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**TO:** Attendees of The Council's 2018 Legislative & Working Groups Summit  
**FROM:** Joel Wood, Senior Vice President, Government Affairs  
**RE:** Overview of Legislative Issues, Program and our Agenda on the Hill

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We are extremely grateful for your participation in the 2018 Legislative & working Groups Summit – the largest ever held by our association. Based on the multiplicity of meetings and subjects that are going to be covered, we've been sending you a lot of material and hope that you will be able to digest as much as possible in advance of the meeting.

**This document is the overview of the legislative portion of the meeting.** Many of you are veterans of this meeting and know the drill. Many of you are new to this and will have many questions; we hope this document answers a lot of them. In other words, if you're participating in any of the legislative stuff, PLEASE read this!

### **FIRST UP – Birds on Badges!**

There are literally scores of insurance trade organizations that have some degree of representation in Washington. Due to the generosity of our member executives, and reflective of their civic engagement and clout, **The Council's political action committee in 2017 grew to \$1.5 million** – the largest among all of the insurance trades. These are the "hard" political dollars (as opposed to "soft" or "super-pac" dollars) that directly go to the campaigns of Members of Congress who have been supportive on our issues (and challengers to those who have not been supportive). We're enormously proud of this, and the dollars we raise and spend for CouncilPAC are a reflection of the relative clout we enjoy on Capitol Hill. That said, though, a minority of our member firms produce the overwhelming majority of our PAC dollars. One of our goals for this LWGS is to vastly increase the number of participants in our political program. Please get a "bird" on your badge by making a contribution to CouncilPAC and/or contact our CouncilPAC Director, **Brittany Lindberg** at [brittany.lindberg@ciab.com](mailto:brittany.lindberg@ciab.com). THANK YOU on this.

### **NEXT – Really Important Stuff: Congressional Appointments**

Let's cut to the most critical part of our program, the raison d'être of the Legislative Summit – your visits to congressional offices on Wednesday. Our newest member of the government affairs team – **Blaire Bartlett**, as in [blaire.bartlett@ciab.com](mailto:blaire.bartlett@ciab.com) – has worked countless hours in the past month to arrange as many high-quality meetings with Members of Congress and their staffs as possible.

You should have received an email from The Council inviting you to download an app called CrowdCompass AttendeeHub. If you did not get this email or have trouble downloading/using the app, we can help you when you register at the hotel. If you signed up for Congressional meetings, your appointments will appear in the app, but you will also get a hard copy of your meeting schedule on Wednesday morning at the start of the breakfast in 325 Russell. Make sure to accept notifications from the app, because nothing is set in stone, and these push notifications will tell you if a meeting has changed. If the schedule changes on your end, please email or call Blaire at 202.821.2190 (she's also a pretty proficient texter!).

The Council is known for its 105-year tradition of networking meetings that bring together the most influential executives of the commercial insurance brokerage world. Those meetings traditionally are highly structured and pre-planned. Because of the vagaries of the congressional schedule and the ebb and flow of specific issues of interest to our member firms, **the Legislative Summit is different**, and much by necessity comes together at the last minute.

Wherever possible, we have grouped together visits with congressional offices by geography, and, in some instances, by issue group. We have strived to have as many sit-down meetings directly with relevant Members of Congress. Where the Member is unavailable, we have tried to arrange for the relevant legislative staffer(s) for that representative or senator to meet with our delegations.

Having participated in nearly three decades' worth of these legislative fly-ins myself, **I will recount one personal story.** Working at a different trade association, I had arranged for a group of our members to meet with then-Rep. Richard Gephardt, the House Majority Leader. Gephardt at the last minute was unable to attend the meeting, which was staffed by a very young assistant who one of our members described (with disappointment) as "looking like a 12-year-old boy." That young assistant turned out to be George Stephanopoulos. In many instances, meetings with staff can be more relevant and productive than meetings with the Members themselves, who are deluged with hour-by-hour stimuli from all directions.

Inevitably, some of our participants will have quality meetings with ranking Members of Congress who will have significant influence over the issues that concern us. And just as inevitably, some of our participants will wind up talking to a very junior staffer who stares at them blankly. **In all, our goal, like a Jackson Pollock painting, is to sling as much stuff up against the congressional canvas and (hopefully) turn it into a collector's item/success.**

In any event, **we need your feedback** after the meeting so that our staff can follow up directly with staff and Members and connect the dots. Please address your "de-brief" to any of us on the team, including me (joel.wood@ciab.com) and/or my colleague the "Other" Joel (joel.kopperud@ciab.com).

## WHAT TO TALK ABOUT IN THE HILL MEETINGS?

Some of you are exclusively concerned about benefits issues, and mostly conversant on those topics. Some of you have much at stake with the reauthorization and reforms to the National Flood Insurance Program. Many of you care much about the pass-through treatment of insurance brokerage under the recently passed Tax Cuts and Jobs Act (see more on this subject later in this memo).

**What points you make in your meetings is somewhat less important than the fact that you are there to begin with.** It's the old Woody Allen line – 90 percent of life is just showing up. Much of the support or success that we enjoy long-term with congressional actions is a reflection of the fact that we are present in the debate on an ongoing basis. (As Brittany Lindberg says with the PAC, "if you're not at the table, you're on the menu.") Please feel free to focus on the issues where you are most comfortable and knowledgeable. Feel free to share our one-page issue briefs, but don't feel any particular need to stick to any particular script. Score your points, and let us do the follow-through after the meetings.

## THE PROGRAM AND THE CONGRESSIONAL CALENDAR

Because of the congressional schedule released last December, **we've switched a couple of things around.** Usually, our "congressional reception" is held on Wednesday evening, after our congressional program and Hill visits. However, the House is scheduled to adjourn on Wednesday, potentially as early as late Wednesday morning. So **we have moved our congressional reception from Wednesday to Tuesday evening**, from 5:30 to 7:30 p.m. in the **Montpelier Room of the Madison Building of the Library of Congress.** (There's a good news/bad news thing there. The good news is that we've outgrown the venues of committee rooms in the House office buildings. The one large room that could accommodate us there is under renovation. The bad news is that we're in the adjacent Madison Building – not as elegant, and a little bit further off for congressional members and staff, but plenty big enough and there's a swell balcony overlooking the Capitol.)

We've invited many policymakers and staff and as this is a reception without a formal program, there will be a lot of people wandering around looking to make connections with our participants from their districts or states. We expect strong turnout from Members of Congress and party leaders, including House Democratic Leader Nancy Pelosi. Please have a good time, but also try to facilitate as many of those connections as you can!

## THE CONGRESSIONAL PROGRAM ON WEDNESDAY

As you no doubt have noticed, there's this little matter of the **potential of the federal government shutting down on Thursday, February 8** if Congress is unable to agree on an additional continuing resolution to keep government open. Whether an agreement will be reached cooperatively in advance of Wednesday's program is anyone's guess. This could also throw a monkey-wrench into our program on Wednesday morning, which, from the schedule you'll see below, is already pretty close to chaotic (but threatens to be fun, substantive and multi-partisan).

**Buses are going to roll from the Mandarin to the Hill promptly at 7:45 a.m. on Wednesday.** Security's always an issue on the Hill and sometimes there's a backup in the lines, so please try to do everything you can to get in your seats by 8:30 a.m., as we have much ground to cover and pretty quickly. Our program is being held in the Kennedy Caucus Room of the Russell Senate Office Building – one of the grandest and most historic rooms in our nation's capital. For the past 80+ years, the Caucus Room has served as a stage for some of the most dramatic Senate investigations such as the sinking of the Titanic, the Teapot Dome scandal, Pearl Harbor, the Kefauver Crime Committee, the Army vs. McCarthy, the Vietnam War, Watergate and Iran-Contra.

Our schedule on Wednesday will be presided over by 2018 Council Chairman **Dave Eslick**, chairman and CEO of Marsh and McLennan Agency. After Dave kicks off the program at 8:30 (with breakfast served), this is our schedule (which, as mentioned above, is highly subject to change):

**8:45 a.m.** – newly elected Sen. **Doug Jones (D-AL)**. He just beat Roy Moore. Remember that guy?

**9:00 a.m.** – **Rep. Richard Neal (D-MA)**, the ranking Democrat on the House Ways & Means Committee. If Democrats retake control of the House, he'll be the chairman.

**9:15 a.m.** – **Sen. Cory Booker (D-NJ)**. He's a rising star in the Democratic party, and clearly running for President.

**9:30-10:00 a.m.** – **Rep. Tom Reed (R-NY)** and **Rep. Josh Gottheimer (D-NJ)**. These are the co-chairs of the 35-member bipartisan Problem Solvers Caucus formed in 2017. If there's any hope for bipartisan legislation in the House, these two are at the center of it.

**10:15 a.m.** – **Sen. Bob Corker (R-TN)**, chairman of the Senate Foreign Relations Committee and a ranking member of the Senate Banking Committee (which has jurisdiction over most insurance issues).

**10:30(ish) a.m.** – **Rep. Patrick McHenry (R-NC)**, chief deputy whip of the House of Representatives and Vice Chairman of the House Financial Services Committee.

**11:15(ish) a.m.** – **Rep. Trey Hollingsworth (R-IN)**, a rising freshman star and member of the House Financial Services Committee.

#### **Noon – Lunch**

**12:15-1:00 p.m.** – **Rep. Tom MacArthur (R-NJ)**, also a member of the Financial Services Committee and a key figure in the 2017 ACA repeal/replace debate. He comes from a very successful career as a commercial insurance executive (AIG and York Risk Management).

A final point about our speakers. What's glaring about this list? They're all men. We regret that. While it is true that women constitute a minority of members of Congress, they have a distinctly strong influence on the range of issues that matter to commercial insurance firms. We invited four of these leaders, and tried to make the schedules work, but, alas, we came up short. We'll keep trying.

## **EXECUTIVE SUMMARY OF THE ISSUES**

We have **five issue briefs** that we would like for each of our participants to leave behind in congressional offices, reflective of important public policy issues that are either on the congressional agenda, or we want to be on the congressional agenda. We believe that they are self-explanatory, but I'll give a very quick executive summary below, in no particular order:

### ► **Preservation of the employer-provided group health insurance marketplace.**

The "employer exclusion" from taxation of group health plans is technically the #1 "tax expenditure"; that is, it's the tax break that costs the most in actual federal revenue. It was a big win for us that the Tax Cuts and Jobs Act did not infringe on the employer exclusion, given the fiscal pressures to pay for a \$1.5 trillion tax bill. But we continually face pressures to preserve the employer exclusion. Most recently, some leaders have suggested that the "pay-for" of a repeal of the Cadillac Tax is a rollback of the employer exclusion – a nonstarter for us (though, for the record, we are very appreciative of the recent two-year further delay in implementation of the ACA's Cadillac Tax).

▶ **Stabilization of the individual insurance marketplace.**

Over the course of years of evolving debate, our Council of Employee Benefits Executives Advisory Committee has reached a consensus that stabilization and growth of the employer-provided marketplace is dependent upon a stable individual market. These policy prescriptions are consistent with the “Alexander-Murray” legislation in the Senate that would couple provisions to shore up the stability of exchanges for the individual marketplace, with greater flexibility for the states (so-called 1332 waivers). We likewise support legislation by Rep. Ryan Costello in the House of Representatives that would provide reinsurance support for exchanges, and we urge bipartisan cooperation on these issues in the aftermath of the failed effort to repeal/replace the ACA in 2017.

▶ **Our ultimate objective is bending the health care cost curve.**

We want to avoid the shifting of costs to the employer-sponsored market, promote value-based pricing, encourage competition, allow for flexibility for new market-based and consumer-driven solutions, and increase transparency. This is the ultimate path to avoid the creation of a disastrous single-payer health insurance system.

▶ **The National Flood Insurance Program** limps along, being reauthorized with little reform each time that Congress kicks the fiscal can down the road. We support efforts in the House and the Senate to reauthorize the program for a number of years – improving the actuarial soundness of the program while encouraging a stronger private flood marketplace (specifically by directing that banking regulators accept non-admitted policies that provide for flood needs).

▶ Legislation has been introduced in the House that would eliminate the applicability of the **Foreign Accounts Tax Compliance Act** to the international property/casualty insurance industry. We need to gather up cosponsors for this legislation. Global placements of p/c insurance (with no cash value) is NOT a means through which anyone can escape U.S. taxation, and agents/brokers should not be paying compliance costs that have no value to anyone. (Meanwhile, we’ve been making great progress on this issue with the Trump Administration’s Treasury Department. We think we’re going to prevail on this. Co-sponsorship of the House legislation will keep the pressure on.)

## **FINALLY, A VERY BIG ISSUE TO MANY COUNCIL FIRMS – PASS-THROUGH TAXATION**

We’re treating this issue in a different category, because not all Council member firms are similarly constituted by corporate structure. As a general matter, C-Corporations and public companies were big winners in the Tax Cuts and Jobs Act. Many pass-through entities (LLCs, S-Corporations, partnerships and sole proprietorships) were likewise beneficiaries of a special, five-year 20 percent deduction. However (and this is an enormous “however”), the Republican conferees made an exception (a multi-hundred-billion-dollar one) to this pass-through relief for “specified service trades or businesses.” Many inferred that this meant insurance brokerages based on the description of “any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees.”

Or, when it comes to insurance brokerage, did they, in fact, exclude insurance brokerage from this benefit? Our legal team’s reading of the statutory language of the Tax Cuts and Jobs Act, with its multiplicity of cascading exceptions and exclusions, is they did not. We believe that insurance activities are, in fact, eligible for the pass-through lower tax rate. Will this be a slam-dunk argument as the Treasury Department begins the arduous task of interpreting this vastly complex new law? No – but we will argue the case with our industry allies, and we want to put this issue on the radar of all members of Congress as we argue the case – in the event that we may ultimately need them to help us succeed.

We’re treating this issue differently because we certainly do not expect any of our C-Corporation executives to lobby on this issue. The Council advances issues that are in the interest of all of our member firms, and we do not actively intervene on issues that pit members against one another. There is no conflict here between those among our members who clearly benefitted from the tax bill, and those pass-through members whose benefit – or lack thereof – remains murky.

Further, even if it was clear that LLCs and S-Corporations were, in fact, excluded from the pass-through relief, it is our contention that ALL pass-through organizations should have been treated the same. Congress should not have chosen “winners” and “losers” among pass-throughs based on an assumption that one sector of the pass-through economy is inherently more important than any other.

All of this is embodied in an optional one-pager on the issue of pass-throughs.

## FINALLY...

We, again, are so grateful that you are making the sacrifice of coming to Washington to exercise one of the most fundamental of constitutional rights – the petition of government for redress of grievances. Just as our political action committee is the biggest among all of the insurance trades, we believe our interests have steadily climbed the ladder of congressional attention, and our successes outweigh our setbacks. All of us on the staff will be available to help you make the most of the coming days. We also hope that you benefit from the comradery of being with other commercial insurance executives in a format that is more intimate than our large meetings. We hope you also have fun, and have safe travels.

A handwritten signature in black ink that reads "Joel Wood". The signature is written in a cursive, flowing style.

**Joel Wood**

*Senior Vice President, Government Affairs*