# The CCIA Star

Keeping the industry informed
April 2017 • Volume 4, Issue 1

## In this issue

Update & Welcome p. 1
Member spotlight p. 2
Waking up p.3
The state corner p. 4

## Update & Welcome | Tom Keepers, executive vice president

"May you live in interesting times" is a well-known curse ascribed to the Chinese. However, while the intent of the saying may ring true, according to research by the Quote Investigator team, this quote was offered by Sir Austen Chamberlain around 1936, not China, when he spoke of the "grave injury" to collective security due to another country's violation of a treaty. In our case, this saying is apropos.

While our industry isn't moving "from one crisis to another" or suffering "one disturbance and shock after another" as described by Sir Chamberlain, the CCIA collective team and members are certainly busy addressing challenges and opportunities.

*On the state front*, all the state legislatures are in session and impacting our businesses. You need only listen-in to John Euwema's weekly member calls and/or peruse the newly reformatted agenda – the aptly named **CCIA Monitor** -- to get a sense for the heightened pace of activity.

Changes in lending laws are a challenge facing all our voluntary products again this year. For example, a 36% All-In APR is proposed in NM and in GA a bill proposes – courtesy of the pawn lenders – to require smaller-loan lenders that sell insurance to disclose the amount of their commission to consumers if their prior year sales penetration exceeded 50%. Both bills are a non-starter for our members. In NM, John's fly-in visit helped advance challenges industry is having with joint credit disability rates and truncated coverage. In SD, you will recall the citizenry approved a 36% All-In APR by referendum last year and it is now being codified. Unfortunately, credit insurance continues to be included in the APR calculation; there is potential that service contracts may remain outside of the calculation as they can be purchased for cash independent of the lending transaction.

*Please go to page 2*

## Update & Welcome (continued)

Nationally, John has been making state legislators aware of the All-In APR issue in discussions at NCOIL proceedings. Through our membership in the Insurance Education Council, John also pitched All-In APR as a potential topic for a NCOIL plenary educational session. However, as you might expect, health care is dominating the NCOIL plenary sessions.

At NAIC, we've been focused on the NAIC CPI Model Act and the Market Conduct Annual Statement ("MCAS"). No one including the "LPI coalition" has any news on progress with the Act. As you may know from past updates, it appears LPI will be added to the MCAS; industry is pushing back yet it appears to be a done deal. Using apparent momentum from the LPI effort, the Center for Economic Justice (led by Birny Birnbaum) proposed adding credit life to the MCAS, coupling merely one industry data point and his "reverse competition" theory as the rationale. In addition, the state of WA proposed watering down the requirements to add lines of business to the MCAS. CCIA opposed both proposals in writing and in a recent conference call. Our reach-outs indicate other trades such as ABA, ACLI and PCI will be opposing as well.

In a recent call, the NAIC Unclaimed Life Insurance Benefits Model Act (A) Working Group agreed to suspend activity pending further decision and approval from the Life and Annuities (A) Committee. Industry believes due to a lack of solid majority in the Drafting Sub-Group and the Working

*Please go to page 3*

## Member spotlight

### Fortegra Financial

The story of CCIA member company Fortegra begins in rural Nashville, Georgia. In 1978, N.G. 'Butch' Houston founded an insurance agency that would grow to become the second-largest credit insurer in the U.S., with nearly $1 billion in annual sales.

Three years after founding his agency, Houston formed Life of the South, a life insurance company. Life of the South operated as a single-state life and disability insurance company until 1994, when acquisitions began to fuel the company's growth. These acquisitions would bring new business and channel-specific expertise, helping Life of the South grow to be among the largest multi-channel insurers in the country.

This growth continued for Life of the South well into the next decade. But in 2007, senior management brought in Summit Partners, a leading private equity firm, to recapitalize the company. The effort, led by CEO Rick Kahlbaugh, positioned the company for even greater advancement. Life of the South was infused with funds and poised for geographic expansion. As a result, the company now holds Life and P&C licenses in nearly all 50 states.

Just three years later, Life of the South went public as Fortegra Financial, with Summit Partners retaining a majority stake. In late 2014, Fortegra Financial was acquired by investor Tiptree, Inc. (NASDAQ: TIPT), and the company was rebranded as Fortegra.

*Please go to page 4*

## Waking up from the honeymoon

Jon Harsch
CCIA D.C. representative
North South Government Strategies

The new Trump Administration and Republican-led Congress have made promises for significant regulatory reform on many issues, including healthcare, financial services and the tax code. In theory, these promises make sense. For the first time since 2007, Republicans control the White House, the Senate and the House. Add to that the fact that in 2018 25 Senate Democrats are up for reelection versus just eight Republicans and the numbers indicate that Republicans have a strong advantage.

*Please go to page 4*

## The state corner

John Euwema
Vice President, Legislative and Regulatory Counsel

Our 2017 legislative session has seen a number of bills which affect our product and our markets, some positively and some negatively.

As Tom mentioned in his STAR comments, we have been concerned with the proliferation of initiatives by consumer groups who ascribe to a 36%, or less, rate cap with an "all-in APR". This results in products sold in connection with a loan, such as credit insurance and debt cancellation (including GAP waiver), to be included in the calculation of the annual percentage rate.

*Please go to page 7*

## Update & Welcome (continued)

Group, this proposed Model Act may get dropped altogether. Also noteworthy is the exemption for credit life and related products was codified via approval of the prior meeting Minutes, where the Working Group rejected a proposal to include such products in the Act. CCIA will be attending the next NAIC meeting in Denver to address the LPI product issues and the credit life insurance concerns. Please look to Euwema's column for more tantalizing details on state activity.

*On the federal legislative front*, I wrote last time that CCIA proposed an amendment to the Dodd-Frank Act for inclusion in the House Financial Choice Act 2.0. The goals in rank order were to: (1) prohibit the CFPB from using an All-In APR, (2) place oversight of CCIA products with the states and prudential regulators (not the CFPB), and (3) place oversight of CCIA product providers with the states and prudential regulators (not the CFPB). Recognizing goals 2 and 3 are a *significant ask for a smaller voice in D.C.*, CCIA has been focused on the All-In APR (goal 1) and seeking allies to that end. In addition, sixteen member companies signed on to a letter of support for the CCIA amendment. The letter was sent to House leadership.

*Please go to page 8*

## Waking up from the honeymoon (continued)

So far, however, Republicans have not found a clear path towards delivering on their reform goals.

As we all no doubt saw play out on national news, the American Health Care Act (AHCA) or "Trumpcare," failed to garner enough Republican votes to pass in the House.

This has exposed what many in the far right Freedom Caucus were eager to see play out publicly: a fundamental distrust of Republican leadership exists within the party and, when pressured, there is a clear unwillingness to vote in line with Speaker Ryan or President Trump.

The same divide within the Republican party has slowed down Dodd Frank reform, albeit from the other side. Whereas healthcare reform was stopped by far-right Republicans who refused to vote for Trumpcare because, they believed, it did not go far enough, financial regulatory reform has been halted by moderate House GOP members because it was viewed as going too far.

Far-right House Republicans have been publicly pushing for all-out repeal of Dodd-Frank for years.

*Please go to page 6*

## Member spotlight (continued)

Today, Fortegra's core is comprised of credit protection products and services in every distribution channel. Additionally, Fortegra has continued to grow its presence in warranty protection with consumer solutions for furniture, home appliances, consumer electronics, mobile devices and accessories, VSC and GAP, and a wide range of other products.

While the CFPB and Dodd-Frank present a challenging reality for the industry, Fortegra's future remains very bright.

'As an industry and as a company, we have a great story to tell,' says Fortegra SVP Mike Ferris. 'To overcome today's challenges, the industry needs to be aggressive with its message, using tools like customer testimonials to tell that story. It's important that our state and federal legislators and regulators understand that our clients' customers would be suffering significant hardships if not for the assistance provided by our products. Many officials may not know what it's like for the average consumer continually faced with the difficulty of living paycheck to paycheck.'

In the meantime, Fortegra will continue to live by the values established in 1978 and will continue as a stable and reliable market for credit protection products. ❖

## **Waking up from the honeymoon** (continued)

With that in mind, it is worth paying close attention to what the House and Senate are planning for the financial services industry. In the House, Financial Services Committee (HFSC) Chairman, Jeb Hensarling (R-TX), has said he will be bringing a new financial reform bill, known as Financial Choice Act 2.0, up for a full committee vote in January. This bill is expected to pass out of the House on a partisan vote, without Democratic support. Already, some moderate Republicans are voicing consternation over the bill being very pro-Wall Street. If the bill moves without Democratic support, it will be unwelcome in the Senate.

Senate Banking Committee Chairman, Sen. Mike Crapo (R-ID), is planning to introduce his own financial reform legislation. Preliminary closed-door discussions indicate Crapo's bill will be carefully crafted to incorporate Democratic ideas and priorities. This is a pragmatic approach; in order to pass any financial reform legislation that is not budget- or tax-based, a minimum of eight democrats will be needed to vote in favor to reach the required 60 votes. Sen. Crapo is widely known for being effective and diplomatic. I believe he has as good a shot as any at finding common ground in passing such bipartisan reform legislation.

While Democrats are squarely in the minority, the slim majorities in both chambers position moderate Democratic members as key players in the coming financial reg reform debates. The House has seen a significant increase in moderate democrats, bringing the New Dems total to 54. These members includes key CCIA allies such as Rep. Jim Hines (CT) and Rep. Kyrsten Sinema (AZ). In light of the declining Republican house majority, Speaker Paul Ryan (R-WI) may turn to them, more than ever, for voting support.  In the Senate, the "mod squad" democrats are doing well and many are up for reelection in 2018. These include allies such as Sen. Heidi Heitkamp (SD) and Sen. Joe Manchin (WV). CCIA plans to continue outreach to these key members as their support on financial services regulatory reform legislation will be essential.

How 2017 will play out on the legislative calendar is hard to predict. HFSC Chairman Jeb Hensarling is planning to introduce his Financial Choice Act 2.0 in January. How that is received, and whether his bill is allowed a full House floor vote by Republican leadership will be an important indication of what we can expect in the new year. How Trump and his advisors react to Hensarling's legislation, and its very pro-Wall Street goals, will be worth watching.

*Please go to page 6*

### Waking up from the honeymoon (continued)

Now that the GOP has full control, Hensarling was preparing to introduce a revamped version of his Financial CHOICE Act, a more expansive rollback of regulation than his bill introduced last year.

Post-election, House Financial Services Committee Chairman Jeb Hensarling (R-TX) has publicly stated he would pass his bill out of committee before the end of January. In light of this, CCIA did not leave anything to chance. In case CHOICE 2.0 did, in fact, make it out of committee this quarter, CCIA pursued amendments to advance CCIA's goals of of A) prohibiting the CFPB from using an All-In APR, B) stopping CFPB from overseeing CCIA products, and C) reinforcing that CCIA product providers are regulated by the states and prudential regulators.

Unfortunately, as we expected, Hensarling's CHOICE 2.0 (which has still never been publicly released) is now back to the drawing board. GOP leadership determined that the bill would have been too extreme to have a chance of passage in the Senate. Factoring this in, leadership effectively killed the bill.

What does this mean going forward? Everything depends on the Senate. If the Senate continues to abide by the Byrd rule, requiring 60 votes for passage of most legislation, any financial regulatory reform bills will need bipartisan support. While there is a real chance the Byrd rule could be scrapped so that a simple majority would be all that is needed, so far Senate Majority Leader Mitch McConnell (R-KY) has indicated this is not something he will do. Going to a simple majority severely reduces the power of the minority, and McConnell knows full well that the pendulum of power can swing back just as easily against Republicans in the coming years.

*Please go to page 10*

---

### The state corner (continued)

(Service contracts can be argued as not being connected to the loan but to the product purchased, making these products' fees to be excluded from the APR.)

High finance charges can then crowd out the premiums or fees of our products as higher-risk borrowers warrant higher rates which takes the largest share of the 36% cap. But that also means that many members especially needing credit protection due to their lack of savings and higher risk to losing their job, their health, or their life, can't get that protection.

*Please go to page 7*

---

## The state corner (continued)

We can go back to 2016 to see the genesis of the 36% rate cap “all-in APR” wave. The Military Lending Act “all-in APR” regulations (authored by the CFPB) were expanded from payday loans, title loans, and tax refund anticipation loans to apply to credit cards and traditional unsecured installment loans. While credit cards will not be affected until October 3, 2017, we already hear anecdotal evidence that since October 3, 2016 service members’ ability to obtain traditional installment loans is suffering as well as the sale of our products.

*Please go to page 9*

---

## Did you know?

### Why credit insurance or debt protection is so important

The credit score is the standard measure of consumer credit risk, a number that lenders who make auto and home loans, and issue credit cards turn to unfailingly to assess a potential borrower’s credit worthiness. Most credit scores fall between 600 and 750. A credit score of 700 or above is considered good. A score of 800 or above is excellent.

Ninety-five percent of American households own a vehicle and nearly nine in 10 Americans drive one to work. Eighty-four percent of new vehicles and 55 percent of used vehicles are financed. In other words, most Americans take out auto loans to get to work. The cost of any auto loan is directly related to the consumer’s credit score. The lower your credit score, the higher the interest rate you’ll pay on the loan and the higher the monthly payment.

The short- and long-term value of a 700 credit score can be significant to a household. On average, a credit score in that range can mean interest savings on an auto loan of approximately $4,000.

On the other hand, if a household member falls three months past due on its credit card payments because of disability or involuntary unemployment, her credit score would drop 60 to 100 points. This credit score plunge would result in a two-percentage-point increase in the interest rate on her next auto loan and make her car payment more expensive. ❖

## Update & Welcome (continued)

Let me remind our readers that the CCIA amendment to CHOICE 2.0 is only for the House. The Senate will entail a new process and strategy. While it is very early in the process, CCIA met with a half-dozen Senate offices in early March. Working with Jon Harsch's new partners at North South Government Strategies -- Eric Silva (D) and John McMickle (R) -- the meeting objectives were to introduce CCIA, our industry, share our issues and learn what we can about the congressional dynamics. We learned the House shifted from the expedited process to "regular order," and there's a big question whether the Senate will consider CHOICE 2.0 at all or start from scratch.

Be sure to read Jon Harsch's column for deeper insights into congressional dynamics, strategy and what lies ahead.

*On the federal regulatory side*, all is quiet with the CFPB's Proposed Rule on Payday, Vehicle Title and Certain High Cost Loans ("Rule") and the associated Request for Information ("RFI"). Pundits suggest that if the CFPB were to publish the Rule, it would likely be overturned by Congress using the Congressional Review Act ("CRA"). Application of the CRA requires Congress to vote to overturn within 60 days of rule publication. A simple majority is required, and, critically important, if overturned, a similar rule may not be proposed and published again. Most pundits believe that in today's climate of "less regulation," CRA will be applied to any new CFPB rules promulgated under current CFPB leadership.

Seizing a member idea during the January Federal Affairs Committee meeting, a CCIA Working Group was formed to identify federal regulatory problem areas and solutions. The strategy is to develop solutions for the issues and advance those solutions through the applicable regulator(s) once the leadership and/or structure is more open to listen to and act on industry's concerns. The Working Group identified 11 issue areas and will develop strategies and next steps with our D.C. regulatory counsel Michael Benoit, Chairman at Hudson Cook, LLP.

At the end of this year, CCIA's Stephanie Neal tackled a behind-the-scenes infrastructure change and released a **new "skin" for the CCIA public website**, helping reinforce our brand and simplify navigation. As always, be sure to check out the "News" section on the private landing page for the latest CCIA updates. You'll find the latest edition of the CCIA "**Did you Know?**", learn that CCIA is now an AWARE Education Ally, see that we loaded a service contract survey on Canada and posted our new consumer testimonial that made its way to YAHOO! Finance.

*Please go to page 11*

### **The state corner** (continued)

Regardless, the success of the Military Lending Act has emboldened consumer groups, such as the Center for Responsible Lending, to shift their attention to the states to codify the "all in APR". This is also anticipated as the Republican control of the federal government should halt the surge of consumer friendly actions in the legislature and administrative agencies.  And if consumer advocates cannot make sufficient progress through state legislative means, they will advocate a state ballot referendum. South Dakota residents in the 2016 election passed a ballot initiative by 75% a  25% margin, which becomes a statute that imposes a 36% rate cap "all-in APR" on payday loans, title loans, and small short-term installment loans (excludes lenders who are state or national banks, bank holding companies, and federally-insured financial institutions).

This is especially troublesome as there are 23 other states or jurisdictions with ballot initiative rights for their citizens. Fighting ballot initiatives is obviously very different from opposing legislation, and more treacherous. High profile advocacy is required through all forms of state wide media, including radio, television, direct mail, newspaper advertising, and group and individual endorsements. There is a big potential for a big dollar spend to reach an audience that may be unpredictable when the issue may affect their pocket books. And, unfortunately, with their South Dakota success, we can expect consumer groups to target more "ballot" states in 2018 .

In the interim, we still have seen "all-in APR" bills in several state legislators this year, beginning with South Dakota. Not content with 36% "all-in APR" applied to the "ballot initiative" loans, consumer groups sponsored HB 1090 to cover all installment and open-end loans (except a creditor selling goods or services) not offered by state or national banks and federally insured institutions. The bill passed an overwhelmingly Republican legislature and was signed March 10, 2017 by a Republican governor. Not exactly expected of this side of the political aisle, but it indicates that perhaps the populist surges in certain states can bear legislative surprises. CCIA did not actively oppose this bill as its passing was guaranteed.

We were successful in opposing several 36% "all-in APR" bills in New Mexico with the help of our lobbyist, John Thompson, and are anticipating hiring another lobbyist in Kansas as both the house and senate have bills which would impose a 36% "all-in APR" to open end loans. These Kansas bills are sponsored by Catholic organizations, supported by Catholic legislators, in a state with a Catholic governor. So each state can present unique circumstances and pose different issues. We are hopeful that these bills will remain in committee, which they can all the way into the 2018 legislative session.

*Please go to page 10*

## The state corner (continued)

There are other states with legislation for a rate limited "all-in APR", but they apply to payday loans, secondary motor vehicle finance transactions, and other presentment loans, which traditionally are not our markets. We pick and choose our fights, constrained as are many associations and companies by money and resources.

Of course, we also have seen legislation which supports our products and markets. There are currently bills in AZ (passed), ID, KS, MA, NM (passed), PA, TN, TX, and UT which would add ancillary motor vehicle products to service contracts. GAP waiver bills are currently in the legislative process in Alabama and West Virginia. There is also a bill in Texas which would effectively end review of debt cancellation agreements by the OCCC.

In all, we have been monitoring over 60 bills which initially caught our interest (forget about all the bills we had to read to see if they warranted our continued attention). From those bills already discussed here, to those which would codify the NCOIL unclaimed life model act (exempts credit and group life from Social Security Death Master File (DMF) searches), or update state unclaimed property statues which could allow state unclaimed property administrators to require credit life insurers to conduct DMF searches for audit purposes, or bills (HB 2816 and SB 1199) in Texas which would provide for a "depreciation benefit optional member program" under the Service Contract subsection of the Occupations Code or the Finance Code (something new and different). Truly, a busy year. We appreciate the support of our members as you uncover nuances, share updates and help us lead the advocacy fight. ❖

---

## Waking up from the honeymoon (continued)

What we expect at this juncture is that Senate Banking Committee Chairman Mike Crapo (R-ID) proceeds with considering Dodd Frank reforms in the coming months. Republicans and Democrats will have an opportunity to weigh in. Smaller, more targeted reforms, including to the CFPB, will be considered. House HFSC Chairman Hensarling will proceed with consideration of reform proposals at the sub- and full-committee level as well. This will present opportunities for broad, systemic changes as well as more targeted fixes.

Quick fixes are not going to happen under the current Republican control. Too much infighting within the party and the need for Democratic support in the Senate make a targeted, bipartisan approach crucial for success in advancing CCIA goals.❖

## CCIA joins industry alliance that educates consumers about auto financing

The national board of directors of AWARE (Americans Well-informed on Automobile Retailing Economics) on Jan. 24 announced that the Consumer Credit Industry Association (CCIA) has been selected an AWARE Education Ally.

An AWARE Education Ally is an organization not directly involved in providing or facilitating auto financing that shares AWARE's commitment to expanding consumers' understanding of the vehicle financing process. Allies like CCIA work with AWARE to disseminate this information by linking to AWARE's website, providing free education materials through the their website, utilizing AWARE's newsletter text in newsletters, providing AWARE with useful content, and partnering with AWARE in other ways to enhance consumers' knowledge of the vehicle financing process.

"CCIA is delighted to be chosen as an AWARE Education Ally," said Tom Keepers, executive vice president of CCIA. "We look forward to helping AWARE continue its mission of education consumers about vehicle financing. This educational approach is not only good for consumers, it's good for our member as well."

Recognizing the need for consumer education, automotive industry leaders formed AWARE, a collaborative industry effort to provide consumers with information, tools and other resources to better understand the auto financing system. AWARE's members include the American Financial Services Association, National Automobile Dealers Association, National Association of Minority Automobile Dealers, American International Automobile Dealers Association, and auto dealers and finance companies.

By educating consumers about auto financing and ways to make informed financing decisions, the group, including its new ally CCIA, seeks to ensure that financing remains available and affordable to the broadest possible spectrum of consumers. ❖

### Update & Welcome (continued)

**CCIA Delta 2017** is coming soon, so mark your calendars, share the opportunity with your peers and plan to attend. This year's education seminar will be held in **Houston**, **November 6-8**. Stephanie located Hotel Sorella CityCentre, rated 4.5 stars in a vibrant downtown location, for only $189 per night. As an early teaser, one topic will cover market conduct exams, something near and dear to all in our industry. And with 95% of attendees saying they would recommend **Delta** to others, tell your peers, save the date and get your team to **Delta** this fall.

In the real estate market the mantra is location, location, location. For CCIA, it is feedback, feedback, feedback. We appreciate the favorable feedback on the new **CCIA Monitor** and the January Committee meetings. We plan to continue tweaking the website this year, so please send us your enhancement ideas on the site and any other services we provide.

Thank you for supporting our efforts when we come with an "ask" of you or your firm. In these "interesting times," your commitment to industry success is critical. ❖

---

## *The Consumer Credit Industry Association*

Fostering America's Financial Peace of Mind


### *Staff*

Tom Keepers
Executive Vice President
608.848.4484
tkeepers@cciaonline.com

John Euwema
Vice President,
Legislative Regulatory Counsel
630.824.7300
jeuwema@cciaonline.com

Stephanie Neal
Director of Member Services
404.307.1321
sneal@cciaonline.com



### *Executive Committee*

Chair
Jim Pangburn
American National Insurance
League City, TX

President
Rebecca Smart
Central States of Omaha
Omaha, NE

Vice President
Will Acebo
Assurant
Miami, FL

Member at Large
Mike Ferris
Fortegra Financial
Jacksonville, FL

Ex-officio
Dick Williams
The Plateau Group
Crossville, TN