

## **ASARCO Asbestos Personal Injury Settlement Trust**

### **Notice of Procedures for Reviewing and Liquidating Asbestos Personal Injury Claims**

With the consent of the TAC and the FCR, the Trustees of the ASARCO Asbestos Personal Injury Settlement Trust (the “Trust”) adopted the following Claims Materials: (1) Claim Form for Unliquidated Asbestos Personal Injury Claims, (2) Instructions for Filing an Unliquidated Asbestos Personal Injury Claim with the ASARCO Asbestos Personal Injury Settlement Trust, (3) Electronic Filer Agreement, and (4) ASARCO Asbestos Personal Injury Settlement Trust Release. The Claims Materials are published at [www.ASARCOTrust.com](http://www.ASARCOTrust.com). With the consent of the TAC and the FCR, the Trustees also issued a Notice to Holders of Asbestos Personal Injury Claims, with Schedules A and B, addressing Expedited Review of Asbestos Personal Injury Claims based on LAQ Exposure. The notice is also published at [www.ASARCOTrust.com](http://www.ASARCOTrust.com).

To assist claimants in submitting claims to the Trust, the Trustees publish this Notice of Procedures for Reviewing and Liquidating Asbestos Personal Injury Claims (“Notice”) to provide claimants with notice of the following information.<sup>1</sup> This Notice applies to holders of all Asbestos Personal Injury Claims except as provided in this paragraph. This Notice does not apply to Asbestos Premises Liability Claims. This Notice applies to holders of Pre-Petition Liquidated Asbestos Personal Injury Claims who elect to waive the liquidated value of their claims and submit their claims for

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<sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the meaning provided in the ASARCO Incorporated and Americas Mining Corporation’s Seventh Amended Plan of Reorganization for the Debtors Under Chapter 11 of the United States Bankruptcy Code, as Modified on August 20, 2009, August 23, 2009, and August 27, 2009 (as it may be amended or modified, the “Plan”) or the ASARCO Asbestos Personal Injury Settlement Trust Distribution Procedures (as it may be amended from time to time, the “TDP”). Nothing in this Notice shall be deemed to create a substantive right for any claimant.

determination under the TDP but not to holders of Pre-Petition Liquidated Asbestos Personal Injury Claims who elect to retain the liquidated value of their claims.<sup>2</sup>

### **Electronic Access**

1. The Trust has retained Verus Claims Services, LLC (“Verus”) as the Trust’s claims facility. A law firm may request that Verus provide access to its online filing system by executing the Electronic Filer Agreement. The executed agreement may be returned to Verus by fax, email or mail.

2. Within five days of receipt of the Electronic Filer Agreement, Verus will provide the law firm with one or more user names and passwords to the electronic filing system, and instructions for submitting claims to the Trust electronically.

3. Once a law firm has been granted access to the electronic filing system, the law firm may file claims electronically without a prior request to the Trust or Verus.

4. Complete instructions for using the electronic filing system are available for viewing, downloading and printing from the Trust’s website at [www.ASARCOTrust.com](http://www.ASARCOTrust.com).

5. For claims filed electronically, the law firm’s obligation to maintain paper or electronic copies of any document relied upon in connection with the claim is provided for in the Electronic Filer Agreement.

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<sup>2</sup> The TDP provides that the holder of a Pre-Petition Liquidated Asbestos Personal Injury Claim may elect to retain the liquidated value of the claim or waive the liquidated value and submit the claim for determination under the TDP. In connection with the implementation of the Plan, the Trust was provided with a schedule from ASARCO containing certain information about Pre-Petition Liquidated Asbestos Personal Injury Claims against ASARCO. At Trust meetings on March 10, 2010, and June 22, 2010, the Trustees discussed with the TAC and FCR a procedure for holders of Pre-Petition Liquidated Asbestos Personal Injury Claims to make their elections. On July 5, 2010, the Trust issued a notice to holders of Pre-Petition Liquidated Asbestos Personal Injury Claims with instructions for making their elections. In addition, the Trust provided a claim form for holders of Pre-Petition Liquidated Asbestos Personal Injury Claims not included in the schedule provided to the Trust by ASARCO, for such holders to submit their claims to the Trust with their elections. On August 13, 2010, the Trust began paying holders of Pre-Petition Liquidated Asbestos Personal Injury Claims who elected to retain the liquidated value of their claims.

6. The Trust strongly recommends that law firms use the online filing system.

7. For law firms using the online filing system, Verus provides real time access to reports that allow a law firm user to generate status updates for the law firm's inventory of claims. The reports identify each claim, the status of each claim, any deficiencies, any applicable deadlines for submitting information and a designation of a settlement offer or a claim rejection, as applicable. The reports can also be sent to a law firm by email upon request.

8. Claim forms may be printed from the Trust's website. The claim form may be completed in paper format and mailed, faxed or emailed to the Trust care of Verus.

### **Law Firm Registration**

9. All law firms must register with the Trust before submitting claims. To register, the law firm must complete the Law Firm Registration Form. The Law Firm Registration Form is available on the Trust's website at [www.ASARCOTrust.com](http://www.ASARCOTrust.com). Registration enables the Trust to confirm tax identification numbers prior to making disbursements, as required by the Internal Revenue Service.

### **Verus Personnel**

| Position  | Name         | Telephone                 | Fax          | Email  |
|-----------|--------------|---------------------------|--------------|--|
| Principal | Dan Myer     | 609-466-0427<br>Ext. 1006 | 609-466-1449 | <a href="mailto:dmyer@verusllc.com">dmyer@verusllc.com</a>       |
| Principal | Mark Eveland | 609-466-0427<br>Ext. 1004 | 609-466-1449 | <a href="mailto:meveland@verusllc.com">meveland@verusllc.com</a> |

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|----------------------------|----------------|--------------------------|--------------|--|
| Principal<br>I.T. Director | Morten Iversen | 609-466-0427<br>Ext 1010 | 609-466-1449 | <a href="mailto:miversen@verusllc.com">miversen@verusllc.com</a> |
| Operations<br>Manager      | Scott Heisman  | 609-466-0427<br>Ext 1003 | 609-466-1449 | <a href="mailto:sheisman@verusllc.com">sheisman@verusllc.com</a> |

10. Verus may assign a principal or staff analyst for processing claims to specific plaintiffs' law firms. A law firm should consult with the assigned staff analyst regarding the claims process. To find out who is assigned to a law firm, a law firm may contact Dan Myer or Mark Eveland at the above numbers.

#### **The Trust's Database**

11. If requested by a claimant's law firm, Verus will provide the law firm with data on the law firm's history regarding claims against ASARCO and the Trust to enable the law firm to reconcile its records with records in the Trust's data system. Provided the law firm enters into the Electronic Filer Agreement, the law firm may access information on line.

#### **Intake**

12. The Verus electronic filing system dates and logs claims as electronically received by the Trust.

13. Claims received by the Trust in hard copy are dated and logged as received and are scanned and entered into the electronic filing system for further processing.

14. The Verus electronic filing system automatically reviews the claim submission as received.

15. If the claim is deemed “sufficiently complete to be reviewed” by the electronic reviewing system, the claim will automatically be dated and entered in the FIFO Processing Queue.

16. A claim is deemed “sufficiently complete to be reviewed” when the required information and supporting documentation described in the Instructions for Filing an Unliquidated Asbestos Personal Injury Claim with the ASARCO Asbestos Personal Injury Settlement Trust has been submitted.

17. If the claim form is not “sufficiently complete to be reviewed,” Verus provides notice to the claimant as described under Initial Processing.

18. A claim will be placed in the FIFO Processing Queue on the date the claim is “sufficiently complete to be reviewed.”

19. Verus maintains the FIFO Processing Queue in electronic format.

### **Establishment of Claim File**

#### **Online Filing**

20. Claims may be submitted using the online claim form. The Verus Users Guide for Online Filing describes the process for establishment of a claim file. The Users Guide for Online Filing is available on the Trust’s website at [www.ASARCOTrust.com](http://www.ASARCOTrust.com).

#### **Paper or PDF Filing**

21. Upon receipt of a claim form in paper or PDF format:

(a) Verus date stamps the original cover letter and attachments or notes the date of the email cover letter.

(b) Verus uploads an electronic version of the claim form and supporting documents to the electronic filing system. A claims analyst then enters the

information from the claim form into the Trust's electronic database. The claim file is thereby established. All information and documentation related to the claim will be maintained electronically within the electronic system and is accessible to Verus personnel and to the filing law firm, if the law firm has access to the electronic filing system.

(c) Verus provides status reports online which can be run at any time by law firm personnel with access to the electronic filing system. Verus also distributes notices of all offers and deficiencies by email, with copies of all releases (in the case of offers) and/or deficiency reports posted online for downloading by law firm personnel.

### **Excel Format Filing**

22. Claims may also be submitted in Excel format, either by direct upload to the electronic filing system, or by email. The Excel format is designed for submission of multiple claims.

23. Upon receipt of a multiple claims submission in electronic format:

(a) Verus preserves the original source material by placing it in a special folder in the electronic filing system.

(b) The electronic filing system assigns a new file name to a working version of the Excel file.

(c) The electronic filing system validates each column's data format and contents and conforms the data to Verus' requirements.

(d) The electronic filing system imports data that passes the automated validations into the Trust's electronic claim system and individual claim numbers are assigned. An individual claim file is thereby established for each record in the Excel file.

Law firm users will be alerted to any records which fail to be imported due to missing data or invalid formats.

(e) If claimants' counsel also submitted medical documentation by uploading PDF or TIFF files, or by submitting an electronic disc or hard copy, Verus links the documentation to each claim and updates the medical diagnosis on each of the files when the claim is reached in the FIFO Processing Queue.

### **Web Services Method**

24. Verus supports claim filing using web services – a data exchange method which allows a law firm's computer system to directly interact with the Trust database via the internet.

25. Law firms can use web services to: file claims, update claims, upload documents, respond to deficiencies, and retrieve claims data.

26. To use web services, a law firm must program a secure system interface between the law firm's in-house computer system and Verus' computer system according to pre-defined system interfaces known as "methods."

27. To assist law firms in programming their systems for such interactions, Verus provides detailed specifications and sample code for each method.

28. Specifications and sample code will be provided upon request to [miversen@verusllc.com](mailto:miversen@verusllc.com).

### **Initial Processing**

29. As described under Intake, the electronic system automatically determines if a claim is "sufficiently complete to be reviewed." All claims identified as "sufficiently

complete to be reviewed” are dated and placed in the FIFO Processing Queue as of that date.

30. If any required information or supporting documentation is missing or not in an acceptable format, the status of the claim is designated as “Incomplete.”

31. Claimant’s counsel, or the claimant if filing without counsel, is notified by Verus online and/or by email or mail of the outstanding documents and/or deficiencies.

32. The claim will be considered “Incomplete” and will not be placed in the FIFO Processing Queue until the required information or documentation has been submitted.

33. The Trust will take no further action on the Incomplete claim until the required information or documentation is provided.

34. For a claim in the FIFO Processing Queue, if the claimant has not submitted medical or exposure evidence as required under the TDP, Verus provides a deficiency notice to the claimant.

35. On behalf of the Trust, Verus may request additional medical evidence, including further diagnosis, analysis or explanation of previously submitted medical evidence, in accordance with the TDP.

### **Expedited Review**

36. For Expedited Review, Verus reviews the claim for required information and establishes the status of the claim. If it is determined that the claim was previously paid or released, Verus rejects the claim. If all requirements have been established, Verus assigns the Scheduled Value for the claim based on the TDP. If further information is needed, Verus issues a notice to the claimant.



37. Verus electronically generates a release when an offer is made.

38. The release will be posted online for download by law firm users; alternatively, law firms may generate releases on their own, provided the Trust's form of release is used.

39. Upon request, Verus will provide a law firm with a hardcopy release.

40. To accept an offer, the claimant must submit an executed release to the Trust.

41. When Verus receives the executed release, Verus dates the receipt, considers the settlement offer accepted, confirms that the claim file is otherwise complete, and electronically enters the information in the electronic system.

42. The claim will be placed in the FIFO Payment Queue upon receipt by the Trust of a fully executed release.

43. If the claimant informs the Trust through Verus that the claimant does not accept the Trust's decision, the claimant may request Individual Review.

#### **Individual Review**

44. For a claim processed under Individual Review that is determined to be compensable under the TDP, Verus, on behalf of the Trust, may make an offer to the claimant pursuant to the provisions of the TDP.

45. For claims where Verus has a confirmed email address for the claimant or claimant's counsel, Verus communicates the settlement offer electronically by sending an email notification containing a secure link to Verus's website. Upon logging in to the secure link, the claimant or claimant's counsel may retrieve the Trust's offer. For claims

where Verus does not have a confirmed email address, Verus provides notice of the offer by mail.

46. If the claimant believes that the offer undervalues the claim, the claimant may provide the Trust with an explanation of the reasons for this belief. The claimant may also provide further information to support a higher value.

47. The claimant should provide the Trust with all information, documents, physical and demonstrative evidence, and sworn statements of the claimant and any other person to support the claimant's valuation of the claim.

48. Verus may respond with a revised offer and/or explanation of the reasons for the Trust's offer.

49. Verus and the claimant shall use their best efforts to complete this process within 30 days after Verus has made an offer to the claimant.

50. If this process does not result in an agreement, Verus, after consultation with the Trustees, will provide the claimant with (i) a written explanation of the Trust's application of the TDP factors to the claim and (ii) a final offer. Verus will provide the claimant with an opportunity to respond to the written explanation and final offer. The written explanation with the final offer is included in the claim file.

51. The claimant may provide a written response to the Trust's written explanation, describing the claimant's application of the TDP factors to the claim. The written response shall be transmitted to the Trust care of Verus by email, by the Verus online program or by mail. If the claimant does not accept the Trust's final offer, the claimant shall inform the Trust in writing of the claimant's rejection of the Trust's final offer and shall state the claimant's final demand.

52. If the Individual Review process results in a settlement, the claim will be liquidated in the amount of the settlement. The claim will be placed in the FIFO Payment Queue upon receipt of a fully executed release.

53. Absent a settlement, Verus, on behalf of the Trust, provides the claimant with a Notice of Completion of Individual Review. In the case of the rejection of a final offer by the claimant, the Notice of Completion of Individual Review states the Trust's final offer and the claimant's final demand.

### **Extraordinary Claims**

54. With respect to Extraordinary Claims, the Trust will, within 120 days from submission to the Trust of a claim form that is sufficiently complete to be reviewed, either (i) reject the claim, (ii) submit an offer to the claimant, or (iii) if the conditions of TDP Section 5.4(a) are not established, notify the claimant by email of the deficiencies.

55. If the deficient condition(s) is remedied within 90 days of the notice, Verus will complete the Individual Review process of the claim as an Extraordinary Claim.

56. If the deficiency is not corrected within 90 days of the notice, Verus will reject the claim as an Extraordinary Claim but will continue to process the claim under Individual Review.

57. The Trustees, with the consent of the TAC and FCR, will establish an Extraordinary Claims Panel when needed.

### **Exigent Claims**

58. With respect to Exigent Claims, the Trust will, within 15 days from the submission to the Trust of a claim form that is sufficiently complete to be reviewed,

either (i) reject the claim, (ii) submit an offer to the claimant, or (iii) send a deficiency notice informing the claimant of its determination that the claim does not qualify as an Exigent Claim and offer the claimant the opportunity to provide further information.

59. The claimant may provide an explanation and documentation in support of the Exigent Claim.

60. If sufficient documentation to establish the criteria for an Exigent Claim is not submitted to the Trust, Verus notifies the claimant by email of the outstanding documentation and/or deficiencies.

61. If the deficiency is not corrected within 60 days of the notice, the claim will not be processed as an Exigent Claim.

62. Verus will return the claim to the FIFO Processing Queue, to be placed in the FIFO Processing Queue in the place the claim would have occupied had it not been filed as an Exigent Claim.

63. The claim will be processed under either Expedited Review or Individual Review, at the claimant's option.

64. If Verus determines that the claim meets the applicable criteria, Verus continues to process the claim under Individual Review.

### **Arbitration**

65. The Alternative Dispute Resolution ("ADR") Procedures will be published on the Trust's website when adopted.

### **Payment of Liquidated Claims**

66. Verus processes the payment of claims on behalf of the Trust. Verus aggregates the amount of the liquidated claims by law firm. Verus either processes

checks made payable to the law firms or processes electronic transfers to the law firms. If by check, Verus mails to each law firm a cover letter and check and separately provides, by mail or email, a list of claims paid. For electronic transfers, the law firm must inform Verus that it elects to have its claims paid by electronic transfer and provide electronic transfer instructions. Alternatively, the law firm may authorize payment by the automatic clearing house (ACH) using the ACH Payment Authorization Form at [www.ASARCOTrust.com](http://www.ASARCOTrust.com).

67. Unless instructed otherwise, Verus considers any electronic transfer authorization, including ACH, as a standing electronic transfer instruction.

68. In the case of a claimant not represented by counsel, Verus sends a check with a cover letter directly to the claimant.

69. No claim will be paid until Verus receives an executed release.

70. If a release has not been submitted to the Trust within 90 days of a settlement offer being made under Expedited Review, a settlement offer being accepted under Individual Review or a settlement notice being issued under the ADR Procedures, Verus prepares and sends a reminder by email or mail to the claimant or to the law firm.

71. Annually, Verus emails or mails to claimants' counsel a schedule of liquidated claims for which releases have not been received by Verus.

72. Law firms with access to the Verus online system may, at any time, check the status of the claim file, including whether releases have been received by the Trust.

73. The law firm is responsible for obtaining the claimant's signature on the release and delivering the release to Verus except in the case of a claimant not represented by counsel.

74. The original, signed release may be mailed to Verus. Alternatively, if the law firm has entered into the Electronic Filer Agreement, an image of the original, signed release may be uploaded to Verus through the Verus online system, or the release may be scanned and emailed to Verus or faxed to Verus. A hard copy of the original, signed release is not required to be provided to Verus as a precondition to payment.

75. In the event that the Maximum Annual Payment is reached for Category A Claims or Category B Claims, as applicable, with claims remaining in the FIFO Payment Queue, Verus will notify the affected claimants by email.

76. The Trust has not adopted a reduced payment option.

#### **Claimants' Information**

77. Any person requesting information pursuant to TDP Section 6.5 shall pay a non-refundable expense reimbursement charge established by the Trustees.

78. Absent pre-payment of the expense reimbursement charge, the Trust will promptly return the request to the issuer advising that the request will not be processed by the Trust without pre-payment of the expense reimbursement charge.

79. Verus is not authorized to accept service of a subpoena on behalf of the Trust.

80. The Trust's counsel is not authorized to accept service of a subpoena on behalf of the Trust.

81. In the event that the Trust receives a subpoena to produce claimant information that has not been served in compliance with applicable law, the Trust will inform the serving party that it will not respond to the subpoena, but instead will seek appropriate relief, if necessary.

82. In the event that the Trust is served with a subpoena in compliance with applicable law, the Trust will provide the relevant claimant's counsel or claimant, if not represented by counsel, with a copy of the subpoena promptly upon being served. The Trustees will consult with the claimant's attorney, if the claimant is represented by counsel, or with the TAC, if the claimant is not represented by counsel, before filing a motion to quash the subpoena.