edwards gibson

Compensation Packages for Expat US Lawyers in London – 'COLAs' Explained

It is generally accepted that London is a more expensive city to live in than New York and this forms the basic premise behind the existence of COLA ('Cost of Living Adjustment') payments. For US-qualified associates seeking a role in the London office of a commercial, 'big law' US firm or top UK/international firm, a COLA can often be a key component of remuneration to consider. The aim of this article is to provide an overview of COLAs in the London market.

Marketability of US lawyers in London

Certain factors help to ensure US lawyers' marketability to law firms in London. First, they must already be practising US law at a renowned law firm. Second, is not generally sufficient to hold merely the New York Bar qualification; attorneys must have attained a high scoring Juris Doctor law degree from a well-ranked US law school as well as a strong academic record prior to that. Third, attorneys must also be practising an area of law which is in demand in London. Both historically and now, US corporate and finance lawyers, particularly those with high yield debt experience have generally been in demand, though the extent of this need really depends on market activity. US lawyers will have most interest from firms in London if they are of the right level of seniority for what the market wants. Particularly since the bond markets have been coming back to life, London has been experiencing a real shortage of US lawyers at the class years 1-5 level.

Which law firms pay COLAs, and when?

It is important to note that US-headquartered firms in London tend to pay their US qualified attorneys the same 'New York' base salary rates as they pay to attorneys in New York (see article London Law Firm Assistants Salary and Bonus Trends and Predictions 2013/2014). A number of US firms in London offer the additional benefit of COLA payments to: (1) their own US lawyers transferring internally to their London office; and (2) to US lawyers from other firms who become new joiners in London – and those lawyers may be relocating from the US or they may already be based in the UK or elsewhere in the world. However, some firms stipulate that you must be relocating to London from the US in order to be eligible for their COLA. Some UK firms also offer COLAs (to US qualified lawyers only) and these tend only to be the very top end firms, the 'magic circle' and 'silver circle', who need to compete with American firms in the corporate finance, particularly securities and debt spheres; but these firms are not major hirers of US lawyers. It is important to note that there are also a good number of leading US, UK and international firms in London that do *not* choose to pay COLAs at all; and so a COLA should not necessarily be seen as the hallmark of a top quality firm. Firms also retain discretion over whether and how to pay COLAs, sometimes calculating these on an individual basis (though they will follow their own pre-set guidelines for doing so).

Purpose of COLAs – *adjustment* or *allowance*?

Originally, COLAs were seen as a temporary benefit which a newly employed US associate would enjoy for a finite period, with it being phased out over time. So the COLA was not thought of as the 'Cost of Living *Allowance*' that some see it as today, but it was truly an 'adjustment' based on the perception that US attorneys moving to London would *initially* be required to go to some expense to establish themselves in their new, and pricey, town, for example perhaps having to rent accommodation centrally for a time before securing a cheaper alternative elsewhere. So COLAs were never really intended as a permanent uplift of salary or entitlement for London-bound US lawyers, and the policy of many firms was that these payments would diminish to nothing over a three to six year timeframe. Today, some 'white-shoe', top tier, firms in London still offer COLAs which in theory come to an end after six years; but this is a somewhat flexible policy which, particularly in a good market, is not usually enforced.

How are COLAs calculated?

The question in the minds of most US attorneys will be 'how much will I get?' There are a number of factors which influence the answer to this. Unsurprisingly, COLA payment amounts are known to fluctuate according to how the market is performing at the time. Since 2012 we have begun to see COLAs increasing (with a number of firms bringing in a $5,000 rise this year), but when the economy has been in the doldrums with less deal activity and much less appetite for hiring, law firms have often chosen to pay no COLA at all or to phase out payments – though they would have been unlikely to deprive individuals already receiving this benefit of future payments. There is some variation across firms as to how they choose to calculate the amount that associates receive. Some tie COLA values to attorneys' class years but while some then *increase* this figure annually as the class year 'ticks over' others choose to *decrease* it. This difference might be explained by whether the firm ascribes to the original understanding of COLA (so aiming to phase out payments over time), or perhaps it places more importance on making pay proportionate to seniority. Meanwhile other firms choose to pay a universal, fixed flat rate to all attorneys eligible for a COLA. Others, a very few, calculate their COLA as a percentage of base salary and therefore their attorneys see their COLA increase annually as their salary rises. Whichever way it is reached, the average COLA sum awarded at New York rate-paying firms in 2014 was around $65,000 per annum. However, payments at these firms are wide-ranging, from $10,000 to $110,000. A number of US Mid-West, East and West Coast firms remain competitive at $60,000 for theirs, as do UK magic circle firms with their average coming in at around $64,000 in 2014. UK silver circle firms paying COLAs tend to come in closer to $50,000.

Other forms of assistance for US lawyers in London

There are other ways in which the London offices of US law teams offer assistance to their expat lawyers. For instance, attorneys may be entitled to a travel allowance to facilitate home visits to the US (and this could be worth annually as much as around $2,500). Housing and living allowances are sometimes available (which alone can amount to as much as up to $80,000) or firms might pay a capped amount towards rented accommodation for the first few months of relocation. While living in the UK, US citizens are liable to pay both UK and US tax, though the countries have a double taxation agreement to ensure their citizens are only taxed on income and gains once. This can make the paperwork more complex and so one considerable benefit sometimes seen is the provision of assistance with the payment of US taxes. Another considerable benefit arises out of the fact that base salary compensation at US firms is paid in US dollars (calculated according to levels paid to associates in New York offices). Figures are converted using a fixed exchange rate which varies from year to year and firm to firm. Over the last few years this has tended to be between 1.7 to 1.57 US$/£Sterling with most firms currently averaging around 1.6. At the time of writing – June 2014 - the official exchange rate is 1.7, which makes a conversion of 1.6 around 6% more favourable for US associates than the true current rate would be. This artificially robust rate can be seen as a form of COLA in its own right and was historically the method by which many of the UK magic circle firms contributed to the adjustment.

US lawyers are paid more in real terms

Where firms are paying US associates in London at the same level as those based in the States, and adding the COLA and exchange rate conversion benefits to this, the result is that associates end up being overpaid – earning more in real terms than they would have at the same firm in the US. In which case, joining a firm in London turns out to be a very good financial move for a US lawyer, and even with some higher costs in living taken into account, US lawyers in London can be more than 25% better off than in New York.

Future trends in COLA payments

The improvement in capital markets transactions has meant that the appetite for US lawyers, particularly those with high yield debt experience, is very robust. A number of law firms who previously only hired people internally from their own US offices are now much more open to hiring US lawyers from other firms seeking new opportunities in London. While demand for US lawyers is clearly linked to the strength of the financial and corporate markets, US high yield bond market lawyers have usually tended to be in vogue. If the shortage of US finance lawyers at the 1-5 class year level continues we would expect to see COLA payments increasing further and some firms paying out where they haven't before in order to compete for this harder to find talent.

The "resume enhancing" value of time in London

Aside from financial considerations, many US lawyers and in-house counsel believe that a stint in London still adds real value to their resume. After all, the City has a long-standing history as being *the* major global finance centre of Europe, if not the world. The City still leaves rivals some way behind, being home to more banks than anywhere else; boasting more bonds and derivatives traded daily than any other financial services hub; and with the greatest portion of Europe's equity investment being managed in London. A welcome and continuing trend in recent years has been for foreign investment pouring into London from many parts of the world, particularly from China, Russia, and the Middle East where many see the UK as a stable political and legal jurisdiction in which to do business, especially when compared to some other EU, EEA countries which still face a high level of economic risk. The GMT central time zone is also an attraction since it allows London-based lawyers to contact clients and colleagues in all corners of the globe within the same 24 hours. Lawyers working out of London offices are in a prime position to gain broader exposure to the European, Asian and US markets rather than the chiefly domestic market for deals often undertaken by lawyers within the US.