34TH ANNUAL GIRO CONVENTION
CELTIC MANOR RESORT, NEWPORT, WALES
The Current Latent Claims Landscape

Graham Oswald & Luke Thomas
Agenda

- What is a latent claim?
- Where actuaries are involved
- Valuation of loss
- Application to insurance coverage
- Summary
What is a latent claim?

ST3 Definition

“Claims resulting from perils or causes that the insurer is unaware of at the time of writing a policy, and for which the potential for claims to be made many years later has not been appreciated. The first claims from these sources may often not be apparent until many years after the period of cover.”
What is a latent claim?

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Examples of latent claims

<table>
<thead>
<tr>
<th>EXISTING</th>
<th>POTENTIAL?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asbestos</td>
<td></td>
</tr>
<tr>
<td>Pollution</td>
<td></td>
</tr>
<tr>
<td>PCBs</td>
<td></td>
</tr>
<tr>
<td>DES</td>
<td></td>
</tr>
<tr>
<td>Lead Paint</td>
<td></td>
</tr>
<tr>
<td>Agent Orange</td>
<td></td>
</tr>
</tbody>
</table>
Where actuaries are involved

- Pricing
- Reserving
- Claims settlement
Valuation of latent claims

Key questions to be answered in valuation:

- Identification of underlying loss
- Valuation of underlying loss
- Insurability
- Application to insurance coverage
- Discounting
Identification of loss

- Definition of loss
- WHERE did loss occur?
- WHEN did loss occur?
- Link to product?
- Link to company?
Identification of loss – lead paint

- Approx 30m US homes contain lead paint and represent a health hazard (mostly poorly maintained homes with children)

- Bodily injury or public nuisance?

- 22 February 2006: 1st successful public nuisance ruling in Rhode Island - Appeal pending in RI Supreme Court
Valuation of loss

- How much will ultimately be paid?
- When will the company make payments?
Valuation of loss - asbestos

- Tort reforms in many US States
- Impact on malignant claims?
- Bankruptcy trusts
Valuation of loss - asbestos

Incremental number of new filings to the Manville Trust

Source: www.mantrust.org
## Valuation of loss - asbestos

<table>
<thead>
<tr>
<th>US Exposure</th>
<th>Lung Cancer</th>
<th>Meso</th>
<th>Other Cancer</th>
<th>Non Malig</th>
<th>Other</th>
<th>Total</th>
<th>% Malig</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995 &amp; Prior</td>
<td>21,259</td>
<td>11,402</td>
<td>4,519</td>
<td>191,794</td>
<td>867</td>
<td>229,841</td>
<td>16%</td>
</tr>
<tr>
<td>1996</td>
<td>2,237</td>
<td>1,159</td>
<td>526</td>
<td>43,047</td>
<td>327</td>
<td>47,296</td>
<td>8%</td>
</tr>
<tr>
<td>1997</td>
<td>1,778</td>
<td>1,041</td>
<td>474</td>
<td>18,373</td>
<td>243</td>
<td>21,909</td>
<td>15%</td>
</tr>
<tr>
<td>1998</td>
<td>1,532</td>
<td>1,027</td>
<td>433</td>
<td>24,481</td>
<td>70</td>
<td>27,543</td>
<td>11%</td>
</tr>
<tr>
<td>1999</td>
<td>1,903</td>
<td>1,259</td>
<td>483</td>
<td>25,405</td>
<td>99</td>
<td>29,149</td>
<td>13%</td>
</tr>
<tr>
<td>2000</td>
<td>2,718</td>
<td>1,577</td>
<td>591</td>
<td>49,684</td>
<td>171</td>
<td>54,741</td>
<td>9%</td>
</tr>
<tr>
<td>2001</td>
<td>2,957</td>
<td>1,735</td>
<td>722</td>
<td>76,024</td>
<td>512</td>
<td>81,950</td>
<td>7%</td>
</tr>
<tr>
<td>2002</td>
<td>2,627</td>
<td>2,001</td>
<td>772</td>
<td>47,678</td>
<td>316</td>
<td>53,394</td>
<td>10%</td>
</tr>
<tr>
<td>2003</td>
<td>4,892</td>
<td>2,800</td>
<td>1,262</td>
<td>77,625</td>
<td>2,368</td>
<td>88,947</td>
<td>10%</td>
</tr>
<tr>
<td>2004</td>
<td>1,068</td>
<td>1,817</td>
<td>342</td>
<td>9,580</td>
<td>538</td>
<td>13,345</td>
<td>24%</td>
</tr>
<tr>
<td>2005</td>
<td>1,837</td>
<td>2,033</td>
<td>608</td>
<td>10,982</td>
<td>1,099</td>
<td>16,559</td>
<td>27%</td>
</tr>
<tr>
<td>2006</td>
<td>1,621</td>
<td>1,497</td>
<td>424</td>
<td>5,219</td>
<td>402</td>
<td>9,163</td>
<td>39%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>46,429</strong></td>
<td><strong>29,348</strong></td>
<td><strong>11,156</strong></td>
<td><strong>579,892</strong></td>
<td><strong>7,012</strong></td>
<td><strong>673,837</strong></td>
<td><strong>13%</strong></td>
</tr>
</tbody>
</table>
Valuation of loss – lead paint

- Total clean-up costs for US homes estimated at $500bn
- Recently released state clean-up plan for Rhode Island estimates a cost of approx $2.4bn
- Litigation will go on for several more years
Determination of insurability

ST3 Definition – Liability insurance...

“…Provides indemnity where the insured, owing to some form of negligence, is legally liable to pay compensation to a third party. Note that an illegal act of negligence will often invalidate the cover.”
Determination of insurability

ST3 Definition – Liability insurance...

“...Provides indemnity where the insured, owing to some form of negligence, is legally liable to pay compensation to a third party. Note that an illegal act of negligence will often invalidate the cover.”
Application to insurance coverage

Definition of OCCURRENCE?

- Aggregation of asbestos claims?
- Aggregation of pollution sites?
- Aggregation of lead paint claims across US States?
Application to insurance coverage

Understanding of policy wording?

- Aggregates – particularly in Products cover?
- Multi-year limits
- Exclusions
Application to insurance coverage

Allocation methodology?

- Pro Rata vs All Sums
- Contributions
- Uniform vs Date of First Exposure ("DoFE")
Pro rata allocation

- E.G. – ground-up costs of $15m spread over 5 years. Resulting in an allocation of $3m per year.
- Insured is liable for $5m
- Insurers must pay $10m
Allocation to insurance coverage

All sums allocation

- E.G. - costs of $15m being applied to the latest year, 1984.
- Insured is liable for $1m
- Insurers must pay $14m
Allocation to insurance coverage

All sums net of contributions

- Contribution rights estimated using rising bath-tub method.
- Policies eroded from the ground up, allowing for insolvencies and gaps in cover.
- Insured is liable for $1m
- Insurers must pay $14m
Allocation to insurance coverage

- State specific issue
- Even once applicable State Law has been decided, allocation methodology likely not to be clear cut
Summary
Current issues:

- Asbestos claim filings – Tort Reform etc
- FAIR Act
- Bankruptcy trusts
- Allocation – All Sums Net of Contributions
- Lead paint – insurability, quantum, aggregation
Closing remarks
This views expressed in this presentation represent the opinions of the presenters and not the opinion of PricewaterhouseCoopers LLP.