Norton Rose to wind down Russian business

By JAREN KERR, SEAN FINE, VANMALA SUBRAMANIAM

Some prominent Canadian law firms have been reticent to say if they will drop Russian clients who are subject to economic sanctions, amid a flurry of announcements from Canadian companies signalling their divestment from Russia after its invasion of Ukraine.

More than 500 Russian individuals and more than 100 Russian entities are facing Schedule 1 sanctions from Ottawa, which prohibit any Canadian or person in Canada from conducting any financial transactions with someone on that list.

The Globe and Mail asked seven Bay Street law firms with offices in Europe if they would cease or suspend relationships with Russian clients subject to sanctions. Five of them either declined to comment on their protocols or did not respond to multiple requests to comment.

Norton Rose Fulbright LLP was the only one that said it is winding down operations in Russia. One of the London-based international firm’s 50 offices is in Moscow.

“We are not accepting any further instructions from businesses, entities or individuals connected with the current Russian regime, irrespective of whether they are sanctioned or not,” the company said in statement.

McCarthy Tétrault LLP told The Globe it is working to ensure compliance with sanctions against Russia, but it did not say if the firm had ended relationships with affected Russian clients.

Some major British law firms have already announced plans to sever ties with Russian clients. Freshfields Bruckhaus Deringer LLP, one of five magic circle law firms headquartered in London - international firms generally considered the most prestigious ones in the city - said Monday it is "immediately taking steps" to terminate its litigation mandate with VTB Bank, one of the sanctioned Russian banks.

The global firm Linklaters LLP announced last week it was closing its Moscow office, which has been open since 1992 (the firm has offices in 31 cities around the world), and would not act for individuals or entities under the influence of, or connected to, the Russian state.

Nigel Kushner, chief executive officer of W Legal Ltd. Co., another London-based law firm, who is an international sanctions expert, told The Globe he has never seen such a robust set of sanctions targeted at Russians living in the city.

"They have, overnight, turned into international pariahs," Mr. Kushner said.

Some lawyers have mixed feelings about the sanctions. Mr. Kushner said he knew of disagreements within firms, with certain lawyers expressing concern that firms are placing blanket bans on dealing with Russians, even clients who were not connected directly to the Russian state.

Other magic circle firms, including Allen & Overy LLP, Clifford Chance LLP and Slaughter and May have all made public statements on the conflict. Clifford Chance said it would not accept new work from Russian state-controlled entities or individuals linked to Russian President Vladimir Putin. The other two said they would continue to review their Russia-related work.
Paul Lalonde, a partner at Dentons LLP in Toronto, said the sanctions can present a serious challenge to law firms with Russian clients. "You have to review your client list and figure out what you can continue to do and where do you need to cut your ties," he said. "Our colleagues in Europe have to be very careful in ensuring their own activities continue to remain compliant."

Dentons, which has offices in Moscow and Kyiv, describes itself as the biggest law firm in the world, with more than 20,000 employees in more than 80 countries and in excess of 200 offices. A spokesperson for the firm declined to comment on how it was responding to the sanctions.

Mr. Lalonde said the big issue for Canadian branches of global law firms involves working for Canadian clients with pre-existing commercial relations that touch on Russia.

"So whether it's investments in Russia or supply arrangements with customers in Russia, supply arrangements with suppliers in Russia, that sort of thing is a lot more of what's keeping us busy these days," he said. "Clients are concerned about ensuring that their activities remain in compliance in an incredibly dynamic environment, where the government of Canada and Western allies are adopting new measures almost by the hour."

Brenda Swick, a partner at Cassels Brock & Blackwell LLP, told The Globe a lawyer could be allowed to represent a client subject to sanctions in some cases, such as appealing to be removed from a sanctions list.

She said lawyers could also represent clients on sanctions lists if the federal government grants permission. "If a law firm really felt that it had reasons to ask for an authorization from the Minister of Foreign Affairs to represent or to deal with a designated identity, it could always apply for an authorization," she said.

John Packer, the director of the University of Ottawa's Human Rights Research and Education Centre, said lawyers have a right to represent anyone accused of virtually anything. "If we are a rule-of-law society, we want to make sure lawyers are capable of pursuing the best interests of their clients," he said.

Lawyers have a fiduciary obligation to their clients, which means "they must protect the client's interest and act to their full ability in representing their client," he said.

Mr. Packer said the sanctions will create enormous disruption in business dealings that may involve players from multiple countries. That disruption could create business opportunities for lawyers as a result, but lawyers could also face possible losses.

"There's an old saying that lawyers gain whether it's good times or bad times," he said. "There are going to be tons of complex disputes. There's going to be business for lawyers, there's no doubt about that. But there's going to be a lot of losses, too."