



Airbag Tort Compensation Trust Fund (“TATCTF”).<sup>2</sup> Since then, the Special Master and his team have been working diligently to process and evaluate all filed claims.

3. The deadline for filing as a “Current Claim” was August 31, 2018. As of January 16, 2019, Epiq Systems, Inc. (“Epiq”), as successor-in-interest to Garden City Group, the Special Master’s claims administrator, received and logged 292 total claim forms for Current Claims. Of those claims, 260 assert personal injury and 32 assert wrongful death.

4. Claimants complete a single claim form in which they can assert independent claims against each of the following: (i) the IRF; (ii) the TATCTF; or (iii) if the inflator defect manifested in a Honda or Acura vehicle, Honda, in its capacity as a “Participating OEM” in the TATCTF. Claimants are instructed to check different boxes on the claim form to indicate which of these three claim type(s) they are asserting.

5. The Current Claim population breaks down as follows:

- 49 assert IRF, Trust and POEM Claims;

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<sup>2</sup> As described in further detail in the Fifth Status Report, the Special Master also serves as the Trustee of the TATCTF, which was created in the U.S. Bankruptcy Proceedings of certain Takata debtors (including Takata’s U.S. affiliate, TK Holdings Inc.) to, among other things, administer, resolve, and liquidate certain personal injury or wrongful death claims related to the malfunction of Takata PSAN Inflators (“PSAN PI/WD Claims”). All PSAN PI/WD Claims against Takata Corporation, TK Holdings Inc. and its affiliated debtors (“Trust Claims”) or against any Consenting OEM that elects to become a “Participating OEM” (“POEM Claims”) are channeled to the TATCTF. To date, Honda/Acura is the only Participating OEM.

- 184 assert both IRF and Trust Claims;
- 19 assert solely an IRF Claim;
- 9 assert solely a Trust Claim;
- 2 assert solely a POEM Claim;
- 5 assert IRF and POEM Claims; and
- 24 fail to designate any claim type.

6. The Special Master and his team of professionals have sent deficiency notices to Claimants who have failed to designate any claim type, notifying them that at least one claim type must be selected for their claim form to be processed. The Special Master's team is also contacting Claimants who have filed a Trust Claim or a POEM Claim but not an IRF Claim to find out why the Claimant has not asserted an IRF Claim and to ask whether the Claimant would like to amend its claim to add an IRF Claim.

7. The Special Master and his team of professionals have reviewed and evaluated almost all Current Claims for eligibility and compensability. This process is proceeding according to plan and on schedule. The first step in the process is for Epiq to review a submitted claim for facial deficiencies, such as a missing signature, lack of basic documentation, or failure to supply required information, or for more substantive deficiencies, such as failure to supply evidence of a rupture or aggressive deployment. Deficiency notices are then sent

out to those claimants, or their attorneys, with deficient claims, and the deficiency notices request supplementation within the 90-day cure period for deficiencies. Once a claim is deemed complete, it is evaluated and scored by staff at Epiq, reviewed by senior management at Epiq according to criteria developed and specified by the Special Master, and then sent to the Special Master for final review and determination. The Special Master personally reviews each and every claim, and as of the date of this Status Report, has reviewed almost every complete Current Claim.

8. Of the 292 Current Claims, the Special Master and his team have initially determined that 83 of these Claims are eligible for compensation,<sup>3</sup> 158 Claims have some deficiency, and 51 Claims are ineligible for compensation. These 51 Claims are ineligible primarily for one of two reasons: (1) the Claim alleges a non-deployment of the airbag, which is not compensable under the IRF or Trust; or (2) a Takata airbag was not installed in the subject vehicle. Claimants have the opportunity to appeal the Special Master's determination that their Claims are ineligible.

9. The Special Master has notified Current Claimants of their present status by letter. The letters include: (1) notice of compensability letters, informing Claimants that their Claim has been reviewed and processed, tentatively deemed

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<sup>3</sup> Of the 83 claims eligible for compensation, 10 assert IRF, Trust and POEM Claims, 69 assert IRF and Trust Claims, 3 assert solely an IRF Claim, and 1 asserts solely a POEM Claim.

eligible, and the Claimant need not submit any additional information; (2) letters informing Claimants that their Claim included a facial deficiency, such as a missing signature or insufficient documentation; (3) letters informing Claimants that their Claim contains a substantive deficiency, such as insufficient proof of a rupture or aggressive deployment or insufficient proof of eligibility; and (4) letters informing Claimants that their Claim has been deemed ineligible.

10. As of January 11, 2019, 676 letters have been mailed to Claimants or their attorneys. Numerous Claimants have received multiple letters. The breakdown of letters is as follows:

- 82 notice of tentative compensability letters (including notices of tentative compensability for cured deficiency claims);
- 33 facial deficiency letters;
- 162 substantive deficiency letters;
- 187 deficiency reminder letters;
- 161 final deficiency reminder letters; and
- 51 notice of denial letters.

11. The Special Master and his professionals have assigned a preliminary point value to the majority of eligible Current Claims. After the 90-day cure period for deficiencies ends in mid-February 2019, the Special Master and his professionals will complete the initial scoring for all eligible claims and then meet

to compare all proposed awards for Current Claims to ensure internal consistency. Awards will be finalized at this time. The Special Master anticipates that this will occur by the end of March.

12. After the awards are finalized, the Special Master will send letters to eligible Claimants notifying them of their proposed point award and the likely dollar amount of their monetary award. Claimants will then have an opportunity to appeal the Special Master's proposed award through the internal appeals process set forth in the revised IRF Methodology. Once that appeals process is complete, the Special Master will submit the final proposed monetary awards to the Court for its review and approval.

13. The Special Master has also received 57 "Future Claims," *i.e.*, claims filed after August 31, 2018 or arising out of an accident after April 10, 2018. The Future Claim population breaks down as follows:

- 10 assert IRF, Trust, and POEM Claims;
- 25 assert IRF and Trust Claims;
- 7 assert solely an IRF Claim;
- 1 asserts solely a POEM Claim;
- 2 assert IRF and POEM Claims;
- 1 asserts Trust and POEM Claims; and
- 11 fail to assert any claim type.

14. The Special Master and his professionals are reviewing and evaluating these Future Claims and intend to inform Future Claimants of any deficiencies in their Claims in the near future.

15. As part of the claims handling process, the Special Master is also working with a lien resolution consultant to negotiate the handling of Medicare and Medicaid liens on individual awards, and to facilitate the resolution of other, non-governmental liens. This effort will be synchronized with the other steps in the claims resolution process to ensure that all liens are handled properly and each Claimant knows the net amount of the Claimant's award.

**B. REVISED ESTIMATION OF CURRENT AND FUTURE IRF CLAIMS**

16. With the expiration of the Current Claim filing period, the Special Master and his economist, NERA Economic Consulting ("NERA"), are now in the process of preparing the revised estimation of total claims expected over the entire lifetime of the IRF. This revised estimate is necessary to ensure that a sufficient portion of the limited IRF is preserved to treat future claimants fairly and consistently with Current Claimants.

17. NERA is working closely with Epiq and the Special Master's staff at Resolutions, LLC to analyze and compare Current Claims data against the projections contained in the revised IRF Methodology. NERA has also shared its information and estimation analysis with the Future Claimants' Representative in

the U.S. Bankruptcy Proceedings who performed similar analyses as part of those proceedings. NERA has determined that so far the Current Claims data closely aligns with NERA's initial estimation contained in the IRF Methodology.

18. NERA has prepared a report with the results of its analysis of the Current Claims data and its estimation of current and future liabilities. However, due to the 90-day cure period for deficient claims, the number of eligible Current Claims may shift, which may affect NERA's analysis. Therefore, upon the expiration of the cure period, NERA will update and finalize its report using the most accurate data regarding the number of claims, as well as the proposed awards. The Special Master anticipates providing the Court with this further revised estimation of the current and future liabilities after the cure period, when the universe of Current Claims is definitively known.

19. During the Reporting Period, OEMs expanded the vehicles being recalled to replace potentially defective Takata airbags to include millions of additional vehicles. These new recalls indicate an increased potential for future Takata airbag inflator incidents causing personal injury or wrongful death. However, NERA and the Special Master have concluded that, at this time, there is no need to revise the estimate of future claims based on these additional recalls. The Special Master and his professionals will continue to monitor these recalls and

other recalls of Takata airbags required by the National Highway Traffic Safety Administration, and assess their impact, if any, on the IRF.

20. Once the revised estimation of expected total claims is completed and the division between Current Claims and estimated Future Claims is approved, the Special Master will be in a position to calculate the funds available from the total IRF for Current Claims and begin allocating specific amounts of the available restitution funds to allowed Current Claims. The Special Master will then submit its recommendations for the universe of Current Claims to the Court for its final approval.

**C. DISTRIBUTING THE \$850 MILLION OEM RESTITUTION FUND.**

21. In prior reporting periods, the Special Master successfully disbursed \$849,922,039.17 of the \$850 million OEM Restitution Fund to the Consenting OEMs and three Non-Consenting OEMs.

22. Following several attempts by the Special Master to establish contact with the four remaining OEMs, including the provision of final notice in accordance with the *Order Approving Special Master's Request for Approval of Final Notice to Remaining OEMs and Distribution of Unclaimed Funds in the OEM Restitution Fund to the Individual Restitution Fund*, dated August 28, 2018 [Doc. 100], no responses were received from three OEMs—Jiangxi Changhe Suzuki Automobile, Co., Ltd.; Forest River, Inc.; and Atiwe Autoteile

Herstellungs-und Vertriebs GmbH—whose aggregate Court-approved allocation payment is \$30,511.43.

23. On September 4, 2018, South East Fujian Motor Co., Ltd. (“Fujian Motor”) requested a Chinese translation of the final notice and the Distribution and Release Agreement. In response, the Special Master informed Fujian Motor that the Special Master does not have a Chinese translation and granted an extension of time to submit an executed Distribution and Release Agreement to enable the OEM to engage a translator should it wish to do so. On October 24, 2018, the Special Master sent Fujian Motor a final notice informing Fujian Motor that if it did not return a signed copy of the Distribution and Release Agreement to the Special Master by November 9, 2018, the Special Master would be authorized to transfer Fujian Motor’s allocable share of the OEM Restitution Fund to the Individual Restitution Fund. After receiving no response from Fujian Motor, the Special Master sought and obtained Court-approval to transfer Fujian Motor’s Court-approved final allocation payment of \$47,449.39 to the IRF.<sup>4</sup>

24. On December 12, 2018, the Special Master instructed Wilmington Trust to transfer the remaining funds in the OEM Restitution Fund (\$77,960.83) to

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<sup>4</sup> See *Special Master’s Request for Final Approval of Distribution of South East Fujian Motor Co., Ltd.’s Unclaimed Funds to the Individual Restitution Fund*, dated Nov. 30, 2018 (Doc. 104); *Order Approving Special Master’s Request for Final Approval of Distribution of South East Fujian Motor Co., Ltd.’s Unclaimed Funds to the Individual Restitution Fund*, dated Dec. 3, 2018 (Doc. 105).

the Individual Restitution Fund for the benefit of individual victims. The Special Master has now distributed the entire \$850 million allocated to OEMs, and the work related to the OEM Restitution Fund has now concluded.

**II. GOING FORWARD EFFORTS.**

25. The Special Master and his team will continue to receive claims for compensation from the Individual Restitution Fund and TATCTF, and will continue the process of reviewing and evaluating claims. The Special Master and his team will also continue to evaluate the claims data in order to determine the ratio between Current and Future Claims, as well as the dollar value of a point, so that all awards can be monetized.

**CONCLUSION**

26. The Special Master will continue to perform his responsibilities and duties consistent with the Appointment Order and all other directives of this Court.

Dated: January 24, 2019

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Green', written over a horizontal line.

Eric D. Green, Special Master

**CERTIFICATE OF SERVICE**

I hereby certify that on January 24, 2019, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

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