

Participating ASARCO Asbestos Personal Injury Settlement Trust

Cross-Trust Claims Audit Program

Pursuant to the ASARCO LLC Asbestos Personal Injury Settlement Trust Distribution Procedures (as may be amended from time to time, the “TDP”), the Trustees of the ASARCO Asbestos Personal Injury Settlement Trust (“Trustees”) have adopted a policy of implementing a Claims Audit Program¹ to ensure that law firms are in compliance with all terms and conditions of the TDP and the Electronic Filer Agreement (“EFA”) regarding the reliability of medical and exposure evidence. Specifically, the purpose of this audit is to ensure that each law firm maintains within its claim files documentation that supports the information submitted electronically or via hard copy claim form. The audit of claims will be performed monthly. The Claims Audit Program will be conducted as part of the monthly joint audit of certain trusts who have adopted the cross-trust audit program (the “Participating Trusts”).

Sample Selection

Subject to direction by the Participating Trusts to review a larger number of claims per month, Verus Claims Services, LLC (“Verus”) will randomly select 116 claimants per month for audit among the Participating Trusts. The sample size of 116 claimants is based on a Confidence Level of 98% and desired Margin of Error of 2.5%; the maximum number of claimants randomly selected per month from any given Participating Trust will be 20. The audit *population*, from which the sample will be selected, will consist of all claimants whose claims are in a Payable Qualified status with any Participating Trust at the date selections are made. Each claim filed with a Participating Trust that has ever been Sufficiently Complete for assignment to the FIFO Processing Queue will become subject to the claims audit upon the selection of the claimant for inclusion in the audit sample.

Each claimant selected for the audit sample will immediately be placed on administrative hold until the documentation required for the audit has been received from the law firm and the Participating Trusts have satisfactorily completed their review. ***Law firms will be afforded a thirty (30) day opportunity from the initial date of notice (date sample selection is received by the law firm) to satisfactorily provide the requested documentation for each claimant selected. If a law firm fails to comply with the audit request, the Trustees may at their discretion direct Verus to suspend processing and payment of all claims filed by such non-responsive firm or take such other action as the Trustees deem appropriate. Verus will complete the audit within thirty (30) days following submission by the law firm of all requested claim information to Verus.***

Documentation Requirements

For each claimant sampled, the law firm will be required to provide all non-privileged

¹ The ASARCO Asbestos Personal Injury Settlement Trust’s Claims Audit Program Adopted Under TDP is superseded by the adoption of this Cross-Trust Claims Audit Program.

documents of the types listed below that the law firm relied upon in submitting the medical and exposure information for the subject claim(s) to the Participating Trusts.

1. Answers to interrogatories
2. Transcripts of depositions of the claimant and co-workers
3. Verified work histories
4. Social Security records
5. All exposure affidavits executed by the claimant, co-workers or family members related to the claim
6. Lawsuit filings filed against a debtor predecessor to a Participating Trust for all claims alleging a pre-petition lawsuit filing naming such debtor
7. Lawsuit filings for all claims in which claimant is alleging a tolling agreement (along with a copy of the tolling agreement)
8. For Massachusetts and Louisiana pre-petition lawsuit filings against other defendants, proof that the lawsuit was pending against one or more defendant(s) as of the petition date
9. All B-reading interpretations and ILO forms (except for mesothelioma claims)
10. All chest x-ray/chest CT scan reports (except for mesothelioma claims)
11. All pulmonary function tests (including tracings and flow volume loops) for Severe Asbestosis and Nonmalignant Asbestos Disease with reduced pulmonary function claims only
12. All pathology or autopsy reports documenting asbestosis, asbestos-related pleural disease, malignant mesothelioma or a primary carcinoma of the lung, colon, esophagus, larynx, pharynx or stomach
13. Admission, history and physical and discharge summaries of any hospitalizations for asbestos-related disease and/or any malignant disease which is recognized as compensable by the Participating Trusts
14. All physical examination or pulmonary consultation reports
15. All non-privileged interpretive reports provided by experts retained by counsel or the claimant to review tests, x-rays, or diagnostic reports in order to render an opinion

The Participating Trusts will not require the production of original x-ray films and will not be re-reading such films or retesting claimants in the normal course of the claims audit. However, the Participating Trusts reserve the right to request such original evidence and expand the scope of the audit for targeted populations of claims in the event a pattern of submitting misleading or potentially fraudulent information is found. The standard of analysis for such a pattern shall not be based on the existence of questions of fact among the various testimonial sources, but rather on evidence of an actual intent to deceive or defraud the Participating Trusts. Both the Participating Trusts and the claimant shall be afforded all due process in both arbitration and litigation on the merits of the existence of such evidence.

Review

Verus will review all documentation provided by the law firms in a timely manner in order to answer the following questions relative to each claim:

1. Is there documentation within the law firm's file to support the reliability of the exposure history submitted to the Participating Trusts?
2. Is there documentation to support that the claimant's claims were filed in keeping with all applicable state or federal statutes of limitations?
3. Is the medical documentation consistent with established medical guidelines for establishing a diagnosis of an asbestos-related disease and supportive of the disease level submitted to the Participating Trusts?

Issue Resolution

In the event of any findings of concern, Verus will communicate the details of the findings to the law firm and the Participating Trusts and request additional information or explanation. If the law firm fails to provide additional information, or disputes the findings, Verus will inform the Participating Trusts and seek advice as to the appropriate course of action.

Issues will be discussed with the Trustees on a regular basis throughout the course of the monthly audit. If any patterns of particular concern are discovered, the scope of the audit may be expanded and/or focused through additional targeted sampling to determine the extent of the issue.

The Trustees reserve the right to adopt any other reasonable, or generally accepted audit procedures that the Trustees deem appropriate and warranted as circumstances may dictate.

Management Representation

Upon conclusion of the audit, each law firm will be required to sign a law firm management representation letter in the form attached hereto as Exhibit A.

Reporting of Results

Upon the conclusion of each monthly audit, Verus will produce a report to the Trustees summarizing the findings and recommending specific actions to be taken as a result of any systemic issues identified or adverse findings that require corrective and/or disciplinary action. Depending on the nature of the issue to be addressed, such action may involve revisions to claims materials, filing requirements or the electronic filing system, or possible sanctions in the event of findings of fraud or abuse. Verus will communicate any potentially adverse findings to the law firm and the Trustees, and the firm will be given an opportunity to resolve any concerns before any punitive follow-up actions are taken by the Trust. The particular nature of any sanctions to be imposed will be discussed as the need arises.

EXHIBIT A

Law Firm

Date

Via Regular Mail or E-mail (_____@verusllc.com)

Verus Claims Services, LLC
3967, Princeton Pike,
Princeton, NJ 08540

Attention: _____

**Re: Verus Cross-Trust Claims Audit
Claimant (Insert Claimant Name, Claim ID)**

To Verus Claims Services, LLC:

We are providing this management representation letter in connection with the claims audit performed by Verus Claims Services, LLC (“Verus”) covering **Claim ID # (INSERT CLAIM ID NUMBER)** for **(INSERT CLAIMANT NAME)**.

The undersigned is competent and authorized to make the representations set forth herein.

We understand that the claims audit was conducted pursuant to the claims audit program adopted by the Participating Trusts pursuant to their TDPs. We further understand that the Participating Trusts conducted the audit to ensure that the law firm representing the claimant named above has complied with the terms and conditions of the TDPs and the Electronic Filer Agreements regarding the medical and exposure evidence submitted to the Participating Trusts to support the claim. Specifically, we recognize that the Participating Trusts conducted the audit to ensure that our law firm maintains in its files documentation which supports the information submitted electronically or by hard copy claim form.

We acknowledge our responsibility, as the filing law firm, to comply with the requirements of Rule 11(b) of the Federal Rules of Civil Procedure in presenting information to the Participating Trusts and to provide all non-privileged documentation and supporting evidence detailed in the Participating Trusts’ claims audit program and requested by Verus in conjunction with the audit.

We confirm, to the best of our knowledge and belief, as of the date of this letter, that we have provided the Participating Trusts with complete and accurate copies of all of the non-privileged documents requested by Verus on behalf of the Participating Trusts as part of the audit of the above-named claimant pursuant to the terms of the claims audit program.

We acknowledge that Verus on behalf of and at the direction of the Participating Trusts may request additional non-privileged information or explanations to the extent permitted by the Participating Trusts’ claims audit program.

Yours truly,

(Signature)

(Title)