

Record-Shattering Chapter 11 Bankruptcy Slowdown; What's Next?

Quincy, MA – February 4, 2014 BankruptcyData.com’s research reveals that current corporate bankruptcy activity, or unprecedented lack thereof, just up-ended historical Chapter 11 benchmarks and pundit expectations with zero public filings in the entire month of January 2014. In fact, up until the February 2nd Tuscany International Drilling Chapter 11, the last public company to seek U.S. Bankruptcy Court protection (OCZ Technology Group) was in early December—making *this 60-day stretch a truly record-shattering dry spell.*

“We were expecting a lot of action on the restructuring and insolvency front, but what we got were *fewer Chapter 11 filings, especially among middle market companies.*” says Jeffrey Testa, a Newark, N.J.-based McCarter & English bankruptcy and restructuring Partner who represents creditors, debtors and trustees. Edward I. Altman, Max Heine Professor of Finance at the NYU Stern School of Business and Director of Credit and Fixed Income Market Research at the NYU Salomon Center, adds, “Yes, it is unusual that *Chapter 11 public company filings are Zero for a full month*, usually the median month is about 4-5.” Until this year, recent bankruptcy trends indicated a slow rise in Chapter 11 activity in the month of January: 2011, 2012 and 2013 reported respective filing counts of seven, eight and nine.

The second-closest year in terms of the number of Chapter 7/Chapter 11 filings was 2006, which saw four public bankruptcies in the month of January; while 2001 and 2002 tie for first place honors with 20 public filings each during the first month of the calendar year. Combined total asset calculations reveal January 2002 as the frontrunner with more than \$55 billion, followed closely by 2009’s nearly \$52 billion.

Full year filing count and combined asset total accolades go to 2001 (266 public bankruptcies) and 2008 (\$1.2 trillion in assets), respectively. 2008’s staggering asset count can be explained, in large part, by Lehman Brothers (\$691 billion) and Washington Mutual’s (\$328 billion) Chapter 11 bankruptcies. The chart below details historic filing activity dating back to 2000.

Number of Public Companies Filing Chapter 11 or Chapter 7:

Year	Filings 1/1–1/31	Combined Assets* of Filings 1/1–1/31	Total Annual Filings	Combined Annual Pre-Petition Assets*
2000	14	\$7,384	187	\$100,882
2001	20	6,955	266	267,217
2002	20	56,051	229	401,063
2003	18	3,600	176	100,214
2004	9	3,016	93	47,802
2005	11	3,050	86	133,838
2006	4	992	66	22,257
2007	7	632	78	70,525
2008	6	6,690	138	1,159,843
2009	18	51,199	211	593,733
2010	12	10,467	106	89,117
2011	7	474	86	103,990
2012	8	7,446	87	70,842
2013	9	7,706	71	42,641
2014	0	0	N/A	N/A

*Assets in \$mils

The absolute lack of bankruptcies in late 2013 and early 2014 caught many industry insiders off guard. Testa details how this unprecedented and unexpected decline came to be: “*For every reason there should have been filings,*

there were factors that minimized them. Lenders have practiced forbearance rather than taking the collateral and, in their eyes, a marginally performing loan can be acceptable for the time being if revenues are covering operations. **Filing for protection is seen as expensive**, which eliminates the smaller filings and creates a trend toward out-of-court resolution. There's also a growing realization that not every restructuring results in the emergence of a successful, reorganized and ultimate profitable entity. So alternate routes—state court receivership and assignment proceedings and operating Chapter 7 proceedings, where lenders play a role by funding a more moderate budget—are in vogue. And hope springs eternal among secured creditors, who foresee possible improvement in operational cash flow and the value of collateral over time.”

There's no doubt that corporate filing counts have plummeted, but many agree that a change is likely in the air. Altman remarks, **“I expect filings to pick up, however, in 2014, especially if liquidity dries up** some as a result of developing country problems escalation. I think the latter is a distinct possibility.” Testa agrees and identifies some potentially vulnerable sectors: “There are some factors that still seem to point to the probability of increased filings. **Interest rates seemingly have nowhere to go but up.** The gaming and wireless sectors appear vulnerable. Regardless of how you view the insurance layer, the **Affordable Care Act will have a significant economic impact** on industries where hourly employees are prevalent and unions are not. Coal is certainly out of favor, and the **international markets remain unstable.** So on balance I think there will be more filings in the medium-term future—there couldn't be fewer—but only time will tell.”

As always, BankruptcyData.com will continue to bring you historic corporate filing statistics and breaking news—if and when this much-anticipated uptick comes to fruition. The chart below, which indicates the largest public Chapter 7 and Chapter 11 bankruptcy cases ever filed, reveals that the most recent proceeding with such sizable pre-petition assets dates all the way back to 2011: MF Global Holdings, Ltd.

Largest Public Company Bankruptcy Filings of All Time:

<u>Company</u>	<u>Bankruptcy Date</u>	<u>Description</u>	<u>Pre-Petition Assets*</u>
Lehman Brothers Holdings Inc.	09/15/08	Investment Bank	\$691,063
Washington Mutual, Inc.	09/26/08	Savings & Loan Holding Co.	327,913
WorldCom, Inc.	07/21/02	Telecommunications	103,914
General Motors Corporation	06/01/09	Manufactures & Sells Cars	91,047
CIT Group Inc.	11/01/09	Banking Holding Company	80,448
Enron Corp.	12/02/01	Energy Trading, Natural Gas	65,503
Conseco, Inc.	12/17/02	Financial Services Holding Co.	61,392
MF Global Holdings Ltd.	10/31/11	Commodities & Derivatives Broker	40,541
Chrysler LLC	04/30/09	Manufactures & Sells Cars	39,300
Thornburg Mortgage, Inc.	05/01/09	Residential Mortgage Lending Co.	36,521
Pacific Gas and Electric Company	04/06/01	Electricity & Natural Gas	36,152
Texaco, Inc.	04/12/87	Petroleum & Petrochemicals	34,940
Financial Corp. of America	09/09/88	Fin. Services & Savings and Loans	33,864
Refco Inc.	10/17/05	Brokerage Services	33,333
IndyMac Bancorp, Inc.	07/31/08	Bank Holding Company	32,734
Global Crossing, Ltd.	01/28/02	Global Telecommunications Carrier	30,185
Bank of New England Corp.	01/07/91	Interstate Bank Holding Company	29,773
General Growth Properties, Inc.	04/16/09	Real Estate Investment Company	29,557
Lyondell Chemical Company	01/06/09	Global Manufacturer of Chemicals	27,392
Calpine Corporation	12/20/05	Integrated Power Company	27,216

*Assets in \$mils

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