and whether lawyers operating in separate firms using the same name will be eager to cross-sell each other’s services.

Some firms, however, do practise internationally in a decentralized governance structure; for them, the Swiss Verein arrangement can prove suitable. DLA Piper moved to a Swiss Verein structure in 2008. Joint CEO Sir Nigel Knowles told *The Lawyer* at the time that the Swiss Verein would actually help to decentralise the firm’s governance.

“What we’re pushing hard on is not financial integration, but business integration,” Knowles was quoted as saying. “There will be a lot more money going into dealing with global expansion and rewarding partners. The important thing about the verein structure is that it allows the right sort of governance, because it gives independence to the holding vehicle and emphasizes that we’re neither a U.K. nor a U.S. firm.”

## THE FUTURE OF SWISS VEREINS

Undoubtedly, the Swiss Verein has accelerated the scope and scale of international mergers. Norton Rose’s massive assemblage of firms in South Africa, Canada and Australia over a span of months, as well as the combination of Australia’s Mallesons with King & Wood in the PRC, would never have occurred without the use of Swiss Vereins.

The bigger question in the minds of many observers is whether the Swiss Verein is a transitional structure used to create mergers that are later back-filled with proper law firm organizations, or whether they represent a long-term change to the way law firms will govern themselves in the future.

The Swiss Verein has been used for decades by global professional services firms to achieve their growth objectives, but questions remain. The accounting firm Deloitte operated for many years as a Swiss Verein, but decided in 2010 to shift its international management and governance to a newly created U.K. private company.



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A Deloitte spokesman told *The Guardian*: “After decades of operating as a Swiss Verein, we recently decided to take a fresh look at our legal structure in order to determine whether it was the optimal organisation, now and in the future. We concluded that, although the verein structure had served us well over the years, we had outgrown it.”

U.K.-based Eversheds is currently reviewing its own plans to accelerate integration amongst its international offices. Eversheds CEO Bryan Hughes recently told *The Lawyer*: “We’ll be driving integration across the whole business in a number of ways: system enhancement, increasing the number of secondments, and particularly through the internationalisation of our practice groups, sectors and client service teams.” Bryan Hughes has told us, however, that it is highly unlikely the firm will establish a Swiss Verein to achieve these objectives.

Moreover, regulatory issues can affect individuals as much as firms, and the Swiss Verein structure might not help with such problems. In some jurisdictions, such as the U.K., foreign lawyers can become partners of local law firms by registering in that country as a registered foreign lawyer. However, in most jurisdictions, this route is not open and foreign lawyers must remain as consultants or in some other capacity. Nevertheless, they can enter into a form of partnership if their firm organises their economic partnership interests through an offshore law firm corporation.

Strategy should determine the correct architecture for any organisation, but it has been all too easy for law firms to use perceived structural difficulties as an excuse for doing nothing. We have seen expansion, mergers and team acquisitions all routinely abandoned because of structural or premises issues, and it is clear that cross-border consolidation has in the past frequently stumbled because of perceived organisational problems.

## THE KEYS TO A SUCCESSFUL MULTI-OFFICE FIRM

**T**he Swiss Verein is far from a “magic wand” to solve a firm’s problems, but it does provide a useful option for both international and interstate mergers. Whatever structure is used as a platform for a multi-office law firm, it must take into account these four strategic issues.

1. The structure must be tax-effective: it is usually best if members or partners are taxed in their own jurisdictions.
2. The structure must provide for regulatory safety. A Swiss Verein can be useful in providing an environment that would take account of the relative laxity of some jurisdictions (*e.g.*, the U.K.) and the rigour of others (*e.g.*, most U.S. states), in the event that, say, an externally financed U.K. firm seeks to merge with a U.S. firm.

3. In some cases, it is useful to limit the cross-border liability of partners and members, in order to hedge the risk of legal problems in one country affecting the whole network.
4. Finally, and perhaps most importantly, the structure must be able to provide the right sort of governance, in order to keep the firm from becoming simply a loose association of independently run law firms operating under an umbrella brand.

In our opinion, the Swiss Verein can provide safety in the face of the first three challenges, and, with strong leadership, can prove to be the right vehicle for a decentralized international firm. •



## **Global strategic expertise**

*Ed Wesemann specializes in assisting law firms with strategic issues involving market dominance, governance, merger & acquisition, and all activities necessary for strategy implementation. He has worked with law firms on six continents and is the author of four books on law firm management.*

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