



IRS urged to sit up and take notice of 2017



The much-maligned Notice 2016-66 should be delayed until guidance on the Protecting Americans from Tax Hikes (PATH) Act and a decision in the Avrahami litigation are issued, the Self-Insurance Institute of America (SIIA) has said.

SIIA wrote to the Internal Revenue Service (IRS) late last month to request Notice 2016-66 be suspended. The decision to formally label micro captive transactions as “transactions of interest” was “premature”, the association argued.

As “transactions of interest”, micro captives, specifically those that meet the 831(b) Tax Code election, must provide certain information to the IRS and US Treasury so that they can have “sufficient information to identify which 831(b) arrangements should be identified specifically as a tax avoidance transaction”.

According to SIIA, two significant events are expected this year that demand a suspension of the notice.

Guidance on the PATH Act revisions to 831(b) is expected in 2017, as is the Tax Court’s ruling on the lead 831(b) case, Avrahami, which could bring some clarity around rules for the captive insurance industry.

SIIA said in its letter: “In the light of PATH Act guidance and an appropriate period to ascertain the impact of the Avrahami decision, the IRS will be in a better position to decide what features of a 831(b) captive arrangement amount to a transaction of interest and whether information already being collected by the IRS on annual tax returns and accompanying annual statements is sufficient to identify the transactions of interest.”

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“Such an approach will prevent finite IRS resources from being expended on reviewing information that may not be germane to the issues, or reviewing duplicates of information already in the IRS’s possession. This approach will also prevent an enormous amount of administrative burden and cost from being placed on the industry,” SIIA explained.

Late last year, the IRS granted a 90-day deadline extension for 831(b) captives that need to comply with Notice 2016-66.

Sean King, principal of CIC Services, went further in comments to the IRS. He called for Notice 2016-66 to be revoked.

According to King, Notice 2016-66 “undermines important public policies as codified by Congress, unfairly targets small businesses, attempts to administratively repeal Internal Revenue Code Section 831(b), impinges upon the exclusive authority of the states to regulate and define insurance, runs in contravention to court precedent, has many unintended but devastating consequences, and subverts the rule of law”.

King said: “The tremendous complexity and burden resulting from the issuance of Notice 2016-66 run directly contrary to an important Congressional purpose behind Section 831(b)—simplification. Notice 2016-66 should be revoked and any future guidance should avoid unnecessary complexity.”

“Honest taxpayers should never be punished by the IRS for biting at the tax carrot that Congress has so carefully dangled in front of them, and it’s improper for the IRS to attempt to poison the carrot.”



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North Carolina: 2016 'exceeded expectations'

The US State of North Carolina "exceeded expectations" in terms of captive insurance growth in 2016, Mike Causey, the state's insurance commissioner, has reported.

Last year, the number of captive insurers in North Carolina more than doubled, and the number of cells and series approved increased by more than half.

The state, which is now in its third full year of operation, has over 550 risk-bearing captive insurance entities under the regulation of the North Carolina Department of Insurance, as of 23 January.

Some 190 of North Carolina's captive insurers are licensed or provisionally licensed, and 363 cells or series are approved or provisionally approved.

North Carolina's standalone captive insurers are made up of 150 pure captives, 23 protected cell captives, and 12 special-purpose captives, while five are risk retention groups.

The department of insurance attributed the growth to both new formations and redomiciliations from other US states and offshore domiciles.

While the growth of small captive insurers continues to be strong, the state is also experiencing growth in larger captive insurers and risk retention groups.

Causey said: "North Carolina continues to prove to be a great place for captive insurers and I look forward to what is in store for 2017."

Barbados: 13 new captives in 2016

Barbados licensed a total of 13 captives in 2016, according to the Barbados Financial Services Commission.

The new captives come from the finance, energy, retail and healthcare sector.

In total, Barbados now has 246 active captives.

The island's captive insurance legislation was introduced in 1984 when the Barbados-US tax treaty was signed.

Last year, London & Capital, a wealth and asset management company, reported continued growth among its network of Caribbean clients and professional advisers.

The company's Caribbean office, located in Barbados, has seen a significant increase in demand from captives in the region over the last 10 years, it said.

In April 2016, Lisl Lewis, executive director and head of the London & Capital Caribbean office, said: "The Caribbean captive and institutional market has grown significantly in importance to London & Capital over the last decade, and we are pleased to demonstrate our commitment to our regional clients by having an office in Barbados."

VCIA members move bill forward

Vermont Captive Insurance Association (VCIA) members have moved the recently introduced proposed captive bill another step forward after testifying before the House commerce and Senate finance committees.

The proposed new bill has a number of enhancements, including a change from the current \$7,500 first-year premium tax credit to a \$5,000 credit in each of the captive's first two years.

It also proposes tightening up language in certain areas, including for risk retention groups, incorporated protected cells and allowable accounting principles.

As VCIA members gathered in Montpelier on 26 January for the association's annual legislation day, the Vermont legislature issued a proclamation honouring captive regulators Len Crouse, David Provost and the late Ed Meehan.

Crouse, director of captive insurance for Vermont and subsequently deputy commissioner of captive insurance, said: "I was surprised and honoured to hear the proclamation. Most important, however, is the great working relationship Vermont legislators and the captive insurance community enjoy."

Commenting on the proposed captive bill, he added: "I expect the legislature will make whatever tweaks are necessary, as they always have, to continue benefitting both the state and the industry."

Separately, the Vermont Department of Financial Regulation revealed in January that healthcare captives now represent the state's largest industry sector with eight new captives licensed in this area last year.

Dan Towle, Vermont's director of financial services, said: "The continued formation of hospitals and doctors' groups forming Vermont captives has been a very positive trend that we expect to continue."

Tennessee proposes captive updates

Tennessee has started the process to update its captive legislation with a new bill introduced on 31 January.

The proposed changes will require captive insurance companies to pay certain penalties and interest on the late payment of premium taxes. They will also revise certain compensation provisions as they relate to examinations of insurance companies.

In addition, the changes include the authorisation of certain captive insurance companies to apply for and operate under a letter of dormancy, and provide for the conversion of protected cells and pure captive insurance companies.

House representatives David Hawk and Glen Casada introduced the HB302 captive bill.

Last year, Tennessee updated its captive legislation with changes to the way captives redomesticate to the state.

It also introduced legal action brought against a protected cell captive to specify which protected cells are a party to a suit, and reformed self-procurement tax forgiveness.

Asia's market growing at 'steady pace'

Asia's captive owners are showing an unprecedented level of sophistication in how they view risk, according to Aon's Asia Market Review 2017.

The fourth edition of the annual report on Asian insurance and risk trends revealed that, of all captive owners, the majority hold gross line captives seeking to manage and control external risk transfer costs as well as group retention costs, taking a 'total cost of insurance' risk approach to their risk-related decision making.

The Asian captive market has continued to grow at a "steady pace" during 2016,

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Charles Taylor expands Latin America operations

Charles Taylor has opened a new office in Panama, expanding its offering of captive insurance services to businesses in Latin America.

The Panama office brings the company's presence in Latin America to six offices.

Alvaro Ortiz, who has been appointed president and CEO of Charles Taylor for the regional section of Latin America and the Caribbean, will head the Panama office.

Ortiz joins from Arch Reinsurance Bermuda, where he served as head of treaty underwriting for Latin America and the Caribbean.

William Wood, CEO of CT Insurance Management Bermuda, said: "The demand for captive management services is growing quickly in many Latin American countries. Our long-established captive management hub in Bermuda is based in a highly stable and well-regulated jurisdiction, making it an attractive location for Latin American insurance business."

"I am very pleased that Alvaro Ortiz has joined Charles Taylor to establish our new Panama office and drive our captive management business development initiatives in Latin America."



the report said, with 71 captives active in Singapore, 40 in Labuan, 18 in Micronesia and three in Hong Kong.

Aon captive clients are writing traditional lines such as property and liability risks.

But there has also been an increase in clients seeking to participate in non-traditional lines such as cyber risk, employee benefits, trade credit and environmental liability.

Although there are signs of positive growth, uncertainties around tax strategies and reputational impact are still holding the region back, Aon said.

In an effort to address this issue, the Monetary Authority of Singapore has introduced the Organisation for Economic Co-operation and Development's (OECD) base erosion and profit shifting standards.

In addition, the monetary authority will withdraw its tax exemption on 31 March 2018, to comply with OECD guidelines.

The report suggested that this is a "positive step" for Singapore, as the option will remain for organisations to use Singapore as a route into Asian markets.

Geoff Lambrou, chairman of Aon Risk Solutions Singapore, said: "In 2017, we expect that capacity will remain abundant in most territories and will continue to enter the market through a variety of different vehicles."

He added: "This, coupled with a continuation of a benign loss environment and positive underwriting results for most insurers during 2016, should exert further downward pressure on rates in most classes of insurance during the forthcoming year."

Guernsey marks 20 years of PCCs

Guernsey is celebrating the 20 years since the introduction of protected cell companies (PCCs) in the domicile.

Its PCC legislation became effective for Guernsey's captive insurance sector on 1 February 1997.

Aon's White Rock Insurance Company PCC, established in Guernsey in 1997, was the world's first PCC. They are now used worldwide as an alternative application for the structuring of various different types of products.

Steve Butterworth, director of insurance at the Guernsey Financial Services Commission from

1988 until 2003 and the man widely credited with developing Guernsey's PCC concept, said: "For prudential reasons when the legislation was first drafted, the idea was to limit the use of PCCs to licensed insurance and investment companies, but we were very much aware of the myriad other possible uses."

"I always thought that once the concept became internationally accepted its use would become widespread across financial services and that has proven to be the case, but I am still surprised at some of the areas it is not more widely used, including by institutions for mergers, acquisitions and disposals."

"It is an ideal piece of legislation for a banking group, especially to ring-fence assets and liabilities," Butterworth explained.

"As a result, there is still a lot of development and diversification to come in the area of PCCs."

Dominic Wheatley, CEO of Guernsey Finance, added: "The fact Guernsey's cell company concept has been copied by finance domiciles across the world, with thousands of PCCs and cells employed across the insurance, funds and private wealth sectors, is a tribute to the genius of Butterworth's simple idea."

'Phenomenal year' for Cayman

The Cayman Islands welcomed 39 new insurer licences in 2016, as well as two new portfolio insurance companies.

According to the Cayman Islands Monetary Authority, 2016 was a "phenomenal year" in terms of new insurance company formations.

The new licences included 32 class B insurers, five class C insurers and two class D insurers.

During Q4, six new insurer licences were added to the Cayman Islands' international insurance market.

In total, at the end of 2016, the Insurance Supervision Division had 860 insurance-related licensees, of which 117 and 743 related to domestic and international insurance markets, respectively.

Out of the 743, there were 711 class B, C and D insurance companies and 32 insurance managers under the supervision of the division.

Pure captives and group captives represented the two main categories, with 334 and 121 companies respectively.

Of the class B, C and D insurance companies, 20 percent were formed as segregated portfolio companies, with approximately 600 segregated portfolios.

In terms of sectors, medical malpractice liability continues to be the largest primary line of business with approximately 33 percent of companies reinsuring medical malpractice, while workers' compensation holds the second largest portion, with 21 percent.

As of 31 December 2016, total premiums stood at \$14.6 billion and total assets were \$59.8 billion.

IMAC chair Kieran O'Mahony, said: "Again, I wish to pay tribute to the diligence and innovation of the Cayman Island's insurance managers, our network of service providers throughout the globe who support both our industry and our domicile and as well as the 'fit for purpose' regulatory, immigration and governmental regimes here in Cayman."

"These elements, along with our best-in-class clients are what maintain the Cayman Islands as the domicile of choice in a competitive environment," O'Mahony added.

He said: "Following our successful Cayman Captive Forum held in November/December of 2016, with 1,500 delegates in attendance, I am confident that our industry remains vibrant and poised for expansion during 2017."

South Carolina adds 17 new captives

The South Carolina Department of Insurance licensed 17 new captive insurance companies last year, down from the 30 in 2015.

Out of the new captives, there were seven pure captives, four segregated portfolio companies, three risk retention groups, two incorporated cell companies and one sponsored captive.

As of the end of 2016, South Carolina was home to a total of 164 active captives.

In May last year, Jay Branum, director of captives at the South Carolina Department of Insurance, said: "Captives provide substantial advantages to owners who want to take their risk management and risk financing programmes to a higher level of sophistication and control."

Texas plans reinsurance structure

Texas has put forward a new captive bill, HB 1187, proposing the introduction of non-affiliated reinsurance, reciprocal captive structures in the state.

Giovanni Capriglione, a member of the Texas House of Representatives, filed the new captive bill on 19 January.

Under the proposed changes, a captive insurance company would be able to provide reinsurance to an insurer covering the operational risks of its affiliates, or risks of a controlled unaffiliated business that the captive insurance company may insure directly under Section 964.051.

In a recent interview, Josh Magden, president of the Texas Captive Insurance Association (TxCIA), said Texas wants more perspectives so that it can make well-informed decisions about what changes to make to legislation.

"We want more specific perspectives, and need that support to articulate the benefit of certain legislative changes," Magden said.

The proposed date for the act to become effective is 1 September. The bill is awaiting committee review.

Aon introduces new cyber programme

Aon Global Risk Consulting has launched a new cyber captive programme to help clients identify, assess and quantify their cyber exposures.

The new programme will help clients make more informed decisions around risk retention in their captives, as well as providing risk transfer capacity of up to \$400 million.

The cyber captive programme includes the Aon Cyber Resilience Review, which will help identify, assess and quantify cyber risk; comprehensive coverage, covering broad cyber exposure; consistent comprehensive coverage with significant capacity of potentially up to \$400 million per policy; an underwriting process that facilitates an improved overall understanding of the risk; and finally, captive participation on a direct or reinsurance basis.

Peter Mullen, CEO of Aon Captive & Insurance Management, explained that the new programme provides clients with a comprehensive risk transfer option that they can access through a captive.

Mullen added: "The solution will ultimately allow captive owners the opportunity to take a hard introspective look at their cyber risk profile, identifying important issues and threats for their organisation and placing comprehensive coverage through the Aon Cyber Enterprise Solution."

UK hints at 'third-country' status

The UK could adopt 'third-country' status in financial services upon its exit from the EU, according to the long awaited Brexit whitepaper.

The whitepaper described but did not discuss in detail "a range of provisions across many different pieces of EU financial regulation" that allow firms in member states "to provide financial services across the EU under a common set of rules and a single authorisation from their regulator".

"Both UK and EU firms benefit from [passports]", the whitepaper affirmed, pointing out that "there are over 5,000 UK firms that utilise passports to provide services across the rest of the EU, but around 8,000 European firms that use passports to provide services into the UK".

The whitepaper said, without a firm commitment: "There are provisions that allow firms from 'third countries' to provide services across the EU, provided that their relevant domestic regulations have been deemed equivalent to those of the EU."

"In our new strategic partnership agreement we will be aiming for the freest possible trade in financial services between the UK and EU member states."

UK members of parliament voted in favour of triggering Article 50, which must happen before exit negotiations with the EU can begin.

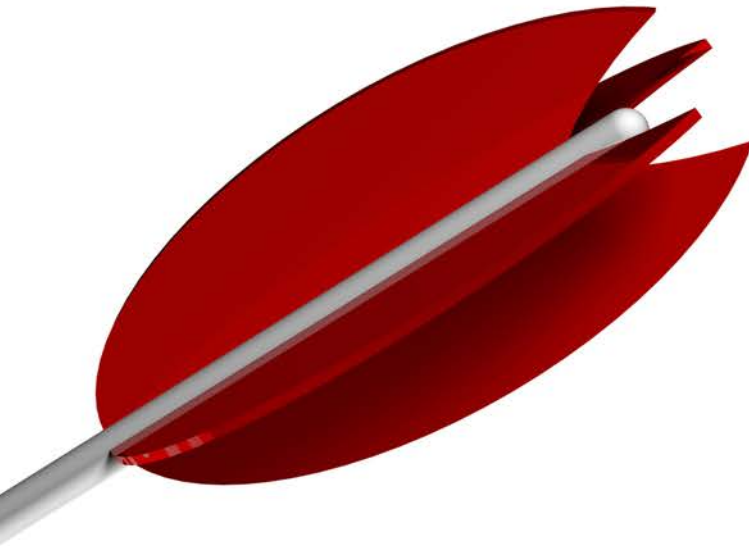
The UK plans to formally announce its intention to leave the EU in March.

Negotiations on the manner of its exit must be completed within two years.

Market makers

Norman Chandler is excited to see what Arsenal Insurance Management is capable of in 2017 after last year's acquisition spree





Arsenal Insurance recently acquired Jade Risk. How does this benefit mutual clients?

The recent merger benefits both companies as well as all of our clients by bringing together two experienced teams of captive managers with a broad geographic spread.

Our professionals consist of former traditional insurance executives, former regulators, former third-party administrators, and several certified public accountants.

This combination of experienced professionals allows us to evaluate and implement the best practices from both organisations to continue being a recognised leader in the captive industry and position ourselves for the increased demand and growth in the captive industry.

This combination of experienced leadership will help guide and build our team of professionals to better serve our clients moving forward.

What was the motivation behind the acquisition of Jade Risk?

The motivation behind the acquisition was to formally bring together two market segments in the captive industry. Arsenal has generally

focused on traditional captives while Jade has been focused on the small captive segment.

Will the acquisition allow Arsenal Insurance to expand its presence in the captive market? And what opportunities does this give the company?

This acquisition certainly helps expand our presence to new captive markets. We currently operate in four states: Alabama, Georgia, Florida, North Carolina and Tennessee.

With the acquisition of Jade Risk, we have added clients located in Texas and Oklahoma and we are positioned to work with other clients in the Midwestern US and surrounding states.

With the increased geographical presence, it gives us the resources to take advantage of opportunities we see in the captive industry.

Arsenal Insurance opened a new office in Florida. Are there any further plans for growth in 2017?

Arsenal established its presence in Florida in 2016 to better serve our clients in that market and take advantage of growth opportunities we identified. We anticipate further increases in staffing in Florida and in Tennessee in 2017.

After two acquisitions in 2016, we expect to focus more on the synergies from the acquisitions. Arsenal expects strong growth in 2017.

What predictions do you have for the captive market in 2017?

We see continued uncertainty in the market due to changes coming in Washington DC to healthcare and taxes. The Internal Revenue Service activity regarding small captives has slowed captive growth.

We expect that the 831(b) market segment will evolve further to encompass more traditional risks.

In the broader market, we expect continued growth in benefits captives after changes in Washington have settled.

We are excited and optimistic regarding the acquisitions in 2016 and we are looking forward to taking advantage of the growth and changes that we will see in the captive market. **CIT**

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Norman Chandler, partner, Arsenal Insurance Management





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Comings and goings at Airmic, PwC, Primmer Piper Eggleston & Cramer, BVI Finance, and more

Airmic CEO John Hurrell is to step down after nine years in the role.

Hurrell will remain in his position until a successor has been appointed. Nick Hughes, board member and honorary secretary for Airmic, is leading the process to find a new CEO.

Airmic chairman Clive Clarke commented: “We would like to thank John Hurrell for his outstanding work over the past nine years. Under his leadership, the association has gone from strength to strength.”

Hurrell added: “Airmic has the most exciting business plan ever and fantastic support from its board, members and sponsors, but I feel the time is right for new leadership to take Airmic to the next stage on behalf of its members.”

“One of my first decisions as CEO was to introduce a nine-year maximum term for Airmic board members, so I feel it is only right for me to hand over the reins having completed nine years at the helm.”

Paul Delbridge has been named London market insurance leader at PwC.

Delbridge, who has served at PwC for 30 years, in the insurance and reinsurance sector, will be responsible for the activities and services to the major broker markets.

During his time at PwC, Delbridge has worked on various projects involving underwriting and pricing, enterprise risk management, Solvency II, mergers and acquisitions, audits, cost reduction, performance management and data analytics.

He takes on his new role from Jim Bichard, who has been appointed as UK insurance leader at PwC.

Bichard has worked at PwC for 20 years, including five years in its New York office. He has experience in the reinsurance industry after working on projects including risk and regulatory governance, structuring and assurance.

In addition, Bichard recently led PwC’s Solvency II and regulatory team across the UK and Europe, the Middle East and Africa.

Delbridge said: “Despite facing tough trading conditions, the London market continues to be very dynamic, with modernisation, innovation, diversity and disruption all high on the agenda.”

Primmer Piper Eggleston & Cramer PC has appointed nine new shareholders to its Vermont and New Hampshire offices.

The company will also relocate its current Vermont office space to 30 Main Street, Burlington, Vermont.

Gary Karnedy, managing shareholder for the firm, stated: “We are extremely proud of this group of outstanding professionals and their ascension to shareholder recognises their hard work for our clients.”

The new Vermont-based shareholders include Nicole Bodoh, Alexandra Edelman, Shireen Hart, Kevin Henry and Raphine O’Rouke.

Bodoh has experience in areas such as captive insurance, mergers and acquisitions, federal and state securities regulatory compliance, debt and equity financings, executive compensation, corporate governance, and The Employee Retirement Income Security Act compliance matters.

In addition, John Griffin will join the Manchester, New Hampshire office, while Jaime Gillis and Polly Hall will be based at the company’s Portsmouth, New Hampshire office.

Primmer has offices located in Vermont, New Hampshire, Maine and Washington DC.

BVI Finance Limited has elected the first nine representatives to form its board of directors.

The election took place at the company’s first annual general meeting on 19 January.

The new board members are: Ryan Geluk of BDO Limited; Kenneth Morgan of Pendragon Services Limited; Robert Briant of Conyers Dill & Pearman; Vanessa King of O’Neal Webster; Claire Abrehart of AMS Financial Services Limited; Peter Tarn of Harneys; Rachel McDonald of Mourant Ozannes; Jonathan Bailey of Nerine Trust Company (BVI) Limited; and Helene Lewis of SimonetteLewis.

Lorna Smith, BVI Finance’s interim executive director, said: “Today marks a new era in the history of the BVI’s financial services industry and none of this could have been achieved without the diligent work of the Financial Services Implementation Unit and, of course, the private sector.”

On 2 January this year, BVI Finance became a private limited company.

The next phase of the process will see the signing of a cooperation agreement between the government and BVI Finance Limited, which will cement the terms of the arrangements and the roles and responsibilities of those involved. The signing is set to take place after the new board meets and elects its chairman and other officers. The board will also be joined by two government representatives.

JLT Re has named William Pang as the new managing director of its Philippines office.

Pang, who will relocate to Manila in Q1 of this year, will be responsible for the overall management of JLT Re Philippines, focusing on strategy,

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market development and team expansion. As part of his new role, Pang will also join the JLT Re Asia Pacific executive group.

Over the last five years, Pang has been located in Singapore, managing clients based in Singapore, the Philippines and Vietnam, regions he will continue to be involved with.

In his new role, he will report to Kenny Moyes, CEO of JLT Re Asia.

Stuart Beatty, CEO of JLT Re Asia Pacific, said: "The Philippines is a natural progression for JLT Re's regional expansion plans, given that it's the fourth largest economy of the Association of Southeast Asian Nations countries after Indonesia, Thailand and Malaysia."

Beatty added: "It is already a key region of focus for us and we intend to invest further with an aim to be a market leader in the future."

Drinker Biddle & Reath is opening a new office in Dallas, Texas, on 1 February, with the addition of 23 lawyers, who all join from Sedgwick LLP.

The new office, and group of lawyers, will enhance the firm's business litigation, products liability and insurance teams.

The office will be led by nine partners: Neil Rambin, Paul Cauley Jr, Susan Egeland, Travis Gamble, Wayne Mason, George McCall, Dawn McCord, Sondra Sylva, and Alan Vickery.

In addition, Rambin will become the regional partner in charge of the office.

The expansion marks the firm's 12th office opening. Other offices are located in the Mid-Atlantic, California, Texas and London.

Andrew Kassner, chair and CEO of Drinker Biddle, commented: "We're thrilled to open a Dallas office led by a proven team of experienced trial lawyers and litigators who are committed to growing the office."

"Our new lawyers share the firm's core values and goals, and immediately support our priorities, including adding best-in-class talent to serve our clients."

The National Association of Insurance Commissioners (NAIC) has named John Doak, the Oklahoma insurance commissioner, as its representative to the Organisation for Economic Co-operation and Development (OECD).

Doak will represent US insurance regulators by attending meetings as well as drafting and commenting on insurance-related papers.

He will also present on the US state-based system of insurance regulation.

Ted Nickel, president of the NAIC and Wisconsin insurance commissioner, said: "Commissioner John Doak's experience and knowledge make him an outstanding candidate to represent state insurance regulators on the OECD."

"I'm confident Doak will serve the NAIC and state-based regulation well."

Doak added: "I'm honoured to have this opportunity to represent the NAIC at the international level. International dialogue between insurance supervisors is critical as the global insurance market becomes increasingly connected." **CIT**

Do you have an appointment we should cover?

Let us know via:

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