

The Wellington Agreement

The Agreement Concerning Asbestos-Related Claims, or Wellington Agreement, was executed on June 19, 1985. Its provisions, insofar as they have or may impact on reinsurance recoveries, can be summarized as follows:

- I.2 The Agreement applies only to asbestos-related bodily injury claims, not property damage claims.
- II. The Agreement establishes the Asbestos Claims Facility (ACF) for "evaluation, settlement, payment or defense" of claims. In 1988, the ACF was dissolved, and replaced by the Center for Claims Resolution (CCR).
- III. 3 Termination of membership in ACF does not modify rights and obligations of signatories (perpetual existence per Section XXII.3).
- IV. 1 ACF has exclusive authority and discretion to "administer, evaluate, settle, pay or defend all asbestos-related claims".
- VI. 1 Each producer's percentage share of liability for each and every claimant is determined by past asbestos experience (Appendix A-1). Producer's percentage shares remained unchanged through life of ACF, but changed with CCR in 1988, and to named-only in 1991.
- V. 2 Insurers agree to abide by the percentage share of liability as determined by their insured producers.
- VIII. 1 Insurers agree to give up significant coverage defenses except for those preserved in Appendix B.
 - .6 Broad Alternative Dispute Resolution (ADR) requirement, including mediation, and built-in appeal before three-arbitrator panel. ADR results are confidential, without precedential value, and are to be provided only to Wellington subscribers.
- IX. 1 Each producer designates a coverage block to run from date of first involvement with asbestos to its chosen end date, generally prior to SIR's, large deductibles, or asbestos exclusions. Coverage Block, described in Appendix D schedules of insurance coverage, is used to pay claims.
 - .2 Insurers are allocated pro rata share of responsibility for producer's share of liability (Section VI.1) from date of first exposure to any asbestos product to date of diagnosis.
- X. 1 Bathtub approach - excess insurers drop down to cover for exhausted/non-signatory coverage; and
 - .2 Horizontal contraction to cover exhausted/non-signatory coverage
- XI. 3 Allocated expenses presumed not to apply against limits of primaries, and presumed to apply against limits of excess policies.
- XV. 2 Coverage is divided between "Pre-date" and "Post-date" policies, the dates to be agreed between producer and its insurers. Post-date policies are generally, but not always, those which start after end of coverage block.
- XVII. 1 A. Pre-date policies carry an imputed aggregate for their non-products coverage, which coverages were generally issued without aggregates. Imputed aggregate determined by an occurrence limit multiplier.
 - B. Post-date policies do not carry an imputed aggregate.
- XVIII. "Stub" periods of less than 12 months carry full aggregate limits.
- XX. Since signatory insurers make payments in lieu of non-signatories, producers are required to go after non-signatories and obtain reimbursement for signatories.
- XXII. 3 Agreement is perpetual, notwithstanding demise of ACF and CCR. ACF demise in 1988. Center for Claims Resolution (CCR) formed in 1988, and demise in 2001.