

Compliance Group Of The Year: Morrison Foerster

By Sarah Jarvis

Law360 (February 15, 2023, 2:03 PM EST) -- Morrison Foerster LLP provided sanctions counsel to the Ukrainian government after Russia's invasion last year and advised on the first quantum computing transaction reviewed by the Committee on Foreign Investment in the United States, earning the firm a spot among Law360's 2022 Compliance Groups of the Year.

Morrison Foerster's national security practice — which has more than 50 attorneys across offices in the U.S., U.K., Europe and Asia — has grown significantly in recent years. John E. Smith, co-head of the practice, said there were relatively few practitioners solely focused on national security when he joined the firm more than four years ago, back when the practice existed within another practice group.

The national security team eventually established itself as its own practice at Morrison Foerster, and Smith said he anticipates its resources will keep pace with growing portfolios and client demands going forward.

The firm also includes an array of former senior government officials, including three former senior officials from the U.S. Department of the Treasury's Office of Foreign Assets Control, which Smith — himself a former director of OFAC — said is the most of any law firm in the world.

Smith said that by the time Russia invaded Ukraine in February 2022, the national security team was well-equipped to answer clients' questions from a global perspective, noting the firm has former regulators and other experts in the U.K., Europe, Tokyo and Hong Kong.

"By building up our teams earlier, we were prepared to be a one-stop shop in terms of answering the sanctions questions that were coming up on a daily basis," Smith told Law360.

Morrison Foerster represents the office of Ukrainian President Volodymyr Zelenskyy and other Ukrainian government agencies on regulatory matters including sanctions regimes, new policies and engagement with U.S. government agencies. The firm also provides sanctions advice to some of the world's largest commercial banks, as well as The Clearing House, an association representing dozens of the world's largest commercial banks.

Smith said the firm's attorneys working in sanctions aim to have clean hands when dealing with



government agencies, by not representing "bad actors," such as those who are on sanctions lists, for example. And the depth of government experience at the firm gives Morrison Foerster practitioners an understanding of how the government thinks and what agencies' intentions are with their rules, allowing them to structure submissions to governments that focus on the national security and foreign policy objectives of the programs, he said.

"We generally know how OFAC thinks, we generally know what the U.S. government is intending, and we can provide that insider knowledge to our clients," Smith said.

Brandon L. Van Grack, co-chair of the firm's national security and global risk and crisis management groups, told Law360 that Morrison Foerster's national security practice is intentionally interdisciplinary. Van Grack has also held multiple senior national security positions in the U.S. Department of Justice and served as a lead prosecutor for special counsel Robert Mueller's investigation of the Russian government's efforts to interfere in the 2016 presidential election.

He highlighted how the firm advised on national security matters before the CFIUS for a business combination that created the largest and most advanced integrated quantum computing company in the world in November 2021. The deal, announced in June 2021, saw Morrison Foerster advise British quantum software company Cambridge Quantum Computing in its combination with Honeywell Quantum Solutions, a unit of the U.S. defense firm Honeywell.

He said it took time to make sure CFIUS had a full appreciation and understanding of what it was blessing. The transaction also called for creating a level of comfort about how the deal was structured and how it furthered national security, rather than harming it.

Van Grack said that transaction helps open the door for the next quantum computing transaction, both because the technology has been demystified and because there is a regulator with a baseline in handling such matters.

The firm handles other cutting-edge technology matters before CFIUS, including its ongoing representation of Japan-based SoftBank on acquisitions and investments related to sectors such as robotics and autonomous vehicles. Van Grack said the work often includes educating clients on perceived national security issues, as well as educating the government about new technologies that aren't yet fully regulated.

"Part of this is just truly demystifying it so that they understand not the parade of horrors that could happen, but truly understand what the intent is and what the capabilities are," Van Grack said of clarifying misunderstandings about technology before the government.

He added that now transactions trigger reviews across multiple jurisdictions, meaning advisers have to sequence their matters, make sure they're being consistent across jurisdictions, and understand how different jurisdictions collaborate and communicate when it comes to foreign direct investment matters.

"Even just a few years ago, you could be comforted by the fact that you only need to worry about CFIUS," Van Grack said. "Now you need to worry about the CFIUS equivalent in dozens of other jurisdictions."

--Additional reporting by Emma Whitford. Editing by Linda Voorhis.
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