Patience, but Potential, in Cuba Market

While progress may be slow, there is movement in normalizing and developing U.S.-Cuba relations, and companies with future business interest in the country would do well to engage now and be part of developing strategic relationships in Havana. The Council itself has joined Engage Cuba, a nonprofit dedicated to ending the travel and trade embargo on Cuba and facilitating relationships between U.S. businesses and Cuba.

P-C specialists take note: hurricanes, storm surge and earthquakes are particular vulnerabilities on the island, and the government typically "takes responsibility" for catastrophe property losses. But a ride around the country makes it clear the state has limits on its financial ability to rebuild after a significant event.

There are two insurance companies currently operating in Cuba, both part of state-owned Caudal Group. Empresa de Seguros Nacionales (ESEN) primarily insures agricultural business, though it also writes auto, liability and travel. Seguros Internacionales de Cuba (EsiCuba) is a commercial insurer for domestic companies as well as foreign-owned businesses on the island, such as hotels.

The Insurance Information Institute has written a white paper titled "Reopening for Business: What Renewed Ties Between the U.S. and Cuba Mean for Property/Casualty Insurers." Download a copy at www.iii.org.

AFFORDABLE CARE ACT › SCOTT SINDER

The Fix

Whoever our next president is, the ACA will be up for reform. What do we want? Here's my wish list.

We are at an interesting moment in the presidential campaign cycle. On the Democratic side, Hillary Clinton has emerged as the presumptive nominee. In some respects, the Democrat's campaign has been more competitive than anticipated because Sen. Bernie Sanders has captured the imaginations of college students and resurgent liberals across the country.

The Republican race, of course, is one for the ages. The Donald Trump phenomenon is the lead story almost every night, and the party faithful have never seemed so adrift. Card-carrying Republicans are beginning to divide into two camps—those who believe the party must line up behind Trump and those who prefer an establishment candidate. Those in the latter camp, believing a top-of-the-ticket loss by the GOP to be inevitable either way, feel it's more important to retain the soul of the party, even if it means Trump and his acolytes run a third-party campaign. Some pollsters are starting to project a Trump ticket would cost Republicans the Senate and jeopardize the House majority. If those projections become more widespread, I think the movement to oust Trump will begin to echo more loudly.

What gets my blood churning about all this? Conjecture about what the different outcomes would mean for the future of Obamacare, of course.

If Clinton is our next president, she is highly likely to continue to support the broad contours of the law and to rebuff any efforts by a Republican Congress to make wholesale changes. She has, though, expressed disdain for the Cadillac tax (inspired at least in part by union abhorrence of that provision, which has not moved President Obama). She may also be open to raising the full-time employee definition from 30 to 40 hours per week (another union-championed change), and she likely would support proposals to simplify health plan reporting.

Like the presidential race, the impact of a Republican victory on the future of Obamacare is more than a little unsettled. Trump has decreed the law a failure and promised to repeal it, but he's offered no hint of what would replace it, other than the assurance that it will be "great."

Other Republican victors likely would pick up the House's "repeal-and-replace" mantra (I have lost count of the number of votes for repeal that have passed in the House), but repeal and replace with what? In fact, the first question, if we ever get that far, might be: Repeal what?

If you think of the private market components of the law in the most basic terms, you could say they primarily encompass the following:

- Market reforms (like the guaranteed issue requirements that were wildly popular and based on Republican ideas first proposed in the 1990s)
- Individual and business »

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REGULATORY NEWS TICKER

participants in Prescription Drug Monitoring Program to use the program each time Schedule II or III narcotics are prescribed. Sets practitioner guidelines for prescribing opioids. Requires add-on training for medical licensing and law enforcement relating to treatment and prevention of substance abuse. » State Supreme Judicial Court rules workers comp insurer not allowed to place lien on money awarded in lawsuits against third parties to claimants for pain and suffering, because those harms are not covered by workers compensation. **www.mass.gov**

NEBRASKA Bill protecting nurses from whistleblower retaliation goes to Gov. Pete Ricketts for signature. Guarantees confidentiality of complainant even if allegations become public record. » New law authorizes direct primary care agreements allowing patients to pay medical practitioners without going through insurance. **www.doi.ne.gov/**

NEW HAMPSHIRE Insurance Department website now offers comparison pricing on dental care, prescription drugs and 31 new medical procedures. Also has a new guide on obtaining and managing health insurance. Draws information on prices and procedures from claims databases insurers are required to report into. **www.nh.gov/insurance**

NEW MEXICO State Supreme Court rules private prison operator may be held liable for rapes of inmates by guards. Warden can also be held liable for damages. **www.osi.state.nm.us**

NEW YORK Names Celeste Koeleveld general counsel of Department of Financial Services. She moves from role as executive assistant corporation counsel at New York City Law Department. Also spent 20 years at U.S. Attorney's Office for Southern District of New York. » Appoints Mary Beth Woods executive director of Workers Compensation Board. She was serving in acting capacity and succeeds Mark Wade who joined Argo Group as chief claims officer for U.S. operations. » Removes ban on professional mixed martial arts competitions but raises insurance requirements for fighter injuries to $1 million for life-threatening brain injuries and requires $50,000 for estate of fatally injured athlete. State will also begin overseeing amateur bouts and is authorized to study funding options for long-term care of fighters who develop degenerative brain conditions. » Citizen Preparedness Corps, created in 2014 after Superstorm Sandy, breaks 100,000

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coverage mandates (and the associated penalties and reporting requirements)
- Subsidies
- Public exchanges (and the associated individual and small-group market reforms like community rating)
- The Cadillac tax
- Wellness.

The dilemma for the repeal-and-replace supporters is that the market reforms (most notably guaranteed issue), the mandates and the subsidies are inextricably linked. Carriers, for example, believe they must have mandates if there are going to be guaranteed issue requirements. If you eliminate the employer mandate, the subsidies become even more cost prohibitive. And without the subsidies, the individual mandate may be unaffordable for many Americans.

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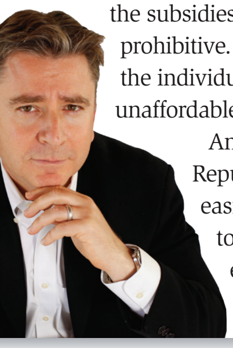

Any path forward for a Republican administration easily could involve attempts to broaden the reform effort as a means to "fix" Obamacare. Revisiting the pre-tax treatment of employee-paid premiums, for example, and/or thinking about allowing subsidized individual plans to be sold via private exchanges could reshape the debate.

As an industry, we need to come to terms with what we would like to see happen and, conversely, what would be unacceptable. Here's my wish list:
- Repeal the Cadillac tax.
- Reform the non-discrimination requirement to clarify that it is satisfied as long as all full-time employees are eligible to participate in all plan offerings on terms at least as favorable as those offered to higher-paid personnel.
- Eliminate the medical loss ratio rules, which appear to create perverse management incentives.
- Simplify the employer reporting procedures.
- Implement a standard national benchmark plan, as the law already purports to require.

I have written about the standard national benchmark plan repeatedly, but it should be a significant benefit and I cannot let it go. The law required HHS to establish a national benchmark plan that would have been the base offering in the individual and small-group markets. The plan was to include coverage for each essential health benefit category included in the statute. The law dictates that any state imposing mandates beyond the benchmark plan requirements would be responsible for paying the subsidy associated with the premium for those mandates. We expected to get a very economical and basic national benchmark plan and there would be widespread mandate reform.

HHS punted and issued rules—that I believe are wholly at odds with the statutory requirement—allowing each state to determine its own benchmark plan and decreeing that any mandate required by a state prior to 2011 could be maintained without subjecting the state to any subsidy obligations. Opportunity lost. At least to date.

A new administration—Clinton, Trump or a Republican to be named later—will have the opportunity to pick up the cudgel here. Our mission is to make sure our wishes become theirs.

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"Today's decision is a ***significant blow*** to **federal attempts to regulate** large ***nonbank financial companies."***

—Dave Postal, Washington Analysis LLC, on D.C. Federal District Court's ruling that the Financial Stability Oversight Council erred in designating MetLife as a systemically important financial institution

"The **whole world** was somewhat ***surprised***."

—AIG CEO Peter Hancock, on CNBC, discussing Judge Rosemary Collyer's rejection of SIFI status for MetLife. Hancock said AIG is "reserving judgment" on applying for a SIFI exemption of its own.

REGULATORY NEWS TICKER

mark on citizens trained to respond to public emergencies. Training, offered in multiple languages, provided by National Guard, American Red Cross and New York Division of Homeland Security and Emergency Services. **www.dfs.ny.gov**

OHIO Steve Buehrer has left post as administrator and CEO of Ohio Bureau of Workers Compensation for unnamed job in private sector. Sarah Morrison, bureau's chief legal officer, now serving as interim administrator and CEO. **www.insurance.ohio.gov**

OKLAHOMA State Supreme Court rules workers compensation provision from 2013 unconstitutional. It prohibits workers comp claims from those employed fewer than 180 days. Court also ruled parts of state opt-out rule unconstitutional. » House passes mandatory autism coverage bill on 76-20 vote. Under bill, health plans offered in state would have to provide coverage for screening, diagnosis and treatment with maximum yearly benefit of $25,000. » Commissioner John Doak says Insurance Department can operate without state budgetary aid. Licensing fees cover operating costs. Department has expanded its responsibilities during this time of reduced spending and is set to spend less this year than in any other of Doak's tenure. **www.oid.ok.gov**

SOUTH DAKOTA Bill giving 80% tax credit to insurers for contributions to scholarship programs to help low-income families afford private school sent to Gov. Dennis Daugaard, who says he will sign if plan is budget-neutral. Total tax credits capped at $2 million per budget year. **www.state.sd.us/drr2/reg/insurance/**

VERMONT Susan Donegan announces June 30 departure from role as commissioner of Department of Financial Regulation. She has served for three years and is on multiple NAIC committees, including the executive committee. **www.bishca.state.vt.us**

WYOMING Offers free workplace training in April and May to help workers and managers respond to workplace violence, including shootings and terror. A videotaped training session is also available. **http://insurance.state.wy.us**

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