

**U.S. VICTIMS OF STATE-SPONSORED TERRORISM FUND  
FREQUENTLY ASKED QUESTIONS**

(Updated June 17, 2016)

**Section 1 – General Information**

**1.1 What is the U.S. Victims of State Sponsored Terrorism Fund?**

The United States Victims of State Sponsored Terrorism (USVSST) Fund was created by legislation passed by Congress and signed into law by President Barack Obama to provide compensation to a specific group of international terrorism victims harmed by state sponsored terrorism.

In general, the Fund is designed to award compensation to those victims of international terror attacks who (1) have secured final judgments in a United States court against a state sponsor of terrorism, or (2) were held hostage at the United States Embassy in Tehran, Iran from 1979 to 1981 (and their spouses and children).

**1.2 Where do I get the Application Forms?**

- **By telephone:** You can request an Application Form by calling toll free [xxxx]. If you are calling from outside the United States, please call collect at [xxxx].
- **Through the web page:** You can also get an Application Form by going to the website: [www.usvsst.com](http://www.usvsst.com).

**1.3 Where do I submit my form when I am finished?**

Claims should be submitted as follows:

- **Online:** [www.usvsst.com](http://www.usvsst.com)
- **By mail to:** ---
- **By overnight mail to:** ---

**1.4 Do I have to be a U.S. citizen to be eligible?**

No. The Act requires the applicant to be a “United States person,” which means either (1) someone who has suffered an injury arising from the actions of a foreign state for which the foreign state was determined not to be immune under the FSIA, or (2) someone who was held hostage at the U.S. Embassy in Tehran, Iran—or the spouse or child thereof—during the applicable time period and is also identified as a member of the proposed class in case number 1:00-CV-03110 (EGS) in the United States District Court for the District of Columbia.

## **DISCUSSION DRAFT**

### **1.5 Does it cost anything to file a claim?**

No.

### **1.6 How will I know that my claim has been received?**

You will be notified by mail and/or electronically.

### **1.7 Can more than one person file a claim for the same judgment?**

Although each applicant must submit his or her own claim, there may be situations where there is more than one claim based on the same incident of harm or judgment. For example, an applicant may have a final judgment as a result of an act of terrorism by a state sponsor of terrorism, but that judgment may have also awarded compensatory damages to that applicant's spouse. In that situation, both the applicant and the applicant's spouse would have claims and each must file a separate application, and also identify each other as immediate family members.

### **1.8 Can I appeal to a court the final decision of the Special Master?**

No. The decision of the Special Master is final and is not subject to administrative appeal or judicial review. The process allows opportunities for you to request either a hearing or a review regarding your claim once you receive an initial decision. After either a hearing or a review before the Special Master, the Special Master will make a final determination. This decision is not subject to administrative appeal or judicial review.

### **1.9 What is the last day to file a claim?**

Claimants with final judgments dated before [PUBLICATION DATE] and those filing claims related to being held hostage in Iran from 1979 to 1981, or as a spouse and child thereof, must file their claims within 90 days of [PUBLICATION DATE]. Claimants with final judgments obtained on or after the [PUBLICATION DATE] must file no later than 90 days after the date of obtaining a final judgment. The Special Master retains discretion to grant a claimant a reasonable extension of the deadline upon good cause shown.

### **1.10 How do I find out who has submitted a claim on behalf of a decedent claimant?**

The Special Master will keep confidential the names of all applicants, including deceased applicants for whom a claim has been filed, and their applications. However, any purported Personal Representative must, prior to filing a claim, provide written notice of the claim to the beneficiaries and immediate family of the decedent, and to the executor or administrator of the decedent's will, or to any other persons who may reasonably be expected to assert an interest in an award. If a purported Personal Representative fails to give the requisite notice, then the Special Master will notify the interested parties.

## **DISCUSSION DRAFT**

### **Section 2 – Eligibility**

#### **2.1 Who is an eligible claimant?**

- An individual with a final judgment issued by a United States district court under state or federal law against a state sponsor of terrorism and arising from an act of international terrorism, for which the foreign state was found not immune under section 1605A, or section 1605(a)(7), of title 28, United States Code (FSIA).
- An individual employed as diplomatic or military personnel or civilian support staff at the United States Embassy in Tehran, Iran during November 4, 1979, who was seized from the Embassy grounds and held hostage through January 20, 1981, or the spouse and child of that individual at that time, and who is also identified as a member of the proposed class in case 1:00-CV-03110 (EGS) of the United States District Court for the District of Columbia.
- The “Personal Representative” of a deceased individual in one of the two categories described above.

**Note:** All applicants will be required to submit sufficient evidence verifying their identity.

#### **2.2 What is a final judgment?**

A final judgment awards the claimant compensatory damages on a claim or claims brought by the applicant in a United States district court, under either federal or state law, arising from acts of international terrorism for which the court found that the foreign state was not immune from the jurisdiction of the courts of the United States under the FSIA. The judgment cannot be subject to any further appeals.

#### **2.3 Is my entire judgment award considered in the award calculation by the Fund?**

No, only compensatory damages are eligible. If a claimant received, for example, punitive damages as part of his or her final judgment, the punitive damages will not be considered in the award calculation.

#### **2.4 Does a default judgment qualify as a final judgment?**

Yes. In that case, the claimant will need to submit documentation showing either transmittal to the United States Department of State or other verified proof of service under 28 U.S.C. §§ 1608(a) and (e). Evidence showing that the claimant submitted the default judgment to the Department of State for service creates a rebuttable presumption of service of the default judgment.

## DISCUSSION DRAFT

### 2.5 What about judgments obtained under statutes other than FSIA?

The statute limits eligible final judgments to those issued by a United States district court on a claim or claims under either federal or state law, arising from acts of international terrorism for which the court found that the foreign state was not immune from the jurisdiction of the courts of the United States under the FSIA. Judgments issued against non-state actors, or against terrorists for terrorist acts under the Anti-Terrorism Act (ATA) or other statutes, do not qualify.

### 2.6 What countries qualify as state sponsors of terrorism?

The statute defines a state sponsor of terrorism as a country the government of which the Secretary of State has determined, for purposes of FSIA, or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

#### Periods of Designation for State Sponsors of Terrorism

<i>State</i>	<i>Designation Date</i>	<i>Removal from List</i>
Cuba	March 1, 1982	May 29, 2015
Iraq (1)	Dec. 29, 1979	1982
Iraq (2)	Sept. 13, 1990	Sept. 24, 2004
Iran	Jan. 19, 1984	Still listed
Libya	Dec. 29, 1979	May 12, 2006
North Korea	Jan. 20, 1988	June 26, 2008
South Yemen	Dec. 29, 1979	1990
Sudan	Aug. 12, 1993	Still listed
Syria	Dec. 29, 1979	Still listed

- **Note:** The foreign state must have been designated a state sponsor of terrorism at the time the terrorism act giving rise to the claim occurred. Even if you received a state court judgment that found the foreign state not immune from the jurisdiction of the courts of the United States under the FSIA and a U.S. district court has recognized this judgment under the Full Faith and Credit Clause, if the act of international terrorism giving rise to that action occurred when the foreign state was not designated a state sponsor of terror, then the judgment will not qualify as an eligible final judgment for purposes of the Fund.

### 2.7 What if my judgment is against a terrorist group like al-Qaeda or Hamas?

If your judgment is solely against a terrorist group—like al-Qaeda or Hamas—and not against a state sponsor of terrorism, you are not eligible for compensation from the Fund.

## DISCUSSION DRAFT

### **2.8 What if my final judgment is against an instrumentality of a state sponsor of terrorism, like the Ministry of Intelligence and Security (MOIS) of the Islamic State of Iran?**

If the final judgment is against an instrumentality of a state sponsor of terrorism, your judgment will be eligible. For example, if the judgment is against Iran's MOIS and you were awarded compensatory damages under the FSIA, then that judgment would qualify as an eligible final judgment.

### **2.9 How do I prove I was held as a hostage at the U.S. Embassy in Tehran, Iran from 1979 to 1981?**

You will need to submit verification that you were taken hostage from the embassy grounds on November 4, 1979, and held hostage through January 20, 1981, as well as verification that you qualify as a proposed class member in case number 1:00-CV-03110 (EGS) of the United States District Court of Columbia.

If seeking compensation as a spouse of an individual held hostage, you will need to submit a marriage certificate showing the date of marriage and an affirmation that the marriage continued through January 20, 1981.

If seeking compensation as the child of an individual held hostage, you will also need to submit a copy of your birth certificate or adoption decree that shows a birth or adoption date *before* January 20, 1981.

### **2.10 What about those individuals who were able to escape the U.S. Embassy and not held hostage for the entire time from November 4, 1979, through January 20, 1981?**

According to the terms of the statute, the claimant must have been taken from the U.S. Embassy grounds on November 4, 1979, and held hostage through January 20, 1981. In addition, the claimant must also show that he or she is a member of the proposed class in case number 1:00-CV-03110 (EGS) of the United States District Court of Columbia. That class (*Roeder I*) is defined as follows:

All diplomatic and military personnel and the civilian support staff who were working at the United States Embassy in Iran during November 1979 and were seized from the United States Embassy grounds and *held hostage from 1979 to 1981*, as well as their spouses and children at the time and their legal representatives.

Thus, those claimants are ineligible for compensation from the Fund.

## DISCUSSION DRAFT

### **2.11 What if an individual was diplomatic, military, or civilian personnel working at the U.S. Embassy in Tehran, Iran, but was taken hostage outside of Embassy grounds?**

In order to be eligible, the claimant must show, *inter alia*, that he or she is a member of the proposed class in case number 1:00-CV-03110 (EGS) of the United States District Court of Columbia. That class (*Roeder I*) is defined as follows:

All diplomatic and military personnel and the civilian support staff who were working at the United States Embassy in Iran during November 1979 and *were seized from the United States Embassy grounds* and held hostage from 1979 to 1981, as well as their spouses and children at the time and their legal representatives.

Thus, those claimants are ineligible to receive compensation from the Fund.

### **2.12 Who qualifies as a spouse or child of a hostage held in Iran?**

The Special Master will look to the law of the domicile of the hostage at that time to determine if the spouse or child qualifies for compensation.

### **2.13 Will I be able to apply to the Fund confidentially?**

Yes. The Special Master will keep the names of all applicants and their applications confidential. In addition, the Fund will accept “John/Jane Doe” applications, as long as the applicant can verify that he or she is the identified final judgment holder.

## **DISCUSSION DRAFT**

### **Section 3 – Personal Representative**

#### **3.1 Who is the personal representative of a deceased individual?**

The Personal Representative is the individual authorized to submit a claim on behalf of an eligible deceased claimant. The Personal Representative is normally the individual appointed by a court of competent jurisdiction—such as a state surrogate or probate court—as one of the following:

- The Personal Representative of the deceased claimant’s will or estate;
- The Executor of the deceased claimant’s will; or
- The Administrator of the deceased claimant’s estate.

In many or most cases, the identity of the Personal Representative will not be in dispute.

**Note:** The determination of the Personal Representative is not the same question as the determination of who ultimately receives the award. The Personal Representative shall distribute the award in a manner consistent with the law of the decedent’s domicile or any applicable rulings made by a court of competent jurisdiction.

#### **3.2 How do I get appointed Personal Representative by a state court?**

Since state law governs the designation of Personal Representatives, the Special Master generally advises claimants to work with the probate or surrogate court in the state where the deceased claimant lived to become the Personal Representative. The process varies by state.

#### **3.3 Who should apply the rules and resolve the dispute over who should be the Personal Representative?**

Disputes between relatives, former spouses, and other interested parties can be exceptionally fact-intensive and time-consuming. Indeed, state courts often spend considerable time and resources resolving such matters. Consequently, the Special Master does not arbitrate, litigate, or otherwise resolve disputes as to the identity of the Personal Representative.

Instead, to ensure that funds are not needlessly tied up due to disputes regarding the identity of the Personal Representative, the disputing parties may agree in writing to the identity of a Personal Representative to act on their behalf, who may seek and accept payment from the Fund while those disputing parties work to settle their dispute. In appropriate cases, the Special Master may determine an award, but withhold payment until the dispute regarding the Personal Representative is finally resolved.

## **DISCUSSION DRAFT**

### **3.4 How do I show that I am the proper Personal Representative for filing a claim with this Fund?**

In most cases, if you have been appointed as the Personal Representative, executor, or administrator by a court, you should provide copies of relevant legal documents, such as court orders, letters testamentary, letters of administration, or similar documentation.

If you have not been appointed by a court as the Personal Representative of the decedent or as the executor or administrator of the decedent's will or estate, you must first exercise every effort to attempt to secure such an appointment. Only if you believe you cannot secure such an appointment, and in very limited circumstances, may you ask the Special Master to appoint you as the Personal Representative for the Fund. To do so, you will need to show why you were unable to secure a court appointment, and you will need to provide additional documents. If you were named as the executor in the claimant's will, you will need to provide the will. If there is no will, you may demonstrate that you were next in line of succession under the laws of the deceased claimant's domicile governing intestacy, although the Special Master retains discretion to designate a Personal Representative who is not next in the line of succession under the laws of the deceased claimant's domicile governing intestacy. Documents demonstrating proof of your relationship to the decedent may include:

- For a spouse, a copy of the marriage certificate or joint tax return;
- For a child, a copy of the child's birth certificate or deceased claimant's tax return;
- For a parent, a copy of the deceased claimant's birth certificate;
- For a brother or sister, a copy of the brother's or sister's birth certificate and the deceased claimant's birth certificate.

### **3.5 What if there is no mechanism for obtaining a judicial appointment of a legal representative or administrator in the U.S.?**

In limited circumstances, the Special Master may consider the claims of those who cannot get appointed. However, these cases will be rare, and detailed documentation and description of the extenuating circumstances will need to be provided.

### **3.6 What if the Personal Representative was appointed under foreign law?**

If the Special Master receives appropriate assurances that the type of document received was sufficient for the appointment of the Personal Representative and that the person appointed was the correct individual under foreign law, the appointment will be accepted.

In the rare instance where a foreign appointment and a domestic appointment conflict and the parties are unable to agree upon the appropriate Personal Representative for purposes of compensation by the Fund, the dispute will be referred to a court of competent jurisdiction for resolution.



## **DISCUSSION DRAFT**

### **3.7 Who gets the award money?**

Awards for decedents will generally be made to the qualified Personal Representative, who must distribute the award in a manner consistent with the law of the decedent's domicile, a ruling by a court of competent jurisdiction, or a direction from the Special Master. In some cases, the Special Master may make provision for separate distributions to comply with a court-approved distribution plan. An example would be payments to a minor that may need to be paid to an appointed guardian ad litem as an annuity. The Personal Representative must provide a proposed distribution plan in the Application Form and have complied with the necessary notice requirements to all designated beneficiaries and interested parties. Award payments will not be issued until the Personal Representative obtains the consent and approval of all beneficiaries of the distribution plan.

### **3.8 If two people have been appointed as co-Personal Representatives of a deceased claimant's will or estate, do both people have to sign the application?**

Yes. The term "co-Personal Representatives" includes both co-executors of a will, and co-administrators of an estate when there is no will. If co-Personal Representatives are appointed, both co-Personal Representatives must sign the certifications of the application.

## **DISCUSSION DRAFT**

### **Section 4 – Compensation**

#### **4.1 How much of my final judgment will I be awarded?**

In general, eligible claims will be paid on a pro rata basis out of available funds, based on the amounts outstanding and unpaid on eligible claims, until all such amounts have been paid in full.

The statute requires caps on awards in certain circumstances. In the event an applicant's claim exceeds \$20,000,000, the Special Master will treat that claim as if it were for \$20,000,000. And if a claimant **and** the immediate family members of the claimant have claims that if aggregated would exceed \$35,000,000, the Special Master will reduce such claims on a pro rata basis such that in the aggregate such claims do not exceed \$35,000,000.

#### **4.2 Who is an “immediate family member”?**

The FSIA guides the definition of who is an immediate family member for purposes of the statute. The Special Master has determined that immediate family members are a spouse, domestic partner, child, stepchild, parent, stepparent, brother, sister, half-brother, and half-sister of the deceased claimant.

If an immediate family member is deceased, the applicant should still identify the immediate family member, note that he or she is deceased, and provide any relevant estate information.

#### **4.3 If my award is based on being held hostage in Iran from 1979 to 1981, how will my award be calculated?**

For those claimants eligible because they were held hostage at the U.S. Embassy in Iran, the eligible claim amount is set as the sum total of \$10,000 per day for each day the claimant was held hostage from the U.S. Embassy in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981.

For each spouse and each child of a former hostage, the eligible claim amount is set as a \$600,000 lump sum.

As with final judgment amounts, these eligible claim award amounts are subject to pro rata calculation.

## **DISCUSSION DRAFT**

### **4.4 After I receive my initial award, do I need to re-file an application if the Fund receives additional appropriations?**

No. Applicants will not be required to re-submit an application. The Special Master will adjust the pro rata awards automatically after receipt and accounting of additional contributions or appropriations to the Fund. An applicant who has received compensation from the Fund will still need to submit updated information such as new compensation sources other than the Fund or changes in beneficiaries as they arise.

### **4.5 Will foreign nationals who are receiving awards be required to designate a United States domestic custodian for the deposit and distribution of the award?**

Yes. The Fund will only issue payments to accounts held in United States domestic banks and not to any foreign bank. Prior to the distribution of any award payments, either the applicant or his or her attorney must submit documentation identifying a U.S. bank depository.

### **4.6 What if I also have an award under section 405 of the Air Transportation Safety and System Stabilization Act (9/11 Victims Compensation Fund or VCF1)?**

If either the claimant or the claimant's immediate family member has a qualifying final judgment under section 405 of the Air Transportation Safety and System Stabilization Act, and also received an award or an award determination under that Act, the Special Master will consider the VCF1 award as controlling, notwithstanding any compensatory damages awarded in the final judgment. Further, as explained in FAQ 4.7, the claimant is required to identify on the Application Form any VCF1 award as a "source other than this Fund."

**Note:** Those individuals with eligible final judgments and award determinations under the James Zadroga 9/11 Health and Compensation Act of 2010 (VCF2) are not subject to this provision. Similarly, those individuals who either opted out of VCF1 or are otherwise 9/11 victims who were never subject to VCF1 may apply for and receive compensation if they have an eligible final judgment.

### **4.7 What is a source other than this Fund?**

The statute defines a source other than this Fund as any collateral source, including any life insurance, pension funds, death benefit program, payment by Federal, state, or local government (including payments from the September 11<sup>th</sup> Victim Compensation Fund (49 U.S.C. § 40101 note)), and court awarded compensation related to the act of international terrorism that gave rise to a claimant's final judgment. The claimant must identify on the Application Form all sources other than this Fund that the claimant (or, in the case of a Personal Representative, any beneficiary of the victim) has received or is entitled or scheduled to receive as a result of the act of international terrorism that gave rise to the claimant's final judgment, including information identifying the amount, nature, and source of such compensation.

## DISCUSSION DRAFT

The Special Master retains discretion in assessing any identified source other than this Fund and determining how it will factor into an award calculation. For example, if the claimant is deceased, life insurance payments paid on personally secured policies must be identified as a source other than the Fund, but will not be offset.

### **4.8 What does it mean to be “entitled or scheduled to receive” a payment from a source other than the Fund?**

The statute defines “entitled or scheduled to receive” as any potential recovery where that person or their representative is a party to any civil or administrative action pending in any court or agency of competent jurisdiction in which the party seeks to enforce the judgment giving rise to the application to the Fund.

### **4.9 How will sources other than the Fund be factored into calculating my award?**

Again, the statute requires that the claimant provide the Special Master with information regarding sources other than the Fund, and to update that information as applicable. The Special Master then reviews and determines an award calculation based on amounts outstanding and unpaid on a final judgment. If an eligible claimant has received, or is entitled to or scheduled to receive, a payment that is *equal to, or in excess of*, 30% of the total compensatory damages owed to the claimant from any source other than this Fund, he or she will not receive any payment from the Fund until such time as all other eligible claimants have received from the Fund an amount equal to 30% of the compensatory damages awarded to those claimants under their final judgments.

But if the claimant has received *less than* 30% of the compensatory damages owed that claimant under the final judgment or source other than the Fund, such claimant may apply to the Special Master for the difference between the percentage of compensatory damages the claimant has received from other sources than the Fund and the percentage of compensatory damages to be awarded other eligible claimants from the Fund.

### **4.10 Is the provision considering whether 30% of compensatory damages have been paid a cap on my award?**

No. This statutory provision requires the Fund to compare payments of compensatory damages, so that all eligible claims receive 30% before any claimant receives more than 30%.

### **4.11 Will I be able to get a portion of my award paid prior to the Special Master’s final pro rata calculation?**

No. The Special Master will not authorize any emergency or advance award payments.

## **DISCUSSION DRAFT**

### **4.12 How long until I get my full award?**

The Special Master anticipates authorizing initial payments, as mandated by the statute, by the end of 2016. Because there is no way to precisely predict the amount of eligible claims or the total amounts to be deposited in the Fund, there is no way to predict what percentage of claimants' eligible claims will be paid.

### **4.13 Will my award determination tell me the full amount I will be entitled to?**

The final award decision will only inform the claimant as to his or her eligibility and the amount to be used in calculating the final award (the numerator to be used in the pro rata calculation). Because the award amounts are based on pro rata calculations in accordance with the terms of the statute, the Special Master cannot complete final award payments until the close of the Fund.

### **4.14 Will my award be subject to federal income taxes?**

The Special Master recommends that any tax-related questions be directed to a tax professional.

### **4.15 Will the Special Master publicize my award?**

The Special Master will not breach the confidentiality of any individual claimant. By statute, the Special Master is required, within 30 days after authorizing the payment of compensation of eligible claims, to submit to the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority of the Committee on the Judiciary of the Senate a report on the payment of eligible claims, including the number of applications approved and the amount of each award, the number of applications denied and the reasons for the denial, the number of applications for compensation that are pending for which compensatory damages have not been paid in full, and the total amount of compensatory damages from eligible claims that have been paid and that remain unpaid.

## **DISCUSSION DRAFT**

### **Section 5 – Hearing/Appeals**

#### **5.1 How long will hearings last?**

The statute does not set a specific time limit or format for the hearing. The Special Master will establish the procedures.

#### **5.2 Is the Special Master’s determination of my pro rata award considered a denial in part?**

No. A pro rata determination does not constitute a denial in part. The statute makes clear that if additional funds are available in the Fund a year after the date of the initial payment, the Special Master will authorize additional payments on a pro rata basis to those claimants with eligible claims.

#### **5.3 Will I be able to have a hearing?**

Hearings are not required and are voluntary. If your claim was denied in whole or in part, you may request a hearing. A claimant should not request a hearing believing that his or her advocacy can result in a different amount of compensation.

#### **5.4 Is there is a deadline to request a hearing?**

Yes. The claimant whose claim was denied in whole or in part has 30 days after receipt of a written decision by the Special Master to request a hearing.

#### **5.5 Who will conduct the hearings?**

The hearings will be conducted by the Special Master or designees of the Special Master.

#### **5.6 Can I request reconsideration of my award without formally appealing and having a hearing?**

Yes. Claimants may notify the Special Master of any error or mistake in either the eligibility or award calculation and request reconsideration without waiving their right to a hearing. However, requesting reconsideration does not toll the 30-day time period within which to request a hearing after receipt of the Special Master’s decision.

#### **5.7 How long will it take to get a decision after the hearing?**

The statute provides that not later than 90 days after a hearing the Special Master will issue a final written decision affirming or amending the original decision, although the Special Master will make every effort to issue decisions expeditiously. The written decision is final and non-reviewable.

## **DISCUSSION DRAFT**

### **Section 6 – Resources**

#### **6.1 Do I need to hire a lawyer to help me with my claim?**

You are not required to have a lawyer. However, you have the right to be represented by an attorney and you should be aware that you will be waiving and affecting rights to file lawsuits by your submission of a claim.

#### **6.2 How much of my claim award will my attorney be entitled to?**

Notwithstanding any retainer or other agreement for legal services you have entered, the statute states that no attorney shall charge, receive, or collect, and the Special Master will not approve, any payment of fees and costs that in the aggregate exceeds 25% of any award payment.

#### **6.3 What types of documents do I need to submit with my Application Form?**

Required documentation is in Parts [] of the [notice]. In order to help claimants prepare their claim package, the Special Master has developed a document checklist found at the end of the Application Form. Please refer to this checklist and the instructions for the Application Form for more information on documents that you need to submit.