


**Casualty Loss Reserve Seminar  
LOB-6: State of the Risk Transfer Market for Asbestos  
Las Vegas, Nevada – September 16, 2011**

Jennifer L. Biggs, FCAS, MAAA – Towers Watson

This document was designed for discussion purposes only.  
It is incomplete, and not intended to be used, without the accompanying oral presentation and discussion.

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**Agenda**

- Risk transfers of legacy liabilities have been in the news – e.g., the recent transactions secured by CNA and Chartis. In fact, with the number of reinsurers currently willing to underwrite legacy risks, some have described the current environment as a “soft market for run-off portfolios.” This session will cover:
  - Background Information
    - Asbestos – U.S. P/C Insurance Industry Statistics
    - Key Uncertainties in Evaluating Asbestos Liabilities
    - The Risk Transfer Market
  - Considerations of Counterparties
  - An Update on Berkshire Hathaway / NICO’s Assumed Liabilities
    - Considerations in underwriting from the perspective of an acquirer of these risks
- Moderator / Panelists:
  - Jennifer L. Biggs, FCAS, MAAA – Director, Towers Watson
  - Robert Petersen – Managing Director, PACE Claims Services, a subsidiary of Navigant
  - Kara Lee Raiguel, FCAS – Vice President, Berkshire Hathaway/CGNU/Resolute Management

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### Key Uncertainties in Evaluating Asbestos Liabilities

- Quantification of underlying costs is complicated
  - The litigation environment has changed dramatically
  - Future experience will be subject to societal and legal influences
  - Mesothelioma claims will drive future costs
- Bankruptcies muddy the picture
- In addition to uncertainties relating to the estimation of underlying costs, there are uncertainties relating to insurance coverage
- Data is typically sub-optimal

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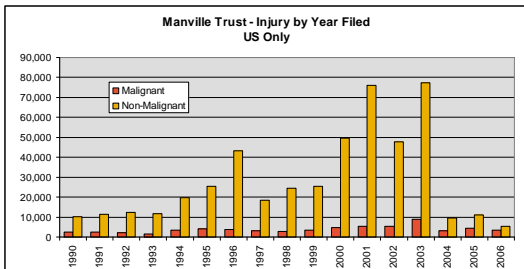
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### Malignant vs. Nonmalignant Filing Trends Through 2006 Manville Trust Data



- The Manville Trust ended public disclosures of detailed data after 12/31/2006
- Although this information is dated, the chart clearly shows the industry trend of high filing levels in the early 2000s, dropping significantly thereafter

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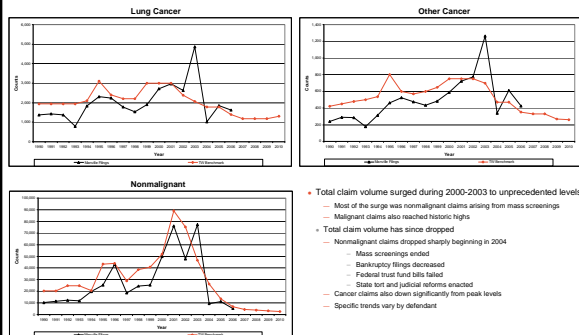
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### Asbestos claim volume surged from 2000-2003 and has since dropped



- Total claim volume surged during 2000-2003 to unprecedented levels
  - Most of the surge was nonmalignant claims arising from mass screenings
  - Malignant claims also reached historic highs
- Total claim volume has since dropped
  - Nonmalignant claims dropped sharply beginning in 2004
    - Mass screenings ended
    - Bankruptcy filings decreased
    - Federal trust fund bills failed
  - State tort and judicial reforms enacted
  - Cancer claims also down significantly from peak levels
  - Specific trends vary by defendant

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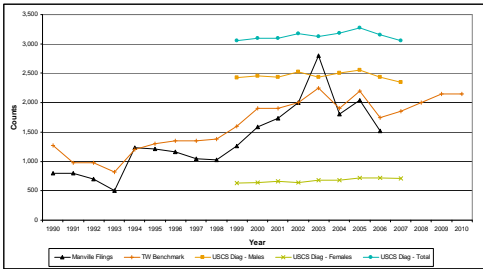
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### Mesothelioma Claims Will Drive Future Costs Diagnosis and Claim Filing Trends



- Annual incidence count for males relatively flat until decline in 2006-07 (females increasing slightly)
- Since 2000, meso claims have hovered near 2,000 per year
  - After a drop in 2006-2007, claims rebounded in 2008+

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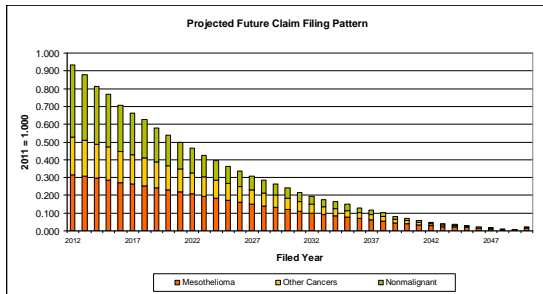
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### Towers Watson's Estimated Future Claim Filings




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### Mesothelioma Claims Will Drive Future Costs Summary of Filing Trends

- Epidemiological studies can predict the number of future diagnoses
  - >3,000 annual diagnoses of mesothelioma in U.S.
  - Propensity to sue varies and projection time horizons are long
- Roughly 2,000 mesothelioma claims filed per year since 2000
  - Claim filings dropped in 2006-2007, but rebounded in 2008-2010
  - Propensity to sue is lower for females and the very young and very old
- Towers Watson projects 2011-2055 mesothelioma claims of ~ 30,000
  - ~50% in next ten years (2011 – 2020)
- Going forward, the cost driver is expected to be mesothelioma claims
  - 80-90% of payments made by solvent defendants are made to mesothelioma victims

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## Mesothelioma Claims Will Drive Future Costs Average Claim Values

- Some 2011 verdicts have been huge
  - March 2011 verdict of \$90M
    - \$9.6M against defendants Honeywell International Inc., Pneumo Abex, Owens-Illinois Inc. and John Crane Inc. Punitive damages of \$20M against each of Honeywell and Pneumo Abex and \$40 million against Owens-Illinois
  - March 2011 verdict of \$25M against Exxon Mobil
    - \$12M in compensatory damages, \$12.5M in punitive damages, and nearly \$0.5M in medical expenses
  - May 2011 verdict of \$322M for future medical expenses, pain and suffering, and punitive damages against Chevron Phillips Chemical and Union Carbide currently on hold
  - May 2011 \$20M punitive damages added to \$21.3M award against Kaiser Gypsum
- Average plaintiff verdicts have increased, but <1% of cases go trial
- Although verdicts influence settlements, average settlement values are significantly lower
- Average claim values and trends for individual defendants vary and are influenced by:
  - Disease, jurisdiction and law firm
  - Defendant defenses and use of matrix agreements

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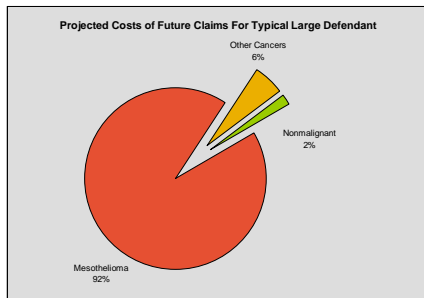
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## Estimated Split in Future Claim Costs




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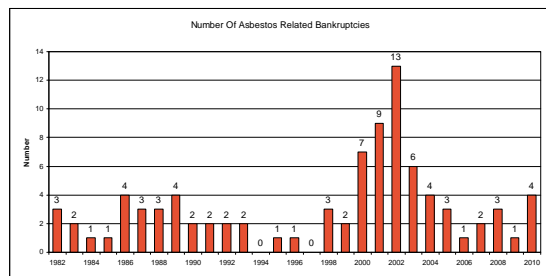
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## At Least 90 Companies Have Declared Bankruptcy Due to Asbestos



- The rate of annual bankruptcy filings decreased significantly in 2003+

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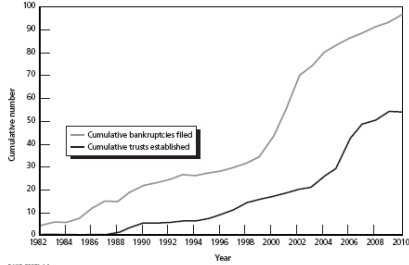
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**Several bankruptcy trusts have recently begun paying claims; significant additional resources will be available in the next few years**

Figure 4.2  
Cumulative Number of Bankruptcies Filed and Trusts Established as of June 2010



Source: Reprinted with permission by the RAND Corporation (www.rand.org); Figure S.1 and 4.2 from "Asbestos Bankruptcy Trusts" published 2010

**Key Uncertainties in Evaluating Asbestos Liabilities Bankruptcies Muddy the Picture**

- Of the 90+ companies filing for bankruptcy protection, approximately 40 confirmed bankruptcy trusts have reported information
  - Assets ~\$25-\$30B
  - Payments have increased substantially in 2007+ as bankruptcies filed in 2000-2002 have been approved and begun processing claims
  - Significant funds relating to the NARCO, Pittsburgh Corning, Quigley and WR Grace trusts have yet to become available
- The relatively recent return of cash flow to plaintiff firms provides even more incentive for advertising, affecting mesothelioma claim filing levels
- The lack of transparency of bankruptcy payments exacerbates the issue of allocation of bankrupt shares of liability to solvent defendants

**Anticipated bankruptcy trust payments - Significant amounts are available from the trusts**

Trust	Pay %	Paymt. Ratio	Unimpaired Nonmalignant (Level II)		Impaired Nonmalignant (Level III)		Mesothelioma				
			Sched. Value	Actual Paymt.	Sched. Value	Actual Paymt.	Sched. Value	Actual Paymt.	Avg. IE	Actual Paymt.	
AC-CanUS	20*	62.5/75	4,000	800	10,000	2,000	225,000	45,000	285,000	53,000	
Armstrong	20	65/35	3,700	740	9,700	1,940	110,000	22,000	130,500	26,100	
BAW	34	60/38	5,000	1,700	10,000	3,400	98,000	30,000	120,000	40,000	
Celotex	14.1	N/A	12,500	1,763	25,000	3,525	100,000	14,100	Not given	16,215***	
CE	44	87/13	1,800	782	4,800	2,112	75,000	33,000	95,000	41,800	
Compuchem	20*	7	1,000	200	3,000	600	60,000	12,000	150K	30,000	
DII w/ H-W	100	60/40	400	400	900	900	21,500	21,500	28,700	28,700	
DII w/ H-W	100	60/40	1,400	1,400	2,700	2,700	51,300	51,300	68,400	68,400	
Enf/Modul	TBA	7	TBA	7	TBA	7	TBA	7	TBA	7	
Fibreboard	25	65/35	4,500	1,125	11,500	2,875	135,000	33,750	180,000	45,000	
G-I	TBA	7	TBA	7	TBA	7	TBA	7	TBA	7	
Rohm	38.5	70/30	100	277	4,350	1,818	70,000	27,650	104,000	41,000	
Manville	5	N/A	12,000	600	25,000	1,250	350,000	17,500	Not given	20,125***	
Narco	20*	60/40	1,200	240*	7,500	1,500**	75,000	15,000	200,000	40,000	
NSC	55.8	N/A	300	278	1,000	558	22,500	12,510	45,000	25,000	
OC	40	65/35	8,000	3,200	19,000	7,600	215,000	86,000	270,000	108,000	
PC	23.7	60/40	5,800	1,304	11,750	2,785	175,000	41,475	200,000	47,400	
Pittsco	20*	65/35	1,300	320*	15,000	3,000*	350,000	70,000	425,000	85,000	
Quigley	20*	65/35	250	50*	2,000	400*	100,000	20,000	120,000	24,000	
USG	20*	85/15	2,625	525*	8,300	1,660*	155,000	31,000	225,000	45,000	
WR Grace	TBA	7	TBA	7	TBA	7	TBA	7	TBA	7	
<b>Total**</b>					<b>15,293</b>		<b>39,818</b>		<b>582,885</b>		<b>756,940</b>

\* Payment percentage not yet announced for these trusts -- conservative assumption of 20% used here  
 \*\* Assumes DII with Harbison-Walker exposure  
 \*\*\* Where TDP does not set average IE value for mesothelioma, assumes 15% above scheduled value

## Key Uncertainties in Evaluating Asbestos Liabilities Insurance Coverage

- Rules regarding allocation of losses to coverage vary by jurisdiction
  - Coverage Trigger
  - Definition of Occurrence
  - Allocation Method: Pro Rata vs. All Sums
- Several court decisions have expanded coverage
  - All sums allocation
  - Nonproducts claims
  - Expense in addition to limits
- Interpretation of individual policies is often subject to dispute
  - Limits for non-annual coverage
  - Interpretation of SIRs / deductibles
  - Wording of exclusions
- Disputes regarding coverage increase uncertainty regarding a given insurer's liabilities
  - Between policyholder / insurer
  - Among insurers
  - Between insurers / reinsurers

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## Key Uncertainties in Evaluating Asbestos Liabilities Data is Typically Sub-optimal

- For many insurers, underlying plaintiff claim information against a given policyholder is incomplete or unavailable
- Insurer coverage information
  - Can be difficult to identify all policies exposed
    - Lack of searchable electronic data for policies issued from 1940s – 1980s
    - Linking of insurer policies to corresponding sources of exposure
  - Intricate corporate relationships can result in "surprises"
  - While an individual insurer's policy data may be available electronically, (changes in) other insurance coverage available to the policyholder / defendant that affects the allocation of liabilities often is not

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## Industry Outlook

- Future focus will be on mesothelioma claims
  - Recent claims include take-home exposure and contract workers (premises exposure)
  - Expenses have increased
- Bankruptcy trust money will influence filing levels
  - Advertising
  - Cancer and nonmalignant claims are especially elastic with recruitment activities
  - Resurgence of nonmalignant claims against solvent defendants appears unlikely
- While the pendulum has swung more toward defendants ...
  - Volatile economy and public mood may affect litigiousness
    - Insurers/defendants fighting against rollback of tort reforms
    - Also pursuing transparency in claim process, but not yet achieved
- Risk transfer deals are likely to continue

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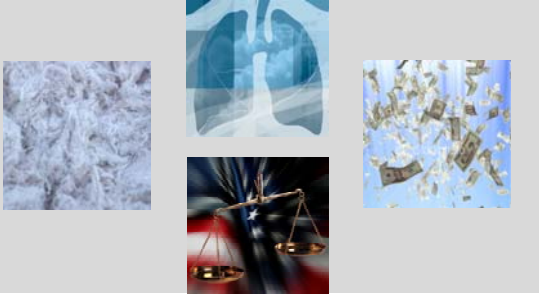
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## The Risk Transfer Market




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## Risk Transfer Market for (Re)Insurers

- Strategies employed by (re)insurers to achieve finality
  - Restructuring to create run-off vehicles
  - Divestiture
  - Reinsurance
- Current Market
  - Armour Re
  - Berkshire Hathaway
  - Catalina Re
  - Enstar
  - R&Q Re
  - Tawa plc
  - Others

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## Risk Transfer Market for (Re)Insurers – Armour Re

- Armour Re Holdings formed in 2007
  - Specializes in the creation and implementation of solutions and acquisitions within the distressed, discontinued and other specialty sectors of the global insurance and reinsurance marketplace
- Previous (re)insurance deals \*
  - 2009 – acquired PMA Capital Insurance Company
- PMA Capital Insurance Group data from AM Best Note 32 as of 12/31/2008

Evaluation	Net Reserves (\$M)				Surplus (\$M)
	Asbestos	Environmental	Other	Total	
12/31/2004	\$14	\$6	\$803	\$823	\$525
12/31/2005	13	5	559	577	520
12/31/2006	11	4	464	479	443
12/31/2007	12	0	547	559	383
12/31/2008	13	1	519	533	367

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## Risk Transfer Market for (Re)Insurers - Enstar

- Formed August 2001 to acquire and manage insurance and reinsurance companies in run-off and portfolios of insurance and reinsurance business in run-off
- Previous (re)insurance deals \*
  - 2006: Brampton, Cavell, Unione
  - 2007: Marlon, Intercean, Shelbourne RITC, Tate & Lyle
  - 2008: Capital Assurance, EPIC, Gordian, Goshawk, Guildhall, Hillcott Re, Seaton, Stonewall, Unionamerica
  - 2009: Constellation Re, Copenhagen Re
  - 2010: Allianz Reinsurance, Assuransinvest, Bosworth, CitiLife, CIGNA Re, Claremont, Clarendon, Inter-Hannover, Knapien, New Castle, Providence Washington, Torus Re
  - 2011: Laguna Life Limited, Shelbourne RITC transactions
- Have acquired 30 companies and 15 portfolios

Evaluation	Asbestos	Environmental	Other	ULAE	TOTAL \$M
12/31/2009	\$661	\$90	\$1,596	\$133	\$2,479
12/31/2010	714	111	2,288	178	3,291

- Not all of the transactions above include asbestos exposure, but A&E liabilities comprise approximately 25% of Enstar's total loss and LAE reserves

\* 12/31/2010 SEC Form 10-K  
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## Risk Transfer Market for (Re)Insurers – R&Q

- Formed in 1991; advertises that they can "unlock capital tied up in run-off operations / release funds that could be bringing you a greater return"
- Previous (re)insurance deals \*
  - 2000 – Acquired La Metropole SA ("La Met"); acquired U.S. service operation
  - 2004 – Acquired Transport Insurance Company
  - 2006 – Acquired R&Q Re (UK), R&Q Re (Belgium), and R&Q Re (US) from the ACE Group and Chevanstall Limited
  - 2009 – Acquired R&Q Guernsey (Woolworths Captive) and Goldstreet Insurance Company
    - R&Q noted that it reviewed but declined several other insurer run-off transactions in 2009 due to pricing
  - 2010 – Acquired La Licorne
- R&Q has targeted the smaller end of the run-off acquisition market, less mature markets such as Continental Europe, captive opportunities, and Lloyds RITC opportunities
- R&Q intends to partner with a range of 3rd party capital providers to take advantage of larger deals
- The Annual Reports mention exposure to asbestos, but do not separately disclose insurer sources or amounts of asbestos reserves

\*Annual Report and Financial Statement – 31 December 2009 and Interim Report at 30 June 2010, as found at www.rqf.com

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## Risk Transfer Market for (Re)Insurers - Tawa

- 2001 – Tawa plc formed to acquire and develop assets and business in the insurance industry, providing capital solutions for (re)insurance run-off portfolios, companies and businesses, through acquisition, Part VII transfer, reinsurance and debt purchase
- Previous (re)insurance deals \*
  - Acquired CX Reinsurance Company; subsequently disposed of majority share (87.35% 3/21/2008)
  - Acquired KX Reinsurance Company Limited (includes long-tailed business; A&E)
  - 2008 – acquired PXRE Reinsurance Company
  - 2009 – acquired PRO servicing platform from Swiss Re
  - 2010 – acquired 94.3% of Island Capital Ltd
  - 2011 – acquired Oslo Reinsurance Company (UK)

Company	Group			100% Associate CX Re		
	A&E and Other Latent Claims	Other	TOTAL \$M	A&E and Other Latent Claims	Other	TOTAL \$M
12/31/2008	\$53	\$132	\$185	\$65	\$168	\$232
12/31/2009	52	106	159	61	153	213
12/31/2010	46	94	140	58	127	184

- Not all of the transactions above include asbestos exposure, but the 2009 Annual Report notes that CX Re and KX Re have exposure to A&E and other latent claims

\* 2009 Annual Report, 2010 Interim Report and 2010 Annual Report  
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**What factors influence the risk transfer market?**

- A&E litigation environment
  - Claim filing levels
  - Defendant bankruptcies
  - Insurer financial experience
- Economic environment
  - Availability of capital
  - Interest rates
- Number of players
- Other?

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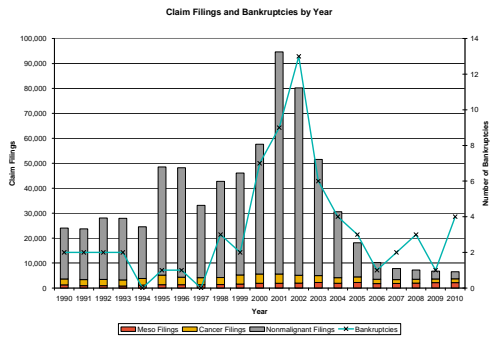
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**What factors influence the risk transfer market?**  
**Claims and bankruptcies peaked in 2000-2003;**  
**The litigation environment stabilized in more recent years**




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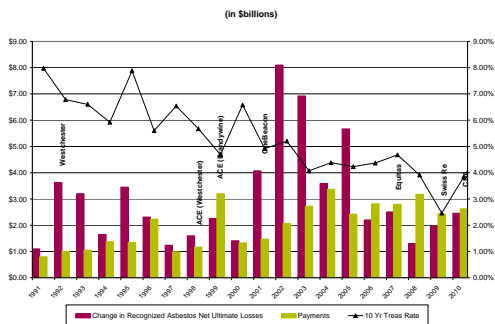
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**What factors influence the risk transfer market?**  
**Insurer financial data, interest rates and risk transfer deals**




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**Jennifer L. Biggs, FCAS, MAAA**

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**Relevant Experience/Specialization**

Jenni specializes in quantifying the asbestos liabilities of insurers and reinsurers as well as individual corporations named as defendants by asbestos claimants. She has authored several articles and is a frequent speaker regarding asbestos liabilities. Additionally, she has provided expert testimony in various matters. For example,

- She co-authored the firm's study regarding the \$200 billion asbestos "universe" published in May 2001. She has also authored articles relating to quantification of asbestos liabilities of insurers and reinsurers and relating to asbestos litigation disclosures in SEC Form 10-Ks of corporate defendants.
  - She served as chairperson of the American Academy of Actuaries Mass Torts Subcommittee from 2001 to 2009. Under her direction, a public policy monograph, "Overview of Asbestos Issues and Trends," was originally released in December 2001 and updated in August 2007 and an Asbestos Issue Brief was released in February 2006.
  - She testified before the United States Senate Committee on the Judiciary regarding the FAIR Act and the National Conference of Insurance Legislators (NCOIL) regarding asbestos issues.
  - She provided expert testimony in an asbestos bankruptcy case, an insurance allocation dispute, and on behalf of the liquidator of a reinsurer.
- In addition, Jenni has significant experience in the professional liability area. Her work includes analyses of funding requirements, self-insured retention limits, and allocation systems for self-insured trust funds of several hospitals. She also performs reserve evaluations, opening on year-end statutory reserve levels for physician insurers.
- Prior to relocating to the St. Louis office in 1988, Jenni spent almost four years in the firm's Bermuda office. There she gained considerable experience in financial reinsurance, performing pricing analyses for loss portfolio transfers. Throughout her career, she has performed numerous reserve reviews for insurance, reinsurance, and captive insurance companies.

**Role at Towers Watson**

Jenni leads the firm's US asbestos practice. She coordinates research and development activities, including maintenance of Towers Watson's insurer and defendant asbestos projection models and the underlying benchmark assumptions as well as monitoring of trends in the asbestos litigation environment.

**Education and Credentials**

Jenni has a Bachelor of Arts degree in mathematics and a business minor with College Honors from Washington University in St. Louis. She is a Fellow of the Casualty Actuarial Society (FCAS) and a Member of the American Academy of Actuaries (MAAA).

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