

ÆGIS



Addressing threats that affect your bottom line

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1. Asset Location and Due Diligence — The new bankruptcy laws

In October the significant change to the bankruptcy laws of the United States that was formulated over the last several years and passed this spring will go into effect. While much has been written about those changes, we have seen little discussion of what those changes would do to the court system and how it will, or will not operate.

In short, the bankruptcy law changes will require each CH 7 (total liquidation) filer to go through a means testing to see if they would or could qualify for a CH 13 (3 to 5 year payment plan). The question being asked is, “Does the filer have enough income to make a reasonable payment plan to the debtors?” If not, there will be no real change for the filer; if so, the filer will be required to make some payments to their debtors over a 3 to 5 year time period.

The other major change is that the attorney representing the filer will have to “certify”: the accuracy of the bankruptcy petition. What exactly certify means is still a bit amorphous.

So what will these changes do to the bankruptcy process, the attorneys and the courts? We have spoken to several practitioners across the county and come to some conclusions.

1. The new legislation has no effect on those who really need CH 7.
2. The \$500 to \$1,500 bankruptcy mills run by attorneys are going to go away.
3. The cost of the bankruptcy petition will probably go from \$1,000 in attorneys fees to \$2,500.
4. Do-It-Yourself Bankruptcy Forms mills will explode and the courts will be inundated with proper filings. The courts will slow to a crawl.
5. Malpractice insurance has already jumped for this area and will go even higher, if the attorneys will be able to get it at all. Bankruptcy attorneys most likely will not insure against malpractice, and mis- and malfeasance.
6. Bankruptcy attorneys will be the new big boom crowd for asset planning.

The other question we asked is whether the banks, whose lobby forced many of these changes, will be able to collect more money from creditors? On the surface many think so. Our opinion? We don't believe so, since most banks sell their non-performing loans to 3rd parties whose business it is to try to collect on them.

2. OPSEC, Economic Espionage, and Competitive Intelligence — Bring out your dead! Bring out your dead!

Monty Python fans will recall the scene in *Monty Python and the Holy Grail* where bodies of the dead are being collected during The Black Death. Visions of this flashed across our mind when we read that the University of Medicine and Dentistry of New Jersey – well, actually the Public Health Research Institute, which apparently leases space from the university's facility in Newark – had misplaced three mice infected with *Yersinia pestis*, which most of us know as the plague.

The good news is that the Public Health Research Institute (<http://www.phri.org/>), founded in 1941 by New York City Mayor Fiorello LaGuardia to study infectious diseases, has lots of experience in this arena, and it is most likely that the missing mice were eaten by other mice. It is therefore no surprise there have been no reports of plague in the area. Plus, while the plague might have wiped out a third of the population of Europe in the 1300s, we haven't had a plague epidemic in the U.S since the Los Angeles episode in mid 1920s. And, if detected in time, the plague can be dealt-with using modern antibiotics.

That aside, how does this incident relate to OPSEC? OSEC helps you identify those who want information that would be used to their advantage, as well as the information *they* want (as opposed to information *you* think is valuable to you).

In this day and age, information relating to the location of pathogens is of potential interest to a wide variety of people. An indicator that these pathogens may not be adequately protected is likely to be of even wider interest to potential enemies.

What does this mean in practical terms (and we race to point out that we have no actual knowledge of either the potential risks of what PHRI has or the measures taken to protect whatever they have)? Well, if we had pathogens that might be *perceived* as being useful for bad purposes, we would, following this adverse publicity, be re-evaluating all security measures against possible outside scrutiny.

This incident points out how important the OPSEC process is: It really is critical that you identify information – and indicators of information – that would be of value to your competitors and adversaries. And that you identify your competitors and adversaries. Putting aside SEC requirements to do this, simple common sense should tell you it is important.

3. Executive Protection — Inoculations for domestic use

Speaking of the plague, those of us who travel a lot – and are prudent – tend to keep our inoculations up to date.

Those who travel less tend to ignore the risks of disease if the probability of catching them seems low. Thus, for example, we know that yellow fever has occurred of late in Argentina, Bolivia, Brazil, Colombia, Ecuador, French Guiana, Guyana, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, and Venezuela. In most cases the disease has been largely out of cities, but mosquitoes don't have the best sense of geography, and sometimes drift a bit. We therefore keep our yellow fever inoculation current: It needs to be renewed once a decade, which doesn't seem all that onerous to us, all things considered. Less sophisticated travelers believe that you are only at risk in the jungle, but not by the pool, and don't bother. Most of the time this is true, though we would rather get another shot each decade than test the odds.

What do we have current? Our little yellow folder indicates yellow fever, hep A, hep B, tetanus, typhoid, and rabies. For more arcane diseases like meningococcal disease, we tend to ignore the inoculations unless we are going to a known area of risk. Cholera vaccinations have been found to give brief and incomplete protection, and are no longer recommended by the CDC, which conforms to our last experience of getting a cholera vaccination, followed shortly thereafter by getting cholera while abroad. Nor is plague vaccine readily available these days.

But what if you don't travel internationally? Prudence says that you should be current on Hepatitis A, Hepatitis B, Flu (Influenza), and Tetanus and Diphtheria (Td). We assume you had your measles-mumps-rubella (MMR) vaccine and chickenpox vaccines and polio vaccines when you were a child.

There is some risk in getting vaccinated: The uncle of one our editors died, long before we were born, as a result of getting a smallpox vaccination. While this was a family tragedy, the overall benefit of universal vaccination far outweighed the personal cost.

The need for vaccination increases in times of crisis. We all saw, very graphically, that the counties affected by hurricane Katrina soon resembled a third-world area, with the health risks skyrocketing. Post-Katrina was a time to be glad that your inoculations were current pre-Katrina. Speak with your doctor when you get your next physical, and make sure your vaccinations and inoculations are current.

4. Technical Issues — Dumping, theft, and currency manipulation

Dumping is an old tradition, and a profitable one. Imagine that you make high-end widgets, and that you estimate there is a domestic market for 50 thousand of them at \$200 each. It would cost you \$100 apiece to make 50,000 of them, which would give you a profit of \$5 million $\{(50,000 \times 200 = 10,000,000) - (50,000 \times 100 = 5,000,000) = 5,000,000\}$.

On the other hand, it would cost you \$75 apiece to make 100,000 of them, an outlay of \$7,500,000. You then sell 50,000 for \$200 each, for a profit of \$2,500,000. You then dump the remaining 50,000 abroad for \$100 each, bringing your profit to a total of \$7,500,000. This, of course, causes some problems for manufacturers of widgets in the countries in which you dump them, who are hard pressed to compete profitably at that price.

You can also increase your competitive advantage by reducing research and development costs through stealing information. Although U.S. corporations lose something on the order of \$300 billion dollars a year, few take the problem seriously, so theft is cost effective and simple. So, imagine that you want to sell a product which would require you to spend \$100 million in R&D. Instead, you suborn someone who works for a competitor that has made this investment, and buy the information from them for \$50,000. This frees up nearly \$100 million of your hard-earned dollars, giving you a great advantage in the marketplace, since you don't have to include this R&D cost in your sales cost.

This competitive advantage can be increased through government-level currency manipulation, of which China has been accused (in violation of any number of treaty agreements). If a country can undervalue its currency, something that costs \$100 to make will be sellable at some lower price. How does a country do this? Instead of allowing their currency to float to market value, they artificially set the price. Thus, if a currency should be one whatever per dollar, they set the value to be something less, say .8 per dollar. This makes buying their products very cost effective.

Currency manipulation works the other way, too. If a government can artificially keep up the value of a competitor's currency, then their currency will be artificially lower. We can see this in action in the purchase of U.S. debt by China and Japan, among others, which has kept American interest rates low, and the value of the dollar high.

5. Real Stories from the Field — How China might get Taiwan

We recently had a conversation with someone who had an interesting spin on China as relates to Taiwan. The logic is all over the place, and parts of it depend on certain religious beliefs the truth of which we are not competent to validate or invalidate, and which may or may not have actually had any policy involvement. Nonetheless, the economic conclusion has a certain logic to it, and so we thought it was worth presenting here.

As everyone who has read *The Pentagon's New Map* by Thomas P.M. Barnett knows, there were reasons to have invaded Iraq that, in sum, might have made supporters out of many Americans, and much of the rest of the world, too. However, since these were not the reasons we went, support was not as widespread as it might have been, either domestically or internationally. However, independent of your view in favor or against, there is certainly a consensus that that the war in Iraq, like the new Department of Homeland Security, has been and will continue to be very expensive.

The war, and the Department of Homeland Security, according to the theory presented, have been largely funded by borrowing from China, a country of unimaginable wealth: China has cash reserves of roughly a third their GDP, compared to the U.S., which has cash reserves roughly equivalent to what we and you have managed to save. The U.S. will soon be borrowing more to deal with the results of this season's hurricanes.

Now, some might think that the United States is improvident, but we have been assured by a number of people of strong conviction that the Rapture (from the Latin *Rapare*, to take away) will soon wipe out all debt, as well as everything else. The Rapture apparently can't arrive until an apocalyptic event takes place in the Middle East, but if you listen to those who suggest that we should nuke Mecca if there is another tragic faith-based initiative such as we saw on 9/11, only a fool would doubt that something very bad could happen in the Mideast.

The Chinese are apparently unaware of the coming of the Rapture, which means that they are proceeding as if the world is going to go on until it falls into the sun. This being the case, how could they put us in a position where we would not interfere with an occupation of Taiwan? By suddenly stopping purchases of U.S. debt. The estimate we were given is that, were this to happen, unemployment in America would be above fifty percent within three months. The likelihood, according to the theory presented to us, is that our problems would be sufficiently serious that we would not be in a position to interfere with any Chinese actions in Taiwan.

6. Book and Product Reviews

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Those who travel internationally need to be aware of holidays and events that might affect their trip. And if you've done much traveling you know that avoidable surprises can happen very easily if you haven't done your homework. While the information you need is readily available if you know where to look, it takes some sophistication of effort to find what you need. In a corporation where many travel, it is better to have an outside source provide a vetted list, rather than tasking an overburdened (and perhaps underqualified) assistant. Using a reliable outside source saves all parties involved a great deal of time, and increases the chance of the information being current and reliable.

Our personal choice is the *Upcoming Events Reminder*, which we get quarterly from Specialized Consulting Services, the good folks who provide us with the monthly *Traveler's World Threat Map* and the daily *Travel Advisories Subscription Service* that we discussed previously in the March 2003 AEGIS (<http://www.lubrinco.com/ejournal/ej200303.pdf>).

The cost is \$500, annually, pre-paid, for either the quarterly or weekly versions, or \$900 to subscribe to both. Combining the quarterly and weekly subscriptions provides significant advance notification of upcoming events via the quarterly, with the benefit of the weekly's reminder and inclusion of additional events that have been scheduled after the quarterly has gone out.

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