

EXECUTIVE ORDER > SCOTT SINDER

The Good, the Bad and... the Potentially Ugly?

And we're still trying to figure out exactly what it is.

Every day President Trump seems

to sign new executive orders, shifting not just the sands in Washington but entire islands of political norms. My challenge? To write something that will be relevant when it hits your inbox (pretty much eliminating fruitful discussions of Obamacare repeal and replace and tax reform).

So let's revisit the current state of FATCA and NARAB. And, we'll review a "covered agreement" the Obama administration finalized with the EU. The Trump administration will implement it (or not). If it does, we will see how the new guard may deal with international regulatory issues.

THE GOOD?

The new administration and the likelihood of tax reform this year create two opportunities to reverse the Obama Treasury Department's decision to subject p-c insurance transactions to the FATCA (Foreign Accounts Tax Compliance Act) regime.

The regulatory provision exempting so-called foreign-to-foreign transactions from FATCA expired January 1. That means insurance brokerages and carriers globally are technically subject to FATCA requirements if they place coverage that insures any U.S.-based risk even if none of the parties (broker, carrier, client) are physically in the United States. U.S. brokerages with foreign offices or

affiliates cannot place any coverage with a carrier that isn't compliant with FATCA. Foreign competitors may not feel so constrained, because they likely are beyond the reach of the IRS and therefore have a competitive advantage.

We have traction in Congress soliciting support for a complete exclusion of p-c insurance transactions from FATCA. I'm hopeful enactment of that exclusion is achievable soon.

THE BAD

Legislation authorizing the creation of the national licensure clearinghouse, the National Association of Registered Agents & Brokers (NARAB), on which we worked so hard for years, was enacted in 2015. Now, all we need is for the president to appoint the board so we can get it up and running.

The cumbersome nomination process saw many >>



Demand for **non-life insurance** in Asia is expected to **grow at 10.8%** per year over the next four years to a **total market size of about \$280 billion** by 2020.

(Allianz)

MARKET NEWS TICKER

Lucey moves from ACE, where he helped lead development and management of similar E&O division. www.pioneeruw.com

SAFETY NATIONAL Adds guaranteed-cost workers comp for large employers. First-dollar program. Requires minimum premium eligibility of \$750,000. Preferred specialty classes are hotels and related hospitality, light manufacturing, technology, retail, and food-related industries. Abbie Berg heads product's underwriting. » Rolls out captive services offering admitted and non-admitted policies, statutory coverage for workers comp, and flexible limits for other lines. Rent-a-captive also available. www.safetynational.com

SKULD Names Paul Knighton as global head of marine cargo and marine property. He will join Skuld Syndicate 1897 this summer. He moves from TT Club, where he has been a senior underwriter since 2012. www.skuld.com

SOMPO CANOPIUS Names Steve O'Riordan head of international property, reporting to Derek Hansen, group head of direct and facultative property. Will write U.K. and international direct and facultative property portfolio. Joins from CNA Europe, where he was property underwriting manager. www.sompocanius.com

SPECIALTY PROGRAM GROUP Acquires Global Marine Insurance

Agency, based in Traverse City, Mich. www.specialtyprogramgroup.com

STARR COMPANIES Names VP Layla Greytok leader of newly formed excess casualty division, which combines excess commercial accounts and excess national accounts. Greytok's team includes Warren Puffer in New York; David Meyers, East; Laurie Jo Prager, Central; and Leonard Streeter, West. www.starrcompanies.com

TOKIO MARINE KILN Adds unmanned aerial systems insurance to One TMK digital exchange. Allows brokers to quote and bind policies online in real time worldwide. www.tokiomarinekiln.com

UNUM Now offering Unum Dental and Unum Vision in conjunction with Starmount, a dental and vision insurance business. www.unum.com

VALIDUS Agrees to buy Crop Risk Services from Archer Daniels Midland for \$127.5 million. Expected to close in first half of 2017. ADM would continue to offer insurance products and grain marketing services to CRS customers. www.validusholdings.com

ZURICH Zurich North America reorganizes commercial and large-corporate business for U.S. and Canada. Rebrands as North America Commercial Insurance, a unit that combines commercial markets

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» of the insurance commissioners who had been asked to serve bowing out before completion. President Obama did formally nominate a sufficient number of members to constitute a quorum, which would have allowed NARAB to actually get started. Unfortunately, the Senate failed to confirm any of those nominees.

So we start again. And the NARAB board is not exactly at the top of the new administration's priority list. President Trump has a slew of political appointments that must be made first, including the new director of the Federal Insurance Office (FIO). President Obama's director did the legwork creating the initial list of candidates and shepherded that process, all of which means we are now waiting—again.



THE UNKNOWN

One of the primary powers the FIO has under the Dodd-Frank Act is the ability to enter into “covered agreements” with other countries that concern carrier-related oversight and regulation. An agreement struck between the U.S. and the EU in January would address three main areas:

- ▶ Group supervision of insurance and reinsurance groups domiciled in the U.S. or EU
- ▶ Reinsurance, specifically with respect to local presence and collateral requirements
- ▶ Information sharing between supervisory authorities.

The stated purposes of the agreement are:

- ▶ Eliminate, if certain conditions are met, local presence and collateral requirements for reinsurers domiciled in the other party's jurisdiction as a condition of entering into a reinsurance agreement with a domestic insurer and/or as a condition of recognizing credit for the reinsurance
- ▶ Establish worldwide prudential insurance group supervision authority

for the “Home Party” (domicile of the worldwide parent) without prejudice to group supervision of the “Host Party” (where the group has operations, but not the parent's domicile)

- ▶ Establish best practices and promote the exchange of information between supervisory authorities of different parties.

The primary U.S. goal is to ensure continued U.S. insurer and reinsurer access to the EU, which has been cast into doubt by EU “equivalence,” which the U.S. does not satisfy. The primary EU objective is to eliminate U.S. individual state collateral requirements for foreign reinsurers. Both the U.S. and the EU largely achieved their objectives.

The real question now is what the Trump administration will do with the covered agreement. Under Dodd-Frank procedural requirements, the proposed agreement was submitted to Congress for a 90-day layover period. When that expires, the U.S. can execute the agreement, with five years to ensure state requirements are compliant or have been preempted.

The National Association of Insurance Commissioners already is publicly opposing the agreement. Small and regional carriers are wary of proposed group supervision requirements. And some of the large carriers are not satisfied, because they still would not qualify under for the full privileges and benefits of EU “equivalence.”

The Trump administration can derail the agreement by:

- ▶ Simply withdrawing it from congressional consideration (as with the Trans-Pacific Partnership)
- ▶ Refusing to sign the agreement after the layover has expired
- ▶ Withdrawing from the agreement at any time, as the agreement permits
- ▶ Not effectuating the agreement once it is in place.

Of course, I have no idea what will actually happen. So we continue to wait and learn from what transpires. I can't wait to see what that is.

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MARKET NEWS TICKER

and global corporate business in North America. Paul Horgan, former head of global corporate, named as head of new division. North America Commercial Insurance comprises four segments: property (headed by Richard Montminy), casualty (Brandon Fick), construction (Marcus Cooper) and middle markets (Scott Rasor). David Levinson is president and chief agent for Zurich Canada, and Thomas Fioretti is chief risk engineering officer. www.zurich.com

REGULATORY NEWS TICKER

ARKANSAS Insurance commissioner Allen Kerr named vice chairman of National Association of Insurance Commissioners' Workers Compensation and Examination Oversight task forces. www.insurance.arkansas.gov

CALIFORNIA Insurance commissioner Dave Jones wins suit in state Supreme Court brought by insurance industry, which challenged Jones's authority to make rules and regulations outside his purview. Specific case contested consumer protection rule Jones implemented requiring insurers to give accurate replacement cost estimates that reflect complete cost of rebuilding policyholder's home after fire. Commissioner said

insurers were lowering projected cost of replacement in order to win business based on premiums, which reflected lower coverage but left policyholder underinsured. » Bay area residents have lower workers comp claim costs than rest of state, comprising 17.5% of claims but only 15% of claims costs. California Workers Compensation Institute says that's because they have faster notification allowing fewer delays in initial treatment; fewer medical visits; lower treatment costs; less attorney involvement; shorter durations; less permanent disability. Distribution of types of claims was similar to rest of state, though its repetitive motion claim numbers were higher, at 4.8% versus 2.8% in the rest of the state. » Workers

Compensation Insurance Rating Bureau found allocated loss adjustment expense costs up sharply since 2012. ALAE cost per claim rose 20% and is 10 points higher than second-highest state and more than twice national median. Number of claims, accelerating rate of settlements, attorney involvement and general cost increases are main drivers. About 70% of ALAE costs are for defense attorney expenses and medical cost-containment programs. www.insurance.ca.gov

IDAHO Insurance director Dean Cameron named vice chair of National Association of Insurance Commissioners' Life Insurance and Annuities Committee for 2017. www.doi.idaho.gov