



# **Takata Airbag Tort Compensation Trust Fund**

**Audited Special-Purpose Financial  
Statements with Supplementary Information  
For the Years Ended December 31, 2020 and  
December 31, 2019**

# **Takata Airbag Tort Compensation Trust Fund**

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Audited Special-Purpose Financial Statements  
with Supplementary Information  
For the Years Ended December 31, 2020  
and December 31, 2019

# Takata Airbag Tort Compensation Trust Fund

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## **Independent Auditor's Report**

Trustee  
Takata Airbag Tort Compensation Trust Fund  
Boston, Massachusetts

### ***Opinion***

We have audited the accompanying special-purpose financial statements of the Takata Airbag Tort Compensation Trust Fund (the Trust) (a statutory Trust originally created under the laws of the State of Delaware), which comprise the special-purpose statements of assets, liabilities, and net claimants' equity as of December 31, 2020 and 2019, and the related special-purpose statements of changes in net claimants' equity and the special-purpose statements of cash flows for the years then ended, and the related notes to the special-purpose financial statements.

In our opinion, the accompanying special-purpose financial statements present fairly, in all material respects, the net claimants' equity of the Trust as of December 31, 2020 and 2019, and the results of its changes in net claimants' equity and its cash flows for the years then ended, in accordance with the basis of accounting described in Note 2 to the special-purpose financial statements.

### ***Basis for Opinion***

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Special-Purpose Financial Statements section of our report. We are required to be independent of the Trust and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Emphasis of Matter - Basis of Accounting***

We draw attention to Note 2 of the special-purpose financial statements which describes the basis of accounting. As described in Note 2, these special-purpose financial statements were prepared on a special-purpose basis of accounting which is the basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter. The special-purpose basis of accounting has been used in order to communicate the amount of net assets presently available to fund current and future claims.

### ***Responsibilities of Management for the Special-Purpose Financial Statements***

Management is responsible for the preparation and fair presentation of the special-purpose financial statements in accordance with the basis of accounting as described in Note 2 to the



special-purpose financial statements. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of special-purpose financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the special-purpose financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Trust's ability to continue as a going concern within one year after the date that the special-purpose financial statements are issued or available to be issued.

### ***Auditor's Responsibilities for the Audit of the Special-Purpose Financial Statements***

Our objectives are to obtain reasonable assurance about whether the special-purpose financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the special-purpose financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the special-purpose financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the special-purpose financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Trust's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the special-purpose financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Trust's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.



***Other Matter - Restriction of Use***

Our report is intended solely for the information and use of the Trust and is not intended to be and should not be used by anyone other than the specified party. This restriction is not intended to limit the distribution of this report, upon filing with the United States Bankruptcy Court for the District of Delaware, is a matter of public record

*BDO USA, LLP*

McLean, Virginia  
April 21, 2021

## Special-Purpose Financial Statements

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# Takata Airbag Tort Compensation Trust Fund

## Special-Purpose Statements of Assets, Liabilities and Net Claimants' Equity

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<i>December 31,</i>	2020	2019
<b>Assets</b>		
Cash and cash equivalents	\$ 527,772	\$ 2,020,459
Investments	170,026,057	144,479,475
Interest receivable	79,191	764,903
<b>Total assets</b>	<b>170,633,020</b>	<b>147,264,837</b>
<b>Liabilities</b>		
Accounts payable and accrued expenses	224,717	331,838
<b>Total liabilities</b>	<b>224,717</b>	<b>331,838</b>
<b>Net claimants' equity</b>	<b>\$ 170,408,303</b>	<b>\$ 146,932,999</b>

*See accompanying notes to the special-purpose financial statements.*

**Takata Airbag Tort Compensation Trust Fund**  
**Special-Purpose Statements of Changes in Net Claimants' Equity**

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<i>Year Ended December 31,</i>	2020	2019
<b>Additions</b>		
Trust funding	\$ 66,649,303	\$ 34,677,589
Interest income	1,778,674	3,060,339
<b>Total additions</b>	<b>68,427,977</b>	<b>37,737,928</b>
<b>Deductions</b>		
Approved claims	35,262,419	15,316,491
Operating expenses	9,690,254	4,715,863
<b>Total deductions</b>	<b>44,952,673</b>	<b>20,032,354</b>
<b>Increase in net claimants' equity</b>	<b>23,475,304</b>	<b>17,705,574</b>
Net claimants' equity beginning of the year	146,932,999	129,227,425
<b>Net claimants' equity end of the year</b>	<b>\$ 170,408,303</b>	<b>\$ 146,932,999</b>

*See accompanying notes to the special-purpose financial statements.*

# Takata Airbag Tort Compensation Trust Fund

## Special-Purpose Statements of Cash Flows

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<i>Year Ended December 31,</i>	2020	2019
<b>Cash flows from operating activities:</b>		
Increase in net claimants' equity	\$ 23,475,304	\$ 17,705,574
Adjustments to reconcile the increase in net claimants' equity to net cash provided by operating activities:		
Changes in operating assets and liabilities:		
Interest receivable	685,712	(658,882)
Accounts payable and accrued expenses	(107,121)	23,639
<b>Net cash provided by operating activities</b>	<b>24,053,895</b>	<b>17,070,331</b>
<b>Cash flows from investing activities:</b>		
Purchases of Treasury bills	(533,165,015)	(491,453,883)
Maturities of Treasury bills	507,618,433	475,894,528
<b>Net cash used for investing activities</b>	<b>(25,546,582)</b>	<b>(15,559,355)</b>
<b>Net (decrease) increase in cash and cash equivalents</b>	<b>(1,492,687)</b>	<b>1,510,976</b>
Cash and cash equivalents at the beginning of the year	2,020,459	509,483
<b>Cash and cash equivalents at the end of the year</b>	<b>\$ 527,772</b>	<b>\$ 2,020,459</b>

*See accompanying notes to the special-purpose financial statements.*

# Takata Airbag Tort Compensation Trust Fund

## Notes to the Special-Purpose Financial Statements

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### 1. Description of the Trust

The Trust was established on April 10, 2018, as a Delaware Statutory Trust under the laws of the State of Delaware pursuant to an order of the U.S. Bankruptcy Court for the District of Delaware (Bankruptcy Court) pursuant to the Fourth Plan Supplement pursuant to the Fifth Amended Joint Chapter 11 Plan of Reorganization of TK Holdings Inc. and its Affiliated Debtors, filed March 26, 2018 (Plan). The Trust is governed by the provisions of the Trust Agreement dated as of April 10, 2018 (Trust Agreement), the Second Amended Trust Distribution Procedures (TDP), and related Bankruptcy Court approved documents. The provisions of the Trust Agreement, the TDP, and the approved documents are enforceable by the Bankruptcy Court, and, after the close of the TK Holdings Inc. Chapter 11 case, by the U.S. District Court for the District of Delaware (District Court).

The purpose of the Trust is to administer, process, settle, resolve, liquidate and pay certain claims for personal injury or wrongful death caused by the rupture or aggressive deployment of a Takata phase-stabilized ammonium nitrate airbag inflator, as set forth in the Trust Agreement and the TDP, and to preserve, hold and manage the Trust assets for use in paying such claims.

The Trust is administered by the Trustee, whose appointment was approved by the Bankruptcy Court. Eric D. Green was appointed Trustee of the Trust by the Bankruptcy Court. Wilmington Trust, N.A. serves as Delaware Trustee to the Trust.

The Trust is subject to certain review and consent procedures of the PSAN PI/WD Trust Advisory Committee, the PSAN PI/WD OEM (Original Equipment Manufacturers) Advisory Committee, and the Future Claimants' Representative.

The Trust is separate from the Individual Restitution Fund (IRF), established by the United States District Court for the Eastern District of Michigan (Michigan District Court) to compensate claimants for certain personal injuries or wrongful deaths caused by the rupture or aggressive deployment of a Takata phase-stabilized ammonium nitrate airbag inflator. The Trust and the IRF are designed to complement each other and to work in tandem to make distributions to claimants who seek compensation from the Trust and the IRF. Pursuant to the order of the Michigan District Court, the Trustee serves as Special Master of the IRF.

### 2. Summary of Significant Special-Purpose Accounting Policies

#### *Basis of presentation*

The Trust's financial statements are prepared using special-purpose accounting methods adopted by the Trustee, which differs from accounting principles generally accepted in the United States of America (GAAP). The special-purpose accounting methods were adopted in order to communicate to the beneficiaries of the Trust the net claimants' equity available for the payment of claims and the operating expenses of the Trust. Since the accompanying special-purpose financial statements are not based upon GAAP, the accounting treatment by other parties for these same transactions may differ as to timing and amount. The special-purpose accounting methods include the following:

- Trust assets are generally recorded when they are received by the Trust and are available for the payment of claims and the operating expenses of the Trust. The trust has recorded a receivable for interest earned but not received as of December 31, 2020 and 2019.

# Takata Airbag Tort Compensation Trust Fund

## Notes to the Special-Purpose Financial Statements

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- Certain assets of the Trust are restricted for the payment of certain claims and expenses related to such claims.
- Future fixed liabilities under contractual obligations and other agreements entered into by the Trust are recorded as deductions from net claimants' equity in the same period that such contractual obligations or agreements are signed. Under GAAP, liabilities and contractual obligations are recorded over the period that is benefited by the underlying contract or agreement.
- Payments for services to be received over an extended period in the future are expensed as paid because these amounts are no longer available for the payment of claims or operating expenses. Under GAAP, an asset would be recorded and amortized over the period in which the related benefits are received. The Trust has accrued for expenses incurred but not paid as of December 31, 2020 and 2019.
- Payments for property and equipment are expensed as incurred. Under GAAP, payments for property and equipment are capitalized and depreciated over the useful lives of the assets. To date, the Trust has incurred no expenses related to purchases of property and equipment.
- Under GAAP, a provision for income taxes is recorded based upon income reported for financial statement purposes, and federal income taxes currently payable and changes in deferred taxes due to differences between financial reporting and tax bases of assets and liabilities. Under GAAP, deferred taxes including measuring the benefit from the future use of net operating losses generated. The Trust records income tax expense (or benefit) associated with amounts payable (or receivable) under current federal income taxes, and does not record a provision for (or benefit from) deferred taxes. Accordingly, there is no provision for (or benefit from) deferred taxes.
- Under GAAP, for financial statement disclosure purposes all investments would be categorized based on the priority of inputs used to measure fair value. Under GAAP, inputs used in measuring fair value are categorized into three levels. Level 1 includes inputs that are based upon quoted prices for identical instruments traded in active markets. Level 2 includes inputs that are based upon quoted prices for similar instruments in active markets, quoted prices for identical or similar investments in markets that are not active, or models based on valuation techniques for which all significant assumptions are observable in the market or can be corroborated by observable market data for substantially the full term of the investment. Level 3 includes inputs that are generally unobservable and typically reflect management's estimates of assumptions that market participants would use in pricing the asset or liability. The fair values are therefore determined using model-based techniques that include option pricing models, discounted cash flow models, and similar techniques. The accompanying special-purpose financial statements do not categorize investments into these levels.
- The full amount of claims are expensed in the period in which the confirmed claims are settled. A settled claim is a claim that has been allowed by the Trust and accepted by the claimant, with an approved release. Under GAAP, a liability would be recorded for an estimate of the amount to be paid for claims that have been incurred but not yet reported, and for those claims that have been submitted but not yet approved for payment by the Trust.

# Takata Airbag Tort Compensation Trust Fund

## Notes to the Special-Purpose Financial Statements

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### *Use of estimates*

The preparation of special-purpose financial statements in conformity with the special-purpose accounting methods described above requires the Trust to make estimates and assumptions that affect the reported amounts of certain assets and liabilities and the disclosures of contingent assets and liabilities at the date of the special-purpose financial statements, as well as the reported amounts of additions and deductions to the net claimants' equity during the reporting period. Actual results could differ from those estimates and such differences could have a material effect on the net assets available for the payment of claims.

### *Cash and cash equivalents*

The Company considers all highly liquid investments with an original maturity of three months or less at the date of purchase to be cash equivalents. Cash equivalents represent funds invested in readily available and money market funds.

### *Investments*

The Trust generally invests its cash assets in U.S. Treasury bills. As of December 31, 2020, all of the Treasury bills had maturities of less than twelve months.

### *Accounts payable and accrued expenses*

Accounts payable and accrued expenses consist of outstanding invoices and accruals associated with managing the Trust during 2020 and 2019 that had not been paid as of December 31, 2020 and 2019, respectively. In addition, accrued expenses include \$10,613 of approved claims that have not been paid as of December 31, 2020. There were no approved claims that had not been paid as of December 31, 2019.

### *Operating expenses*

Operating expenses of the Trust are paid from the Trust's cash assets when invoices are received.

### *Income taxes*

The Trust is classified as a Qualified Settlement Fund pursuant to the Internal Revenue Code and Regulations thereunder (the Code). In general, a Qualified Settlement Fund is subject to federal income taxes based on modified gross income, as defined by the Code. For the years ended December 31, 2020 and 2019, the Trust did not incur any federal income tax liability. During the years ended December 31, 2020 and 2019 the Trust generated a net operating loss of approximately \$7,912,000 and \$1,700,000, respectively. As disclosed in Note 2 to the special-purpose financial statements, the Trust does not record a provision for (or benefit from) deferred taxes. Accordingly, there is no provision for a deferred tax asset associated with net operating losses.

The Trust is not subject to state income taxes and, therefore, the special-purpose financial statements do not include any provision or liability for state income taxes.

# Takata Airbag Tort Compensation Trust Fund

## Notes to the Special-Purpose Financial Statements

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### *Risks and uncertainties*

The Trust's assets that are exposed to credit risk consist primarily of cash and cash equivalents, and investments in Treasury bills. Cash and cash equivalents are maintained at financial institutions and, at times, balances may exceed federally insured limits. The Trust has never experienced any losses related to these balances. Amounts on deposit in excess of federally insured limits at December 31, 2020 approximate \$97,000.

Pursuant to a Bankruptcy Court approved investment policy for the Trust, the Trust invests a majority of its assets in U.S. Treasury bills which generate interest income. The amount of interest income to be earned by the Trust will be subject to fluctuations of yield based upon market conditions.

### **3. Initial Trust Funding and Trust Funding**

In 2018, the Trust was initially funded with \$133,906,272 of cash contributed by TK Holdings, Inc. and Affiliated Debtors, including Participating Original Equipment Manufacturers (POEM) assets, pursuant to the Plan and related court approved agreements. In 2020 and 2019, the Trust was funded with additional cash contributions of \$66,649,303 and \$34,677,589 including POEM assets. As part of the initial Trust funding in 2018, POEM assets for, Honda/Acura, contributed to the Trust were \$10,500,000. In 2020 and 2019, additional POEM contributions for Honda/Acura of \$22,602,948 and \$9,750,310 were made. POEM assets are available to the Trust to secure contribution obligations of the POEM in satisfaction of POEM claims and POEM expenses. For the year ended December 31, 2020, there were two POEM parties; Honda/Acura and Nissan. In 2019, Nissan timely notified the Trust and elected to comply with the POEM provisions set forth in the Plan and related court approved agreements. In 2020 and 2019, Nissan contributed \$5,606,886 and \$323,929 to the Trust as Nissan POEM assets.

### **4. Related Parties**

Pursuant to Bankruptcy Court approved agreements, the Trustee performs his duties under the Trust Agreement, the TDP and the related documents through retention agreements with several service providers, including Resolutions, LLC, which is a related party to the Trustee. For the years ended December 31, 2020 and 2019, the Trust incurred \$1,207,775 and \$1,715,699, respectively, for services performed by Resolutions, LLC. As of December 31, 2020 and 2019 the Trust had \$100,000 and \$140,000, respectively, payable to Resolutions, LLC for services performed during years ended December 31, 2020 and 2019.

### **5. Contingent Liabilities**

The Trust Agreement subjects the Trust to certain indemnification obligations that may result in future claims against the Trust. The probability of such claims cannot be reasonably determined. Accordingly, no associated liability has been recorded in the accompanying special-purpose financial statements. Such claims, if any, are not expected to be material. The Trust has obtained liability insurance with respect to its obligations to indemnify the Trustee, the members of the Trust Advisory Committee, the Future Claimants' Representative and certain service providers to the Trust.

# Takata Airbag Tort Compensation Trust Fund

## Notes to the Special-Purpose Financial Statements

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### 6. Trust Liability Insurance

The Trust purchased liability insurance requiring premiums of \$287,850 in 2018 for the policy term through November 11, 2022. The Trust's special-purpose accounting policy is to expense in the current period any amounts that will not be available to pay future claims or operating expenses of the Trust. Accordingly, insurance premiums paid were recorded as reductions in net claimants' equity during the period from April 10, 2018 (inception) through December 31, 2018. The trust had no additional insurance premiums paid during 2020 or 2019.

### 7. Claim Liabilities

The TDP is designed to provide an efficient process to fairly and reasonably compensate, as swiftly as possible, certain valid personal injury and wrongful death claims as set forth in the Trust Agreement and the TDP. The TDP distinguishes between (i) TD (Takata Defendant) claims, which are current and future personal injury or wrongful death claims arising out of the rupture or aggressive deployment of a Takata phase-stabilized ammonium nitrate airbag inflator (other than POEM claims), and (ii) POEM claims which are current and future personal injury or wrongful death claims arising out of the rupture or aggressive deployment of a Takata phase-stabilized ammonium nitrate airbag involving a vehicle manufactured or sold by a POEM. By agreement with each of the POEMs, the Trust has the goal of fully compensating POEM claims through additional POEM contributions to the Trust.

The TDP establishes a relative valuation process adopted from and approved by the Michigan District Court with respect to the IRF. That valuation process classifies each compensable claim into an injury category which is assigned points. The points assigned to each claim are converted into a monetary award based on the value of each point. The dollar value of each point may be adjusted periodically in accordance with the provisions of the TDP.

The Trust is also responsible for administering and valuing "Other PI/WD Claims": personal injury or wrongful death claims caused by a Takata product other than a PSAN inflator. Unlike TD claims and POEM claims, Other PI/WD claims are not governed by the TDP. Approximately \$3,700,000 and \$1,000,000 is currently reserved to pay Other PI/WD claims as of December 31, 2020 and 2019, respectively. A portion of this reserve may be reallocated to compensate TD claims depending on the final disposition on all Other PI/WD claims.

### 8. Risks and Uncertainties

On January 30, 2020, the World Health Organization (WHO) announced a global health emergency because of a new strain of coronavirus originating in Wuhan, China (the COVID-19 outbreak) and the risks to the international community as the virus spreads globally beyond its point of origin. In March 2020, the WHO classified the COVID-19 outbreak as a pandemic, based on the rapid increase in exposure globally.

The Trust faces various risks related to the global outbreak of COVID-19, and the full impact of the COVID-19 pandemic continues to evolve as of the date of this report. The COVID-19 pandemic has adversely affected global economic activity and greatly contributed to significant volatility in financial markets through the date of issuance of these special-purpose financial statements. The

# Takata Airbag Tort Compensation Trust Fund

## Notes to the Special-Purpose Financial Statements

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Trustee, Trust advisors, and management of the Trust are actively monitoring the impact of this global situation on the Trust's financial condition and operations. Given the daily evolution of the COVID-19 pandemic and the global responses to curb its spread, the Trust is not able to estimate the long-term effects of the COVID-19 pandemic on its financial condition and operations.

In addition, on March 27, 2020, the President of the United States signed into law the "Coronavirus Aid, Relief and Economic Security (CARES) Act". The CARES Act, among other things, includes provisions for an elective five-year carryback of net operating losses (NOLs) generated in taxable years beginning after December 31, 2017 and before January 1, 2021. Taxpayers may elect to relinquish the entire five-year carryback period with respect to a particular year's NOL, with the election being irrevocable once made. In addition, the 80% limitation on NOL deductions arising in taxable years beginning after December 31, 2017 has temporarily been pushed to taxable years beginning after December 31, 2020.

The Trustee, Trust advisors, and management of the Trust continue to examine the impact that the CARES Act may have on the Trust's long term financial condition and operations.

### **9. Subsequent Events**

The Trust has evaluated its December 31, 2020 special-purpose financial statements for subsequent events through April 21, 2021, the date the special-purpose financial statements were available to be issued. The Trust is not aware of any subsequent events which would require recognition or disclosure in the special-purpose financial statements.

## Supplementary Information

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## Independent Auditor's Report on Supplementary Information

Trustee  
Takata Airbag Tort Compensation Trust Fund  
Boston, Massachusetts

Our audit of the special-purpose financial statements included in the preceding section of this report was conducted for the purpose of forming an opinion on those special-purpose statements as a whole. The supplementary information presented in the following section of this report is presented for purposes of additional analysis and is not a required part of those special-purpose financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the special-purpose financial statements. The information has been subjected to the auditing procedures applied in the audit of the special-purpose financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the special-purpose financial statements or to the special-purpose financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the special-purpose financial statements as a whole.

*BDO USA, LLP*

April 21, 2021

# Takata Airbag Tort Compensation Trust Fund

## Supplementary Schedules of Operating Expenses

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<i>Year Ended December 31,</i>	2020	2019
Legal fees and expenses	\$ 6,653,532 *	\$ 1,072,953
Trustee fees and expenses	1,210,775	1,715,699
Other professional fees and expenses	1,079,739	624,761
Future Claimants' Representative and Future Claimants' Representative Counsel fees and expenses	350,462	818,159
Claims administrator fees and expenses	161,749	277,246
Accounting fees and expenses	159,723	122,241
Insurance expenses	57,700	28,750
Trust Advisory Committee fees and expenses	16,264	55,814
Miscellaneous operating expenses	310	240
<b>Total operating expenses</b>	<b>\$ 9,690,254</b>	<b>\$ 4,715,863</b>

*See independent auditor's report on supplementary information.*

\* A significant portion of legal fees incurred in FY 2020 relate to a contingency fee payment made to Trust insurance counsel following a substantial insurance settlement.