

International Trade Group Of The Year: Covington & Burling

By Vidya Kauri

Law360, New York (January 4, 2016, 11:07 PM ET) -- Covington & Burling LLP's international trade group was a shoo-in for Law360's 2015 Practice Groups of the Year following multiple victories, including U.S. government approval for a \$3.7 billion acquisition by French ad giant Publicis Groupe amid cybersecurity concerns and a significantly smaller settlement for Deutsche Bank AG compared to other banks that were investigated for allegedly evading U.S. sanctions.



The team, which has a core group of approximately 15 partners and numerous associates and advisers, scored one slam dunk after another last year in the areas of trade policy, enforcement and international regulatory compliance. It received government approval for highly sensitive foreign investments partly because the Washington-based firm has had a long and continuous history of attracting former high-ranking government officials since it was founded nearly a century ago, and partly because of a concerted team approach throughout the firm, according to various partners there.

The group that deals with cross-border investments and national security matters, for example, is partially comprised of partners and advisers who formerly served on virtually every one of the 14 voting and observer federal agencies that make up the Committee on Foreign Investment in the United States, according to group co-chair Mark Plotkin.

CFIUS is an interagency body that reviews the impact of foreign takeovers and investments on national security, and has the power to quash otherwise done deals. Covington & Burling has a competitive advantage by essentially having its own unofficial CFIUS committee that advises on how each federal agency is likely to react to a transaction that needs approval, Plotkin said.

"Because CFIUS is made up of agencies with competing agendas, such as a defense agenda, an economic agenda, law enforcement agenda, you really want to have a diversity of views that emulate what the CFIUS committee is going to talk about internally," Plotkin said.

One of Covington & Burling's earliest victories in 2015 was receiving CFIUS approval for Publicis' \$3.7 billion acquisition of digital advertising specialist Sapient Corp., which had a cybersecurity-related consulting subsidiary that performed several highly classified contracts for the U.S. government, according to the firm. The acquisition was the largest of its kind in the industry, according to a February statement from Sapient, and Covington developed a structure to mitigate foreign ownership of the subsidiary to ultimately secure CFIUS approval.

Although getting advice from former government officials is helpful for strategizing, it is not a cure-all, as government officials and procedures change with time, Plotkin said. But this is where the firm's team approach and experience with handling "countless" transactions across many industries comes into play, he said.

Covington & Burling draws on its vast reservoir of experience with the rarely publicized CFIUS reviews and can even remind the CFIUS committee of how its past members approached certain similar transactions, Plotkin said.

Another significant victory for the firm's International Trade and Finance practice was in the area of trade controls, when it steered German banking giant Deutsche Bank AG toward a \$258 million settlement with the New York Department of Financial Services and the Federal Reserve in November after the bank came under investigation for allegedly processing transactions worth about \$10.86 billion between 1999 and 2006 for financial institutions from Syria, Burma, Libya and Sudan, in violation of U.S. government sanctions.

That penalty is small compared to those imposed on other foreign banks that were also investigated for similar sanctions violations. Just a month earlier, in October, French bank Credit Agricole SA had agreed to pay state and federal regulators and law enforcement officials \$787 million to settle allegations that it helped funnel illegal transactions for Iranian, Sudanese, Burmese and Cuban clients through its New York branch, while Commerzbank AG agreed to pay \$1.45 billion in March for allegedly processing transactions for Iranian and Sudanese entities.

Covington & Burling's International Trade and Finance practice is a marquee area for the firm because it is able to provide integrated advice across multiple jurisdictions in the U.S., Europe and Asia, according to Peter Lichtenbaum, co-chair of the practice.

"Covington has a brand that is well known for extremely high quality, and people expect that from us," Lichtenbaum said.

Other major wins for the practice in 2015 include successfully engaging the U.S. Trade Representative to overturn new Canadian broadcast regulations that could have forced its client Viacom Inc. to provide programming after the expiration of contracts in violation of copyright provisions in the North American Free Trade Agreement, as well as swiftly blocking charges against Houston-based Hyperdynamics Corp., which was subpoenaed by the U.S. Department of Justice and the Securities and Exchange Commission under the Foreign Corrupt Practices Act over how it obtained concession to drill for oil in West Africa.

The firm was also actively engaged in the Trans-Pacific Partnership negotiations through discussions with the USTR on behalf of clients who had been concerned about and were eventually pleased with the copyright provisions in the free-trade agreement.

John Veroneau, a partner who was involved in the Viacom case, agreed with Plotkin and Lichtenbaum

that Covington & Burling's team approach is a bedrock of the firm's culture and a key reason for its many successes.

"There is a real focus and pride in ensuring clients that we're going to bring the right experts for the problem, and the way we're compensated within the firm is a function of how well we collaborate with our colleagues to serve our clients in their needs, as opposed to some firms which are driven by an eat-what-you-kill compensation model," Veroneau said.

--Additional reporting by Evan Weinberger. Editing by Catherine Sum.

All Content © 2003-2016, Portfolio Media, Inc.