

Legacy Liabilities – Keep or Sell

Casualty Loss Reserve Seminar September 15-17, 2020

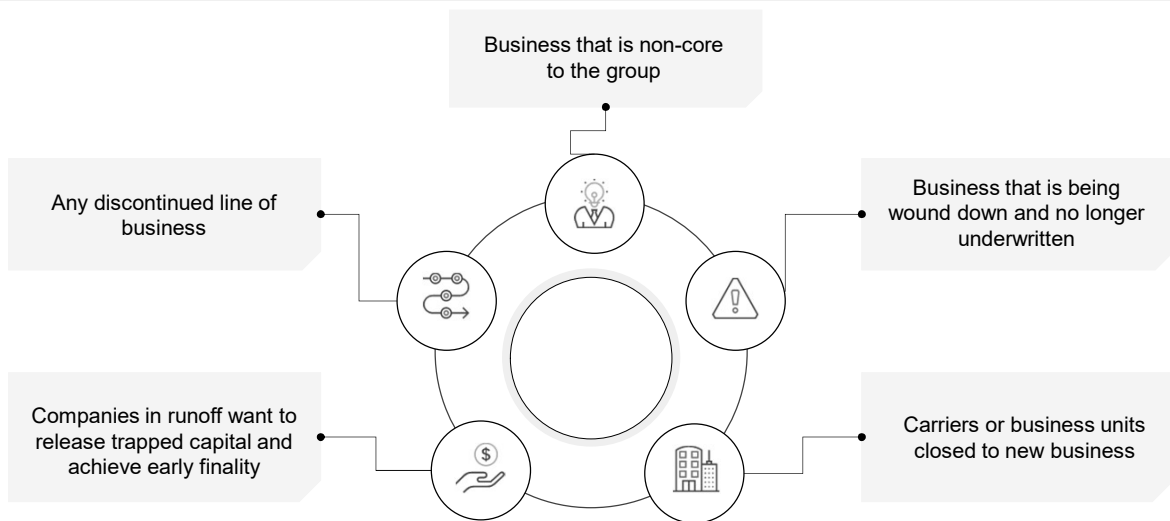
Rita Zona, ACAS
Enstar

Debbie Price, FCAS
Agro Group

Brian Z. Brown, FCAS
Milliman, Inc.

1

Runoff Market – What is it?



Source: AIRROC



2

2

Predominant Lines of Business in the Runoff Market

Types of claims exposures	Mean
Asbestos	41.6%
Workers' Comp	22.8%
Professional lines	12.6%
Accident / health	6.6%
Environmental	4.0%
Product	2.6%
Other latent	1.9%
Construction defect	1.5%
Other	6.3%

From EY/AIRROC(re)insurance runoff survey: In Search of Finality - annual survey



3

3

Runoff Market in North America

North America runoff market is estimated to be \$364 billion in liabilities for non-life insurance, according to a recent study performed by accounting firm PwC.

- Could be over \$1 trillion if life insurance and long-term care are included.

Includes liabilities from:



Insurers



Reinsurers



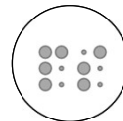
Captives



Self-Insurers



RRGs

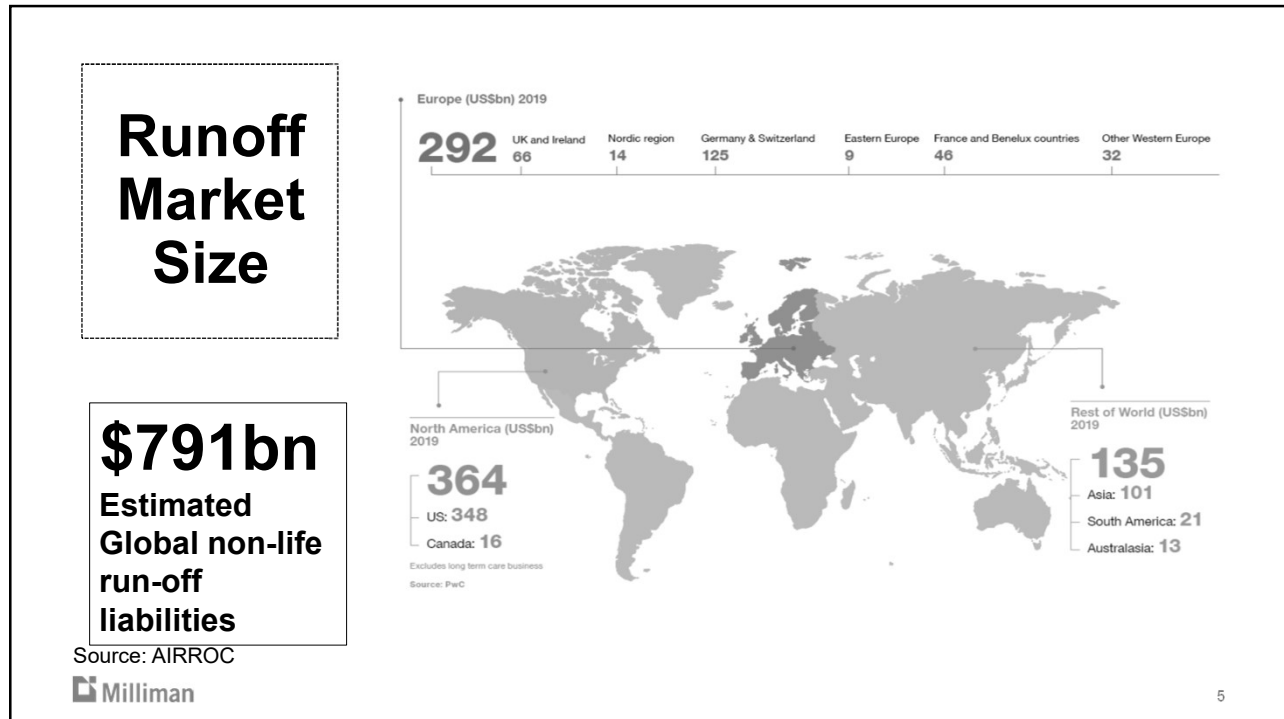


Etc.



4

4



5

AIRROC's* Mission and Vision

AIRROC is a non-profit organization of insurance and reinsurance companies that have legacy business in their portfolio. AIRROC has been supporting the industry for 15 years.

AIRROC's Vision is to be the most valued (re)insurance industry educator and network provider for issue resolution and creation of optimal exit strategies.

AIRROC's Mission is to promote and represent the interests of entities with legacy business by improving industry standards and enhancing knowledge and communications within and outside of the (re)insurance industry.

Association of Insurance & Reinsurance Run-off Companies (AIRROC)

6

Sample of Recent Deals – Growth Market

Seller / Entity	Buyer	Date	Deal Structure	Value
Zurich Insurance PLC	Catalina Holdings Ltd	12/17/2018	Loss Portfolio Transfer	\$2 billion in gross liabilities
Maiden Holdings / Maiden Reinsurance North America, Inc.	Enstar Holdings LLC	12/27/2018	Acquisition of Novation and Retrocession Agreements	\$272.4 million
Amerisure Mutual Insurance Company	Enstar Holdings LLC/ Allianz Risk Transfer Ltd	2019	50% Quota Share Loss Portfolio Transfer	\$48.4 million
AmTrust Syndicates Limited	Enstar Holdings LLC	2/15/2019	RITC Transactions	\$830 million of reserves
Munich Re	Enstar Holdings LLC	9/10/2019	Loss Portfolio Transfer	\$156.2 million
Zurich North America	Enstar Holdings LLC	10/1/2019	Loss Portfolio Transfer	\$500 million
BorgWarner / BorgWarner Morse TEC, LLC	Enstar Holdings LLC	10/30/2019	Acquisition	\$800 million in liabilities
Asia Capital Re	Catalina Holdings Ltd	12/5/2019	Acquisition	Asia Capital Re, which had US \$835 million of shareholder equity, US \$1.3 billion of gross liabilities including Unearned Premium Reserve, and total assets of US \$2.1 billion
RenaissanceRe Holdings Ltd. / RenaissanceRe (UK) Limited	AXA Liabilities Managers	2/4/2020	Acquisition	\$208 million in gross reserves
AXA / AXA XL	Enstar Holdings LLC	2/27/2020	Loss Portfolio Transfer Reinsurance Transaction	\$225 million
Aspen Insurance Holdings Limited	Enstar Holdings LLC	3/2/2020	Reinsurance Cover - 770M xs 3.8B, 250M xs 4.8B	\$770 million
Lyft	Enstar Holdings LLC	3/31/2020	Novation Agreement	\$465 million



7

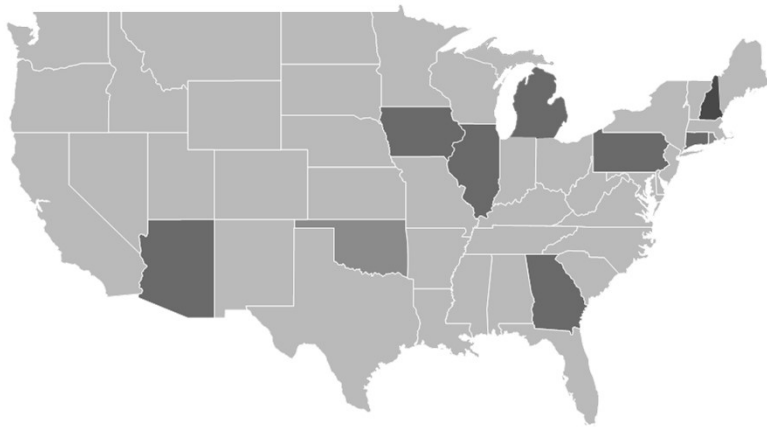
7

States with Restructuring Legislation

Vermont LIMA transfer legislation

Rhode Island and Oklahoma insurance business transfer ('IBT') legislation

Arizona, Connecticut, Georgia, Illinois, Iowa, Michigan, Pennsylvania have various forms of Division legislation



Source: AIRROC



8

8

Growing Market

Chart 3 - Major Capital Raises

ENTITY	YEAR	CAPITAL RAISED	INVESTORS	COMMENTS
 PREMIA	2017	\$510mn	Kelso & Co (\$300M); Arch (\$100M); Preferred Debt (\$110M)	Big Ambitions, But No Transformational Deal Yet
 CARNEGIE HOLDINGS <small>(Bermuda Ltd)</small>	2017	N/A	Apollo Global / RenRe	Apollo Increases Stake to Controlling, Buys out Caisse De Dépôt Québec & Ontario Teachers' Pension Plan
 RQ	2017	£68mn	Equity Placings	Streamline; Two Separate Capital Raises (the Equivalent of ~40% of its Then Market Cap)
 C	2017	N/A	Revolving Credit Facility w/RBS	Secured Additional Funds for Further Acquisitions
ARMOUR	2018	\$500mn	Aquiline	Jeff Greenberg in Statement of Intent; Raising Additional Capital Through Second Fund
 Quest group	2018	\$300mn+	Mangrove Partners + Others	New Bermudian Vehicle Soon to Roll-Off Production Line
DARAG [®]	2018	€100M	New Nordic Advisors	New Strategic Partnership and Additional Capital will Allow to Acquire Portfolios ~ €400M

Source: : <https://www.insurancejournal.com/news/international/2018/08/29/499339.htm>



9

9

Seller Motivation

- Reduce required capital
- Limit risk of adverse development
- May help rating
- Management can concentrate on core on-going business
- Significant legal costs
- Staffing issues
- Can reduce credit risk associated with reinsurance



10

10

Buyer Motivation

- Generate a profit – long payout – can invest assets
- Economies of scale
- Claim settlement opportunities
- Reduce legal spend
- Build expertise

11

Due Diligence Considerations

- Expected outcome
 - Nominal
 - Discounted
- Likely worse case (e.g., 90%)
- Absolute worse case (policy limits up to 99.5 – 99.9%)

12

Thank you

Rita Zona, ACAS
Enstar
Rita.Zona@enstargroup.com

Debbie Price, FCAS
Argo Group
dprice@argogroupus.com

Brian Z. Brown, FCAS
Milliman, Inc.
brian.brown@milliman.com

13




Legacy Liabilities – Keep or Sell

Sellers Perspective

Casualty Loss Reserve Seminar
September 2020

Debbie Price, FCAS
Argo Group



14

14



Asbestos – Brief History

- Miracle Mineral – strong, flexible and resistant to heat/electricity/corrosion
- Mined – naturally occurring throughout the world
- Used for centuries – evidence that it was used in Egyptian times, use peaked around WWII
- Known health risks – fibers inhaled or ingested which accumulate in the body
 - Signature disease (mesothelioma)
 - Long latency period – 10 to 70 years after initial exposure for asbestos related disease to develop
- Widely used – at its peak, asbestos was contained in approximately 3,000 types of products
- Still legal in the United States
 - Restrictions implemented in the 1970's
 - Banned in many other countries



15

15



Unique Nature of Litigation

- As of 2002, approximately 730,000 claimants had filed suit against 8,400 companies
- Most claimants worked in the trades, at **several** job sites with **various** products over **many** years
 - Hard to verify
 - No single accident date
 - Secondary exposure
- Claims are bundled, several plaintiffs file suit against many defendants
 - Very complicated and expensive process
 - Block settlements and few trials
- Bankruptcies (pre-pack)
- Peripheral Defendants
- Joint and Several Liability



16

16



U.S. P&C Insurance Industry

- The Gift that keeps on Giving
- First insurance claim was filed in Texas, in 1966
- Insurance industry now pays \$2-3B per year for asbestos related claims
- A. M. Best ultimate loss estimate = \$100B
 - Industry has paid over \$70B as of 2019
- Annual paid and incurred losses have fluctuated but show signs of decreasing in recent years.

17

17



Insurance Company Challenges

- Who has rights under which policies (Direct and Assumed):
 - Changes in company ownership
 - Missing records
 - Bankruptcies
 - When is a policy triggered
 - date of injury
 - definition of an occurrence
- Duty to Defend
 - Discovery cost
 - Storage of records
- Peripheral insureds
 - Less information, more sporadic data
- Secondary exposure



18

18



Challenges in Valuing Liabilities

- Traditional actuarial techniques don't work
 - Long latency period
 - Continuous trigger
- Changing legal environment
- Lack of data
 - No industry sources
 - Low frequency and high severity
- Other considerations
 - Bulk claim files
 - Aggregate Limits
 - high defense/discovery costs with no indemnity payments



19

19



What can Actuaries Do?

- **Work closely with claims experts**
- Industry Methods
 - Survival Ratios
 - Market Share
 - Development Methods

These methods tend to be more general, need to consider known and perceived company differences
- Company Tailored Methods
 - Ground – Up
 - Calendar Year/Report Year

These methods require more information from the insured or ceding company. Better able to take into consideration unique characteristics of companies remaining exposures

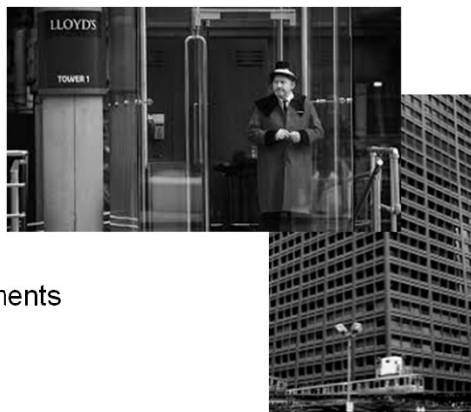
20

20



Company Strategies

- Stability
 - Structured Settlements
 - Coverage in Place Agreements
- Finality
 - Policy Buybacks/Commutations
 - Sell Liabilities/Risk Transfer Arrangements



21

21



Types of Risk Transfer Arrangements

- Sell Liabilities
 - Move liabilities to one company and sell the company
 - Novation
- Reinsurance
 - Loss Portfolio Transfer (LPT)
 - Adverse Development Cover (ADC)
 - Reinsurance to Close (RITC)
 - Other

22

22



Motivation for Risk Transfer Arrangements

- Finality
 - Don't want to talk about it any more
 - Expense (staffing and legal costs)
- Capital Relief
- Limit Risk of Adverse Development
- Pressure from 3rd Parties
 - Stockholders
 - Rating agencies
 - Regulatory agencies

23

23



Things to Consider

- Structure of the RTA
 - Each deal is unique
- Allowed by Regulator
 - Varies by State
- Valuing Liabilities
 - Best and worse case scenarios
 - Risk Load
 - If ADC, how long will the coverage last?
- Cost
 - Upfront premium
 - Lost investment income
 - Administrative expense

24

24



Other Considerations

- Important to have a good working relationship with Reinsurer
 - Claim oversight vs hands on
 - Ability to pursue commutations/policy buybacks, need approval?
- Timing
 - Proactive vs Reactive
- Value Proposition
 - Different for smaller companies

25

25



Thank You

26

ENSTAR

Realising Value



Enstar Group Limited
A&E Liabilities – Actuaries working with Claims
September 2020

ENSTARGROUP.COM

27

Topics

ENSTAR

- Brief History and Background of A&E
- Challenges with Reserving
- Actuarial Methodologies
- Insurance Allocation

| enstargroup.com

28

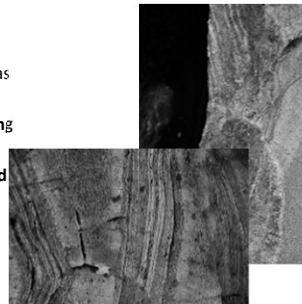
28

History and Background: Asbestos



Background Asbestos:

- Asbestos was once considered a “**miracle mineral**” for its effectiveness as insulation and preventing the spread of fires
- Late 19th Century: Production began to skyrocket with **commercial mining** operations
- As early as 1906: Scientific evidence linking asbestos fibers to **cancer and other diseases of the lungs**
- Early 20th Century: Asbestos production continued to rise, particularly accelerating during World War II
- 1970s: Regulatory agencies (OSHA, EPA) started calling for bans; global production would not peak until 1977
- 1973: Landmark legal decision in Borel v. Fibreboard. Injured workers could sue employers and asbestos manufacturers in a **products liability** framework rather than through the workers compensation system only
- 1980s: Mounting asbestos losses prompts manufacturer **bankruptcies** (notably, Johns-Manville in 1982)
- 1986: Standard ISO CGL policy form modified to **exclude asbestos exposure**
- Today: Asbestos use has dramatically declined, but significant liability remains from pre-1986 policies. Asbestos now represents the single largest mass tort in US history
- Current estimated ultimate loss to the insurance industry: \$100 billion



29

History and Background: Environmental



Background Environmental:

- 1980: Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) signed into law, establishing the **Superfund** program
- Goal is to **clean up** uncontrolled or abandoned hazardous waste sites involving releases of contaminants or other pollution
- Superfund permitted the **EPA** to clean up toxic waste sites and **hold responsible parties accountable** for the costs
- Superfund liability is **retroactive, joint & several, and strict**; any one party may be held accountable for the entire cleanup of the site if deemed responsible for any portion of the hazardous waste at the site
- Defendants typically seek coverage via their CGL policies in place at the time
- ISO's CGL policy language evolved over time; early language intended to exclude pollution was deemed too broad in court, resulting in massive exposure to pollution liability
- Current estimated ultimate loss to the insurance industry: \$46 billion



30

History of Asbestos – Asbestos Litigation



Two Important Court Decisions:

- **Borel vs. Fibreboard Paper Products Corp**
 - Suit filed in Oct. 1969 in Federal court in the Eastern District of Texas
 - Eleven different manufacturers sued. Borel had used their products in his work as an insulator
 - Trial started in September 1971 and Borel had died in 1970
 - Manufacturers found to have violated the doctrine of strict liability
 - All appeals were ultimately denied by 1974
 - Liable when exposed to defendant's product and failure to provide adequate warning
 - Led to "greatest avalanche of toxic-tort litigation in the history of American jurisprudence" *Outrageous Misconduct: Asbestos Industry on Trial* by Brodner 1985
- **Johns-Manville Products Corp. v. Superior Court**
 - The Johns-Manville Corp. long dominated the asbestos industry. It mined and fabricated asbestos for a wide range of uses, primarily in the construction and maritime industries
 - As early as the 1930s, executives of The Johns-Manville Corp. were aware of an occupational hazard to miners and factory workers who were exposed. The information was not a secret, but neither was it advertised. It was optimistically assumed that the risk of inhalation by others, such as shipyard or construction workers, was negligible.
 - In 1980, CA Supreme Court ruled in relation to a civil suit alleging fraud and conspiracy against the Johns-Manville Company enabled workers to sue their employers in the tort system if the companies conspired to suppress knowledge regarding health hazards caused by asbestos

31

History of Asbestos – Insurance Litigation



- **Court procedural rules allow consolidation of claims**
 - Attempt to manage the overwhelming number of claims
 - Plaintiff bar strategically bundle claims
 - Leads to non-impaired claimants receiving compensation
- **Comprehensive General Liability Policy (CGL) exposed to asbestos**
 - Late 1970s, Industry introduces asbestos exclusion
 - Mid-1980s Absolute asbestos exclusion becomes effective
 - Products vs. Prem/Ops (no aggregate limits)
- **Wellington Agreement - 1985**
 - Creation of the Asbestos Claims Facility
 - Objective to reduce frictional costs related to coverage issues
 - Replaced by Center of Claims Resolution in 1988 – lasted until 2001
 - Wellington is perpetual and still in effect
- **Significant litigation still exists**
 - Requires product identification and medical impairment
 - Products coverage generally has aggregate limits
 - Premises/Completed Operations do not have aggregate limits
 - Allocation among insurers; different rules by state



32

Challenges Inherent with A&E Reserving



Traditional actuarial methodologies break down when applied to A&E exposures:

Difficulty determining ground-up loss:

- Lack of a clearly defined accident date
- Reliance upon calendar year paid methods
- Inconsistent definitions of case reserves
- Lack of cumulative data
- Long latency periods between exposure and diagnosis of disease for Asbestos
- **Sensitivity of output to input assumptions**

Difficulty determining who pays for ground-up losses:

- **Which policies are triggered?**
- **How does loss get allocated between policies?**
- **How are coverage gaps or overlapping coverages handled?**
- **What happens when coverage detail is missing or vague?**
- **Which losses fall back to the defendant?**

Nature of A&E claims produce further challenges:

- Bankruptcies among initial defendants leading to suits against other defendants
- Insurer insolvencies leading to liability spreading to remaining solvent companies
- **Vague policy language leading to substantial legal fees that frequently exceed indemnity payments**
- Class action lawsuits leading to thousands of inactive claims, many of which get dismissed, but still incur legal costs
- **Alternative explanations for alleged damages (e.g., smoking)**
- Paper records predating
- Asbestos claims from currently unimpaired plaintiffs seeking compensation before asbestos trusts run out
- Asbestos claims from plaintiffs without occupational exposure
- Claims naming dozens of companies as defendants
- Venue shopping for plaintiff-friendly courts

Unique challenges in the A&E environment motivate alternative approaches which require the actuary to work closely with claims to gather information needed for reserving.

Actuarial Methodologies to Determine Asbestos Reserves



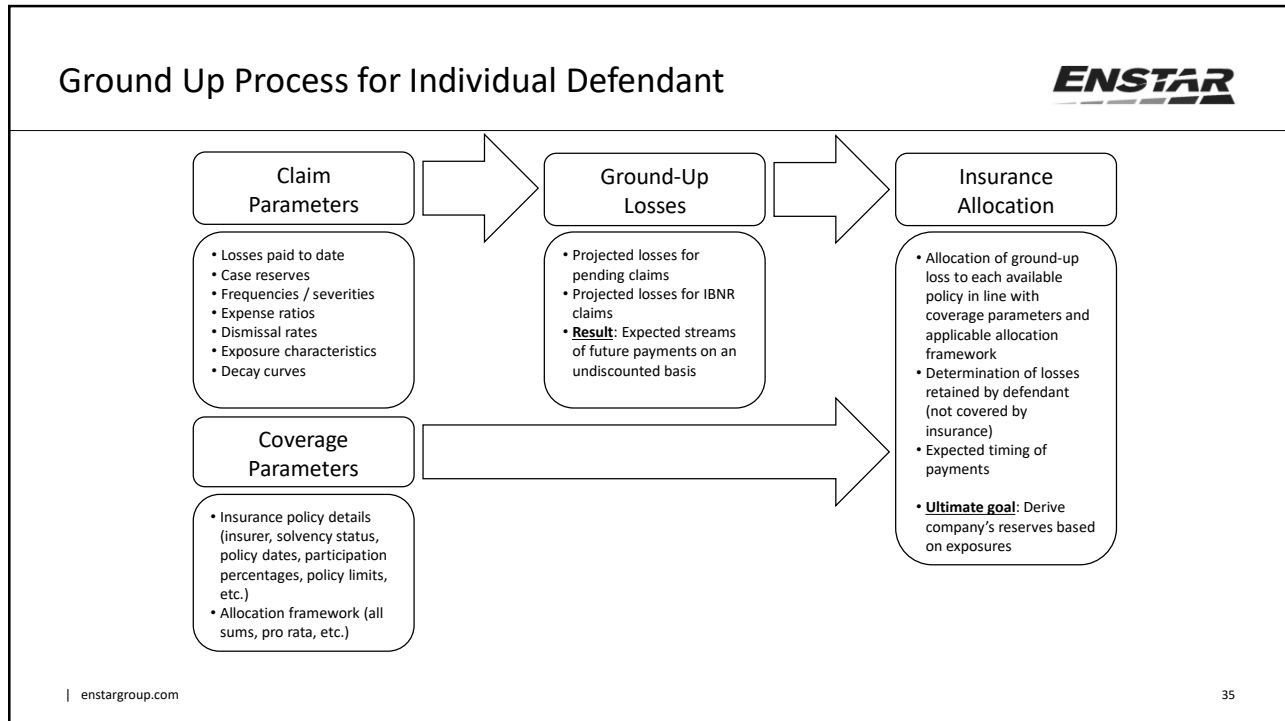
Ground-up defendant approach

- Individual insureds
- Frequency/Severity approach by disease type
 - Future claim filings
 - Average settlement rates (trended)
 - Expense to settlement ratios
 - Dismissal rates
- Allocate to calendar years
- Apply coverage chart
- Requires extrapolation
 - Defendant data not sufficient
- Requires IBNR loads

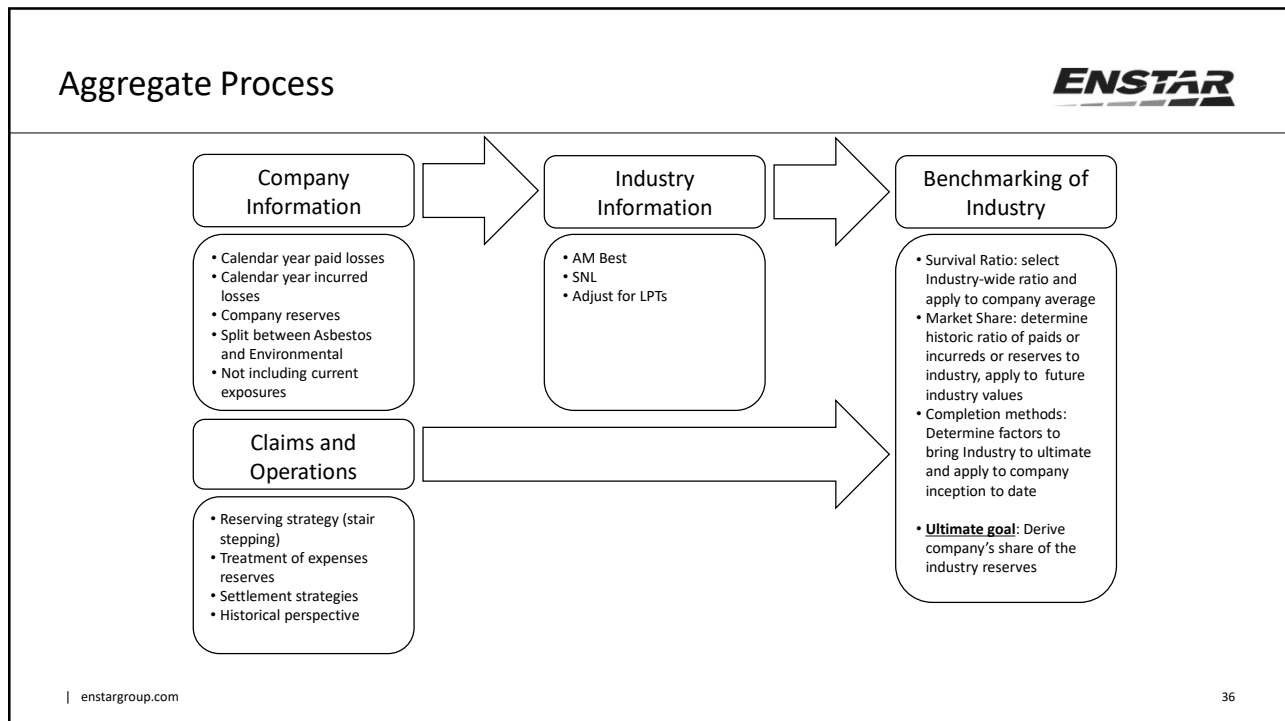
Aggregate approach

- Utilize industry benchmarks
 - Survival Ratio
 - Market Share
 - Development based on AM Best
- Requires historical aggregate company and industry data
 - Footnote 33
 - Exclude large payments
 - Account for commutations





35



36

Environmental Loss Reserving



Environmental losses are often grouped with asbestos losses for financial reporting purposes. The two exposure types have key differences requiring different approaches:

Similarities to Asbestos

- Complex allocation issues and insolvent insurers resulting in high legal fees
- Bankrupt entities caused damage
- Overly broad policy language resulting in coverage where coverage was never intended nor priced into rates

Differences with Asbestos

- Environmental loss reserving often requires specialized environmental expertise
- Asbestos claims have a much longer latency period: A polluted site is immediately apparent, while an asbestos worker may go 40 years before developing mesothelioma

Actuarial Methodologies to Determine Environmental Reserves

Ground-up Approach:

- Employ Environmental Expert to evaluate clean up costs for specific sites and allocate costs among responsible parties
- Use of decision tree methodology to determine expected or likely outcomes of things such as:
 - Number of occurrences
 - Insolvent policies include or excluded
 - Different damage scenarios
 - Success of coverage defenses

Aggregate Approach:

- Similar methodology as for Asbestos

Typical Data Available for Asbestos Reserving



The calendar year claim trend report is a fairly standard source for asbestos claims data, however, data availability varies considerably from account to account, with missing data and data corrections fairly common. Reports like this can be used to generate account-specific claim parameters.

Claim Trend Data Report																			
Number of Accounts represented in Data Below: 1							Year: 2016												
Number of States (counted individually by Account): 1							State: All												
Total Accounts: 1 All States Completed: 1 Not Fully Completed: 0							Book: All												
Cumulative Data																			
	Prior	2012	2013	2014	2015	2016													
Pending at the End of Year	838	911	887	903	734	628													
Filed	26,141	26,567	26,902	27,212	27,536	27,876													
Dismissed	25,082	25,385	25,721	26,079	26,437	26,660													
Settled	221	261	294	330	365	388													
Indemnity	54,058,500	64,721,833	71,478,833	78,756,333	89,993,833	97,083,833													
Expense	15,449,954	18,267,267	20,624,356	23,213,079	25,552,680	27,871,393													
Avg. Per Claimant Settlement Value	244,600	247,976	243,150	238,666	246,568	250,216													
Avg. Per Claimant Resolution Value	2,136	2,524	2,748	2,694	3,358	3,589													
Avg. Per Claimant Expense	611	713	793	882	953	1,034													
3-Year Averages 2014, 2015 & 2016																			
Avg. Per Claimant Settlement Value						272,394													
Avg. Per Claimant Resolution Value						24,787													
Avg. Per Claimant Expense						7,112													
Yearly Data																			
	Prior	2012	2013	2014	2015	2016													
Pending at the End of Year	838	911	887	903	734	628													
Filed	26,141	416	345	310	324	340													
Dismissed	25,082	393	336	256	458	223													
Settled	221	40	33	36	35	23													
Indemnity	54,058,500	10,663,333	6,757,000	7,277,500	11,237,500	7,090,000													
Expense	15,449,954	2,847,103	2,307,249	2,588,773	2,339,601	2,418,713													
Avg. Per Claimant Settlement Value	244,600	266,563	204,758	202,153	321,071	308,211													
Avg. Per Claimant Resolution Value	2,136	31,088	18,312	24,753	22,794	28,821													
Avg. Per Claimant Expense	611	8,301	6,307	8,805	4,746	9,832													
<table border="1"> <tr> <td>Insured</td> <td>Claim Number</td> <td>State</td> <td>Insured</td> <td>Claim Number</td> <td>State</td> </tr> <tr> <td></td> <td>10503140726</td> <td>XX</td> <td></td> <td></td> <td></td> </tr> </table>								Insured	Claim Number	State	Insured	Claim Number	State		10503140726	XX			
Insured	Claim Number	State	Insured	Claim Number	State														
	10503140726	XX																	
<table border="1"> <tr> <td>Criteria:</td> <td>Insured</td> <td>State</td> <td>Adjuster</td> </tr> <tr> <td></td> <td>All</td> <td>All</td> <td>All</td> </tr> </table>								Criteria:	Insured	State	Adjuster		All	All	All				
Criteria:	Insured	State	Adjuster																
	All	All	All																

Insurance Allocation Simplified – All Sums



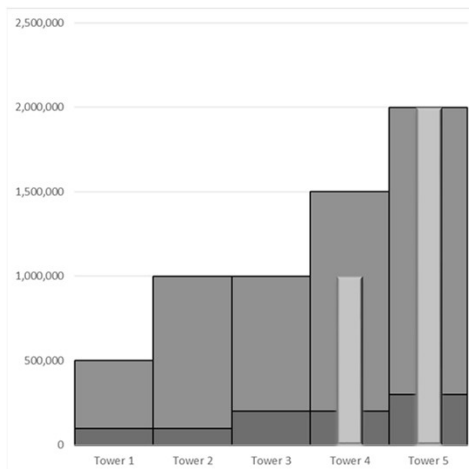
All Sums Allocation Example

Total Claims \$3,000,000
Total Limits \$6,000,000

	Tower Limits	Tower Costs
Tower 1	\$500,000	\$
Tower 2	\$1,000,000	\$
Tower 3	\$1,000,000	\$
Tower 4	\$1,500,000	\$1,000,000
Tower 5	\$2,000,000	\$2,000,000

All Sums Allocation is the simplest allocation type to conceptualize and calculate.

The insured targets specific year(s) of coverage and damages “spike” up through tower(s).



41

Insurance Allocation Simplified – Pro Rata



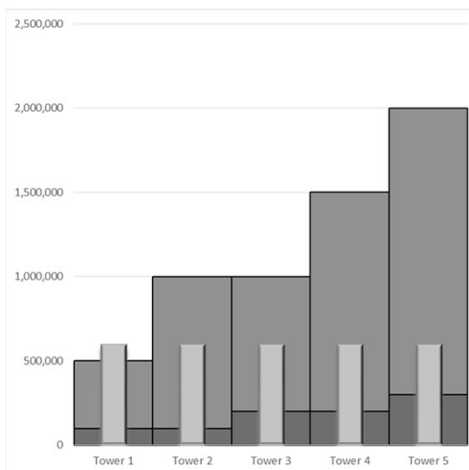
Pro-Rata Allocation Example

Total Claims \$3,000,000
Total Limits \$6,000,000

	Years	Damages/Year	Tower Damages
Tower 1	1	\$3M/5 =	\$600,000
Tower 2	1	\$3M/5 =	\$600,000
Tower 3	1	\$3M/5 =	\$600,000
Tower 4	1	\$3M/5 =	\$600,000
Tower 5	1	\$3M/5 =	\$600,000

Pro Rata Allocation is where the allocation is based on damages divided by years of coverage and then allocated up through each tower.

Allocating can be fairly simple. Only need to know damages, trigger period, and the policy limits/attachments. The entire coverage chart is not needed.



42

Insurance Allocation Simplified – Bathtub



Horizontal Allocation Example

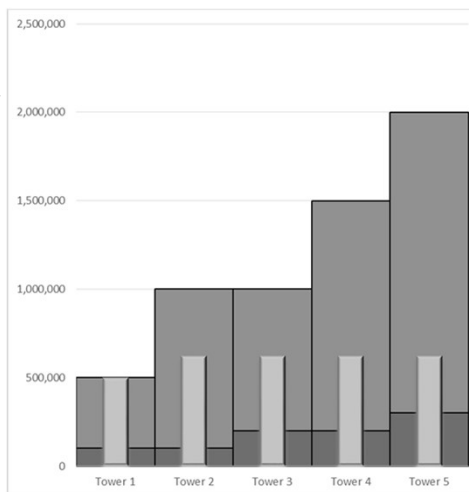
Total Claims \$3,000,000
Total Limits \$6,000,000

	Primary Lims	Ex < \$500K	Addl Tower	Total Tower
Tower 1	\$100,000	\$400,000	\$	\$500,000
Tower 2	\$100,000	\$400,000	\$125,000	\$625,000
Tower 3	\$200,000	\$300,000	\$125,000	\$625,000
Tower 4	\$200,000	\$300,000	\$125,000	\$625,000
Tower 5	\$300,000	\$200,000	\$125,000	\$625,000

Horizontal allocation is over the entire trigger period.

Typically, primary limits are exhausted before umbrella/excess limits are impacted. Damages are allocated up through the coverage in a straight horizontal line.

Like filling a bathtub



43

Insurance Allocation Simplified – Carter-Wallace



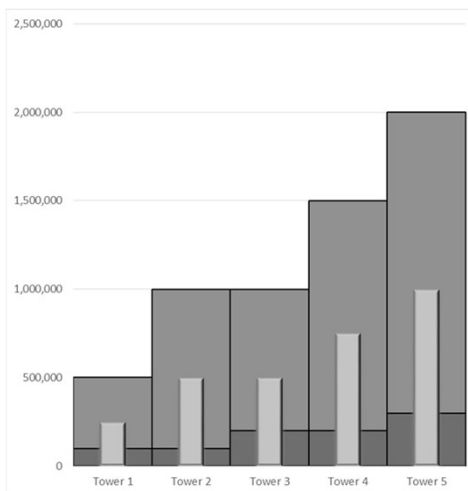
Carter-Wallace Allocation Example

Total Claims \$3,000,000
Total Limits \$6,000,000

	Tower Lims/ Total Lims	Tower C-W Share	Tower Damages
Tower 1	\$500K/\$6M	8.33%	\$250,000
Tower 2	\$1M/\$6M	16.67%	\$500,000
Tower 3	\$1M/\$6M	16.67%	\$500,000
Tower 4	\$1.5M/\$6M	25.00%	\$750,000
Tower 5	\$2M/\$6M	33.33%	\$1,000,000

Carter-Wallace Allocation distributes damages based on proportion of total limits in each tower.

Carter-Wallace share of damages are then allocated vertically up through each tower.

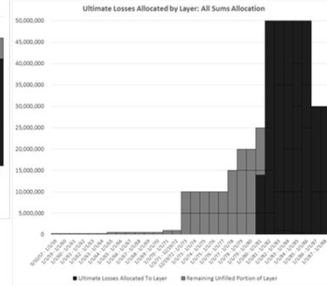
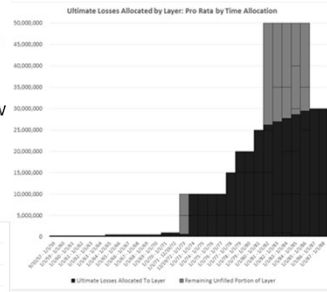
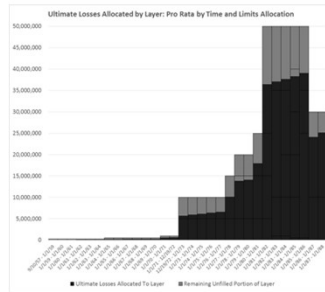


44

Allocation of Loss to Policy: Without Insolvencies



After deriving ultimate claims, loss must be allocated to policy. Different allocation methods can produce dramatically different indications per policy. The appropriate allocation method is a matter of legal interpretation and detailed scrutiny of policy language. Need to interact with claims to understand which law applies.



45

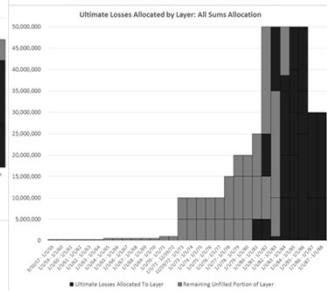
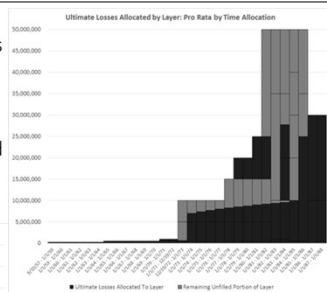
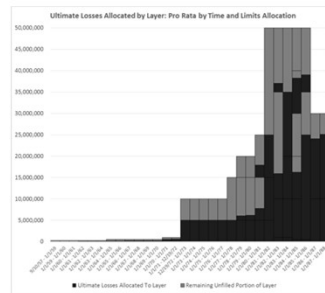
Allocation of Loss to Policy: With Insolvencies



Insolvencies complicate the allocation. Losses are allocated to policies in the same manner as before, however, coverage holes appear where losses are allocated to insolvent insurers. Coverage gaps can be spread to remaining solvent insurers or back to the defendant to retain without coverage.

Additionally, currently insolvent insurers may have partially paid loss before insolvency. The examples shown here allocate currently paid loss to all insurers, but future unpaid loss to solvent insurers only.

Need to interact with claims to know about insolvencies.



46