

MVP: Morrison Foerster's John Smith

By **Al Barbarino**

Law360 (September 30, 2022, 2:02 PM EDT) -- John Smith of Morrison Foerster LLP has counseled high-profile clients on the vast sanctions imposed on Russia for its February invasion of Ukraine, including advising the office of Ukrainian President Volodymyr Zelenskyy, earning Smith a spot as one of Law360's 2022 Compliance MVPs.

HIS BIGGEST ACCOMPLISHMENT OVER THE PAST YEAR:

Zelenskyy's office retained Smith, the former director of the U.S. Treasury Department's Office of Foreign Assets Control, to provide counsel regarding the economic sanctions imposed on Russia by the U.S. and others.

"My sanctions team and I were given an opportunity to do our bit in whatever way we could to be helpful at a time when there's so much violence, death and suffering in the world," Smith said. "This is truly an extraordinary time in world history, and truly a tragic one."

Smith's team is working directly with Zelenskyy's chief of staff, deputy chief of staff and ministers of various government agencies, advising on new policies and actions, engagement with the U.S. government, and assessing developing situations.

Economic sanctions come with both intended and unintended consequences, making it important to thoroughly consider the impacts on the intended targets — in this case Russia, the government of President Vladimir Putin and the oligarchs who support him — but not overlook the impacts on other countries and their people, Smith said.

"When you're a government considering advocating for or against certain sanctions, it's important to fully understand what is possible, what is achievable, and how to reach your objectives — here, how to convince the world community to impose sufficient sanctions and other pressure to convince President Putin to end his barbaric war on Ukraine and its people," Smith said.

OTHER NOTABLE CASES HE'S WORKED ON:

As co-head of Morrison Foerster's national security practice, Smith advises clients as diverse as global banks, financial technology companies, and music, e-commerce, and shipping businesses on the legal



and reputational risks posed by sanctions.

That includes serving as sanctions counsel to The Clearing House, an association representing dozens of the world's largest commercial banks, which he advises on sanctions matters and dealings with OFAC.

Smith and his team are also assisting a U.S.-based global Fortune 100 conglomerate with an investigation into its apparent sanctions violations tied to a number of foreign countries, which led to voluntary self-disclosures to OFAC, according to Morrison Foerster.

Smith is providing the company with ongoing crisis management on the legal, reputational and security issues arising from the company's decision to terminate its Russia operations in the wake of the Ukraine invasion.

"Global companies have a lot at stake in making decisions about whether to stay in Russia or whether to withdraw," Smith explained, noting that companies not only risk violating the evolving sanctions rules of the U.S., the U.K. and the European Union, but also the counter-sanctions imposed by Russia.

"They also face significant reputational risk and the wrath of politicians, the media and their shareholders, who are scrutinizing corporate decision-making regarding Russia," Smith said. "Even those companies that decide to exit Russia have to ensure they do so in a way that neither provides a windfall to [the Russian government] nor unduly jeopardizes the safety and well-being of the employees left behind."

WHAT MOTIVATES HIM:

Smith said he's motivated by the attempts of the U.S. government and its allies to counter the injustices happening in the world, and by instances where economic sanctions are shown to work as a "force for good in the world."

But, as Smith mentioned, sanctions can come with unintended consequences. For instance, Smith and his team recently counseled a U.S. client who, due to sanctions imposed on Russia, was going to have to stop paying contractors located in bomb shelters in separatist regions of Ukraine that are controlled by Russia.

Luckily, Smith and the team were able to help find a resolution that was satisfactory to the U.S. government and to the client, allowing the company to keep paying the contractors, he said.

"In the sanctions world, you have the ability to achieve moments where you feel you receive evidence that you're making a difference," Smith said.

HIS ADVICE FOR JUNIOR ATTORNEYS:

Junior attorneys shouldn't attempt to plot out a strategy for their entire career path, Smith said. Instead, they should focus on taking a job they think will interest them most, then see where that leads.

"The future is so hard to assess," Smith said. "Pick the position that interests you the most because you'll put your heart and soul into that job, and you'll do better at that job."

"Chances are that will be a better strategic move, simply by thinking with both your head and your heart about the decisions you make," he said.

— As told to Al Barbarino.

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