

## Law Firm Innovation and the Bad Bank

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By Jordan Furlong



I'm starting to see more large law firms seriously consider, or actually create, the role of "Chief Innovation Officer" or the like. This position is often responsible, among other things, for creating a strategy and framework for leading change within the firm, coordinating and managing all the firm's current and future innovation initiatives, developing a blueprint for ongoing change and improvement activities, and bringing about new attitudes among lawyers and staff towards change.

This is, obviously, a positive development: client demands and market pressures are finally forcing their way into the rarefied halls of the profession's biggest law firms, prompting these firms to rethink their assumptions, enhance their productivity, and align both better with today's reality and tomorrow's promise. Pricing directors, project managers, and process analysts already have seats at the BigLaw table, and many of these professionals are moving into *de facto* or *de jure* positions of leading the innovation effort firm-wide.

Considering how long I've been advocating this sort of progress, and how central I think the success of these initiatives are to the interests of both firms and clients, it would be ungrateful, even churlish, of me to raise objections or concerns. But I'm going to do it anyway. When I flip through the job descriptions for these sorts of "Innovation Leader" positions, I see a number of things that worry me.

One is the near-complete absence of any reference to the firm's compensation system. I've come to believe that no change of any significant nature to the operations of a firm and the priorities and practices of its people is possible unless the financial incentive structure is opened to serious scrutiny and amenable to real change. Yet firms seem to believe that such change and innovation and fresh approaches to their work can be carried out without so much as light tinkering with compensation. That's simply not realistic.

If I were interviewing for one of these positions, my first question would be, "Can I change the compensation system, specifically with regard to the activities and attitudes that are rewarded and especially where equity partners are concerned?" And since the answer, in virtually every case, would be an unqualified "No," it would also be my last question. I'm not saying the Innovation Leader should have *carte blanche* to decide how the partners split their profits; I'm saying that without any influence over financial incentives, innovation initiatives rely almost entirely on the good will of the firm's lawyers — and that is not, shall we say, a sustainable energy source in most law firms.

I also become concerned when I see firms suggesting that the director of innovation should set the tone within the firm regarding the importance and desirability of changing the firm's practices. That is not, and cannot be, the director's job. That is the role of the managing partner, the chief executive officer, the executive committee, the firm's most influential equity partners, or some significant combination thereof.

The message “Change is both good and mandatory” must come from the firm’s senior leadership, it must be repeated regularly, and it must be delivered so as to be taken seriously, which means it must be reinforced by action. Creating a position, hiring a person, assigning a budget, and forgetting about it till the next executive meeting does not qualify as “action.” It won’t get you anywhere unless it’s part of a package of operational and structural reforms and changes that come down from the top and are empowered at the grassroots. The chief innovation officer must be a symptom of the firm’s dedication to change, not the source of it.

And that brings me to my biggest concern with this sort of role: that it can too easily become the repository of all the firm’s innovation hopes, aspirations — and unacknowledged responsibilities.

By creating an Innovation Director position, some law firm leaders may be relegating to this person (and delegating away from themselves) the hard choices, the difficult meetings, the unpleasant truths, and the angry confrontations that innovation efforts inevitably provoke. It’s reminiscent of the “bad banks” proposed to handle the unpayable debts that were crippling financial institutions at the height of the financial crisis: creating an artificial construct to hold all the unpleasant realities no one knows how to handle, in hopes they can be gotten past and eventually jettisoned while the system moves on as before.

Changing the way lawyers work and law firms operate can be excruciatingly difficult, and a great deal of that difficulty arises from interpersonal conflicts, especially among lawyers. It’s natural for a firm leader to wish to avoid this difficulty, but kicking the responsibility down the chain of command to a new position, often one staffed by an outsider new to the firm, simply won’t get it done.

I applaud any law firm that sets out to create a Chief Innovation Officer — but I also want to warn them against thinking they’ve found a panacea, that they can now let the C. Inn. O. worry about all this stuff and report on his or her progress (or lack thereof) every quarter. Creating an innovation leadership position isn’t the end of the law firm innovation process; nor is it the beginning. It has to be part and parcel of a firm-wide, leader-commissioned, this-is-really-happening determination that the firm is going to change for the better, for its lawyers and its clients both. That’s the context within which innovation directors will do their finest and most effective work, and help bring about truly significant change within their firms.

[Contact the author. Jordan Furlong.](#)