


**2013 Casualty Loss Reserve Seminar**  
**Concurrent Session LOB-2: Current Issues In Managing Asbestos Liabilities**

Steven C. Lin, FCAS, MAAA  
September 16, 2013

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**Agenda**

- Asbestos claim statistics
- U.S. P&C insurers' asbestos loss experience
- Key considerations in evaluating asbestos liabilities

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**Asbestos claim statistics**



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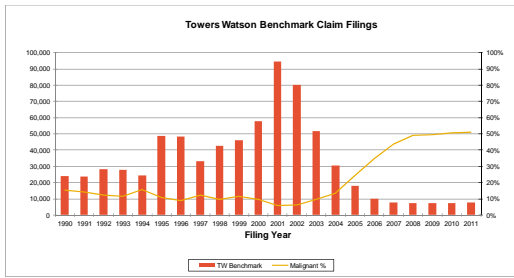
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### Asbestos claim filings over the years



- Rate of new claim filings is down sharply from peak, but composition of claims has changed
  - Currently 50% of new claims are for malignant diseases, compared to less than 10% in 2000-2003

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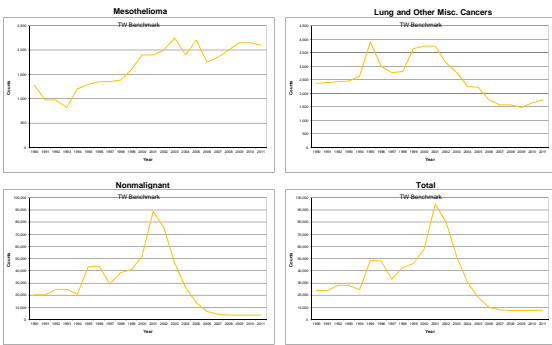
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### Asbestos claim filing trends vary by disease



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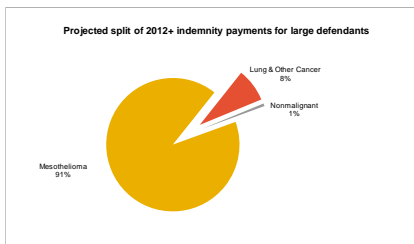
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### Mesothelioma claims are the driver of future litigation costs



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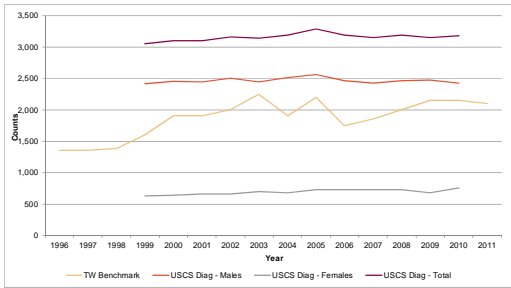
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### Mesothelioma incidence and claim counts



- Annual incidence (= diagnosis) counts show only slight changes over last decade
- Annual claim filing counts have fluctuated around 2,000 since 2000
  - Variation due to non-epidemiological factors

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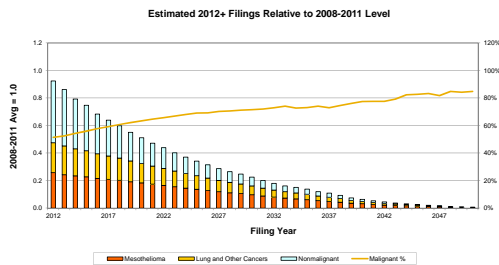
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### Projected future asbestos claim filings



- Nearly 30,000 new mesothelioma claims in 2012 & subsequent
  - More than half of the new mesothelioma claims are expected in first 10 years

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### U.S. P&C insurers' asbestos loss experience




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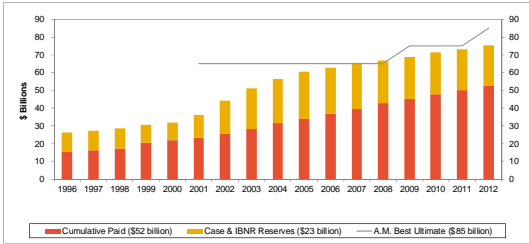
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**Asbestos: U.S. P&C insurers**  
**Cumulative net incurred loss & expense**



- Cumulative incurred loss and expense reached \$75 billion at year end 2012
- Source: Towers Watson analysis of financial statement data compiled by A.M. Best and other sources
- Grossed up for estimated amounts ceded by Fireman's Fund, Munich Re America and Swiss Re America to respective non-U.S. parents, but distortions remain (in particular, for Swiss Re and Berkshire)

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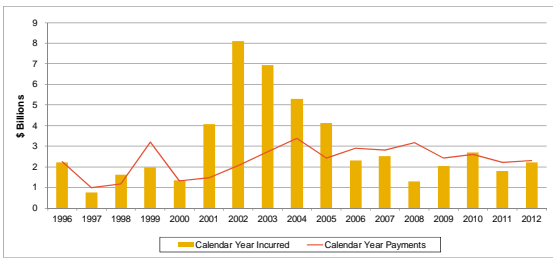
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**Asbestos: U.S. P&C insurers**  
**Annual net incurred and payments**



- Annual incurred peaked at over \$8 billion in 2002, and has averaged \$2.1 billion since 2006
- Annual payments appear to be slowly declining in last few years

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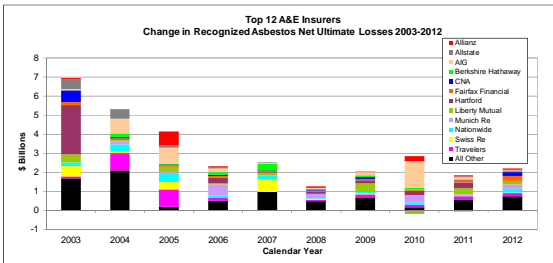
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**Asbestos: U.S. P&C insurers**  
**Patterns of reserve strengthening**



- Top 12 A&E insurers (measured by year end 2012 A&E reserves) strengthened asbestos reserves by \$23 billion during 2003-2012
- Other insurers strengthened asbestos reserves by \$8 billion

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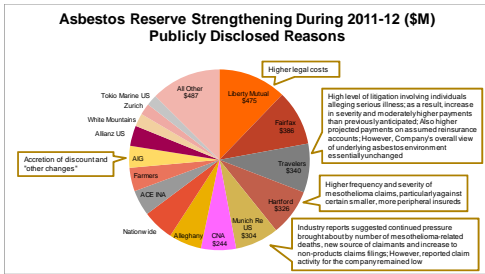
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## Asbestos: U.S. P&C insurers Reasons for reserve strengthening in 2011-12

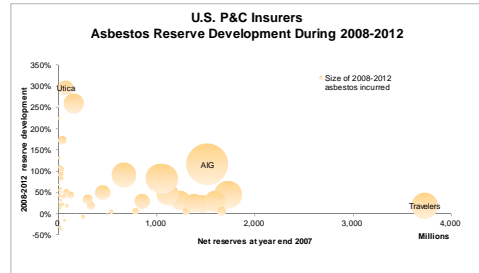


- Very limited public discussion
- Mixed signals as to whether reserve increases are in response to new changes in litigation environment or catch-up recognition of prior deficiencies

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## Asbestos: U.S. P&C insurers Reserve development in last 5 years



- Few insurers have released asbestos reserves, and only by small amounts
- None of the insurers with large asbestos reserves have released reserves

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## Asbestos: U.S. P&C insurers Net survival ratios

**Top 12 A&E Insurers\***  
Asbestos Net Survival Ratio as of 12/31/2012 (\$ in millions)

	Net Asbestos Reserves At 12/31/2012	Paid During 2010-2012	3-Year Average Annual Paid	Net Survival Ratio
Allianz	\$1,162	\$261	\$67	13.3
Albarte	1,023	212	71	14.5
AIG	2,298	631	227	34.6
Berkshire Hathaway	2,022	-292	-97	-20.8
CNA	1,125	304	101	11.1
Flirtax Financial	671	243	61	10.7
Hartford	1,567	570	190	8.3
Liberty Mutual	895	646	215	4.2
Munich Re	1,362	444	146	8.8
Nationwide	1,386	414	138	10.0
Swire Re	962	262	87	11.9
Travelers	2,366	669	220	8.2
All Other	6,098	2,546	840	7.2
P&C Industry	23,000	7,100	2,367	9.7

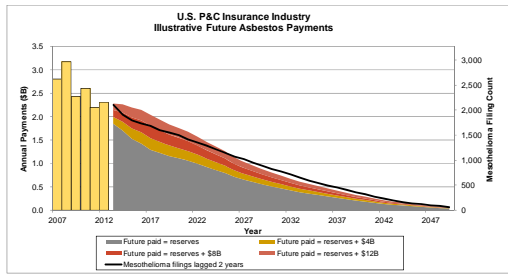
Source: Towers Watson analysis of financial statement data compiled by A.M. Best and SNA. Grossed up for amounts ceded by Fireman's Fund, Munich Re America, and Swire Re America to respective non-U.S. parents. \*In terms of combined net A&E reserves at 12/31/2012.

- Survival ratios are subject to distortion and must be interpreted with caution

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**Asbestos: U.S. P&C insurers  
Future payments**



- In illustrative scenarios above, unpaid survival ratios range from 9.7 to 14.8
- Meso filing pattern (lagged for 2 years for payment lag) implies survival ratio of 15.2
  - Insurer payments are accelerated relative to filings because of settlements, etc.

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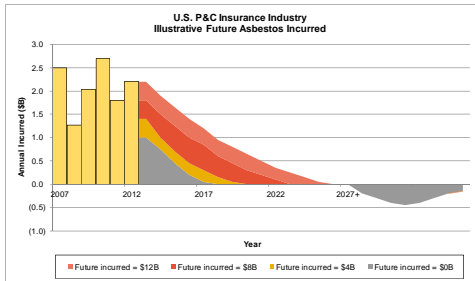
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**Asbestos: U.S. P&C insurers  
Future incurred**



- Illustrative scenarios above are equivalent to 0 to 5.5 years of reserve strengthening at constant 2012 rate (= "survival ratio for incurred losses")

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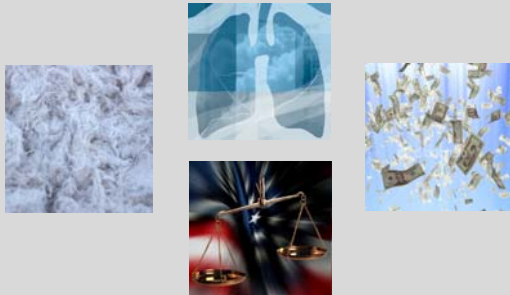
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**Key considerations in evaluating asbestos liabilities**




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**Key considerations in evaluating asbestos liabilities**

- Disease incidence and claiming rates
- Asbestos bankruptcies and trusts
- Other legal issues

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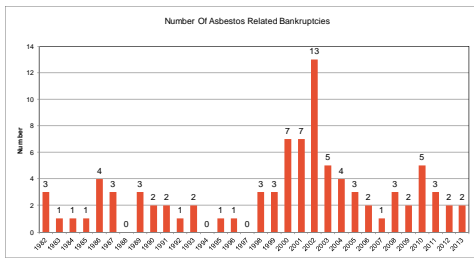
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**Over 90 asbestos-related bankruptcies through 2013**



- The rate of annual bankruptcy filings slowed after 2002

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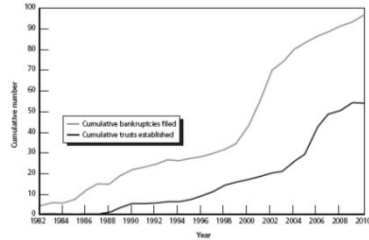
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**Many bankruptcy trusts have begun paying claims; more money to come**

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



Source:  
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by the RAND Corporation  
([www.rand.org](http://www.rand.org));  
Figures S.1 and 4.2 from  
"Asbestos Bankruptcy  
Trusts" published 2010

- Established trusts paid at least \$17.5 billion through 2010 (GAO), with another \$2 billion paid in 2011 and \$18 billion in remaining assets at year end 2011 (Bates White)
- Significant additional sums will be available once Garlock, NARCO, Pittsburgh Corning, Quigley, WR Grace and other pending trusts become operational

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### Battle over bankruptcy trusts and claimant information

- After major defendants go bankrupt, peripheral defendants pay more
  - Theoretical mechanisms to ensure that defendants pay only their fair share
    - Several liability, offsets, indirect claims, trust payment caps
  - But mechanisms generally require information or action from others
- Defendants believe “transparency” of trust claimant information is key
  - Exposure and compensation data
  - Bankruptcy trusts resist demands for data
    - Privacy, cost, fairness concerns
- Transparency unlikely to be attained in key jurisdictions in near term
  - Bills introduced in LA, OH, OK, PA, TX, WI, WV, passed in OH
    - Little movement in CA, IL, NY
  - Federal legislative initiatives face uphill battle
  - Judicial rules have had little or only limited success

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### Other recent legal developments

- Components parts liability
  - NY trial court judge upholds jury verdict against Crane (August 2012)
  - CA Supreme Court limits liabilities against equipment makers (January 2012)
- Second hand exposure
  - MD's highest court rules no duty to warn employee's family (July 2013)
  - Oakland, CA jury awards \$27M to wife for second hand exposure (June 2013)
    - But appellate court in So. CA holds no duty of care to employee's family (May 2012)
- Causation
  - PA High Court rejects “Any Fiber Theory” (May 2012)
- Nonproducts
  - CA trial court effectively adopts Wallace & Gale (January 2013)
- Case management and docket control
  - Budget cuts in CA court system
  - Changes in Madison County, IL, Philadelphia, PA and NJ
    - IL Supreme Court rejects forum shopping (December 2012)

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### Asbestos: Industry outlook

- Some key legal issues still being litigated
  - Claim litigation and coverage litigation
- Mesothelioma claims will remain the cost driver
  - Gradual decline in new claims and high settlement values
    - Settlement values in last few years have been volatile with no clear trend, though CWP % appears to have declined
  - Increase in lung cancer claims since 2011
- Legal expenditures are higher than a few years ago
  - Increase seems to have leveled off
- Insurance industry overall will continue to add to its reserves for several years
  - Individual companies will diverge in their experience

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