

## TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

### DIVISION 3. NON-MEMBER ATTORNEYS

#### Chapter 4. Foreign Legal Consultants

##### Rule 3.400 Definitions

- (A) A “Registered Foreign Legal Consultant” is a person who meets the eligibility requirements of Rule of Court 9.44 of the California Rules of Court (“Rule 9.44”) and is registered by the State Bar as a Foreign Legal Consultant.
- (B) “Registered” means that the State Bar has issued a certificate of registration to a person it deems eligible to practice law as a Foreign Legal Consultant.

*Rule 3.400 adopted effective July 1, 2010*

##### Rule 3.401 Application

- (A) To practice law as a Registered Foreign Legal Consultant, a person who meets the eligibility requirements of the Rule 9.44 must
  - (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the required certificate and the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered Foreign Legal Consultant<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines (the Schedule);
  - (3) meet State Bar requirements for acceptable moral character, which are set forth in the instructions for Application for Registered Foreign Legal Consultant;
  - (4) submit a letter of recommendation from an authorized representative of the professional body having final disciplinary jurisdiction or a judge of the highest law court or court of original jurisdiction attesting to his or her professional qualifications in the foreign jurisdiction.
- (B) An application to practice law as a Registered Foreign Legal Consultant may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rule of Court 9.44.

- (C) Upon a showing of undue hardship by the applicant, the State Bar may waive or vary this rule's requirement of the letter of recommendation attesting to the applicant's professional qualifications.

*Rule 3.401 adopted effective July 1, 2010*

#### Rule 3.402 Duties of Registered Foreign Legal Consultants

A Foreign Legal Consultant must

- (A) annually renew registration as a Registered Foreign Legal Consultant and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) report to the State Bar within thirty days any change in eligibility or the security for claims required by these rules;
- (C) at all times maintain the security for claims required by these rules and upon demand promptly provide the State Bar with current evidence of security for claims;
- (D) provide legal advice in California exclusively regarding the law of a foreign jurisdiction where he or she is licensed to practice law and which is identified in the Application To Register as a Foreign Legal Consultant;
- (E) use the title "Registered Foreign Legal Consultant" and no other in connection with activities performed as a Registered Foreign Legal Consultant;
- (F) not claim in any way to be a member of the State Bar of California;
- (G) maintain an address of record and a current e-mail address with the State Bar; and
- (H) otherwise comply with Rule 9.44 and these rules.

*Rule 3.402 adopted effective July 1, 2010*

#### Rule 3.403 Security for claims

A Registered Foreign Legal Consultant must provide evidence of security for claims for pecuniary losses resulting from acts, errors, or omissions in the rendering of legal services. The security assets must be maintained at all times, and the State Bar may require current evidence of security for claims at any time. The evidence

- (A) may be a certificate of insurance, a letter of credit, a written guarantee, or a written agreement executed by the applicant;

- (B) must be provided in a form acceptable to the State Bar; and
- (C) must be computed in United States dollars.

*Rule 3.403 adopted effective July 1, 2010*

#### Rule 3.404 Insurance as security for claims

If insurance serves as security for claims, it must be acceptable to the State Bar and provide the Registered Foreign Legal Consultant a minimum amount of annual insurance and a maximum deductible. These amounts are specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

- (A) If the insurance excludes the cost of defense, the Registered Foreign Legal Consultant may reduce the minimum amount of annual insurance as specified in the Schedule.
- (B) If the insurance provides for a deductible greater than that specified in the Schedule, the Registered Foreign Legal Consultant must provide a letter of credit or a written agreement as evidence of security for the deductible.
- (C) If the insurance is provided by an insurer outside California, the Registered Foreign Legal Consultant must promptly provide, upon request of the State Bar, a copy of the insurance policy and a translation if the policy is not in English.

*Rule 3.404 adopted effective July 1, 2010*

#### Rule 3.405 Letter of credit as security for claims

If a letter of credit serves as security for claims, the Registered Foreign Legal Consultant must maintain the letter of credit at all times in the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

*Rule 3.405 adopted effective July 1, 2010*

#### Rule 3.406 Written guarantee as security for claims

If a written guarantee serves as security for claims, the Registered Foreign Legal Consultant must maintain the written guarantee at all times for a minimum amount in favor of the State Bar. The amount is specified in the Schedule for a single claim and for all claims.

- (A) The guarantor must be a California law firm or law corporation, an active member of the State Bar, or a financial institution.
- (B) The written guarantee must be supported by an independent accountant's certified financial statements and subsidiary records evidencing that tangible net

worth for the most recent fiscal year is equivalent to the minimum amount required for security for claims, exclusive of intangible assets such as good will, licenses, patents, trademarks, trade names, copyrights, and franchises. Net worth may include fifty percent of earned fees that have not been billed and billed fees that have not been collected.

*Rule 3.406 adopted effective July 1, 2010*

#### Rule 3.407 Written agreement as evidence of security for claims

If a Foreign Legal Consultant's written agreement serves as security for claims, the agreement must be for the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

*Rule 3.407 adopted effective July 1, 2010*

#### Rule 3.408 Suspension of registration as a Foreign Legal Consultant

- (A) Registration as a Foreign Legal Consultant is suspended
  - (1) for failure to annually register as a Foreign Legal Consultant and submit any related fee and penalty by the date set forth in the Schedule of Charges and Deadlines;
  - (2) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a member of the State Bar; or
  - (3) upon imposition of discipline by a professional or occupational licensing authority.
- (B) A Foreign Legal Consultant suspended under these rules is not permitted to practice law during the suspension. A Foreign Legal Consultant suspended for failure to comply with annual registration requirements may be reinstated upon compliance.
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

*Rule 3.408 adopted effective July 1, 2010*

### Rule 3.409 Termination of Registration

Permission to practice law as a Registered Foreign Legal Consultant terminates

- (A) upon failure to meet the eligibility requirements of Rule 9.44 or these rules;
- (B) as required by Rule 9.44 or these rules;
- (C) upon admission to the State Bar;
- (D) upon repeal of Rule 9.44 or termination of the Foreign Legal Consultants program; or
- (E) upon request.

*Rule 3.409 adopted effective July 1, 2010*

### Rule 3.410 Reinstatement after termination

An attorney terminated as a Registered Foreign Legal Consultant who seeks reinstatement must meet all eligibility and application requirements of these rules. Reinstatement is effective from the date of compliance.

*Rule 3.410 adopted effective July 1, 2010*

### Rule 3.411 Public information

State Bar records for attorneys permitted to practice law as Foreign Legal Consultants are public to the same extent as member records.

*Rule 3.411 adopted effective July 1, 2010*