

U.S. Victims of State Sponsored Terrorism Fund

Payment Calculation Explanation for 9/11-Related Claims

August 2020

Important Note: This explanation does NOT apply to non-9/11-related claims. Please refer to the separate “Payment Calculation Explanation for Non-9/11-Related Claims.”

This explanation shows how the U.S. Victims of State Sponsored Terrorism Fund (USVSST Fund) applies the governing statute, 34 U.S.C. § 20144¹ (Act), to determine eligible **9/11-related** claimants’ award amounts. It includes discussion of the most relevant subsections of the Act, a description of the methodology, and calculation examples. The frequently asked questions (FAQs), available on the USVSST Fund’s website at www.usvsst.com, provide additional information.

The USVSST Fund Clarification Act, passed in November 2019, amended some of the Act’s provisions regarding payment calculations. First, it required the USVSST Fund to divide the total amount of funds available for the third distribution in half, and allocate one-half to 9/11-related claimants and the other half to non-9/11-related claimants. Act § (d)(3)(A)(i). For the third round, the USVSST Fund allocated a total of \$1.075 billion for the entire distribution. Accordingly, when calculating third-round payments, the USVSST Fund allocated \$537.5 million for eligible 9/11-related claimants, and \$537.5 million for non-9/11-related claimants.²

In addition, the Clarification Act made other significant changes to the calculation methodology for 9/11-related claimants’ awards. The Clarification Act removed a statutory provision that previously precluded USVSST Fund payments to otherwise eligible claimants if they had received an award or award determination from the 9/11 Victim Compensation Fund (VCF) under section 405 of the Air Transportation Safety and System Stabilization Act. Accordingly, under the Clarification Act, if a 9/11 victim or immediate family member has a qualifying claim, he or she may receive compensation from the USVSST Fund regardless of whether he or she did or did not apply to the VCF. In the initial and second round of distributions, some otherwise eligible claimants could not receive payment from the USVSST

¹ The statute incorporates the Justice for United States Victims of State Sponsored Terrorism Act, Pub. L. No. 114-113, div. O, title IV, § 404 (Dec. 18, 2015), as amended by the United States Victims of State Sponsored Terrorism Fund Clarification Act, Pub. L. No. 116-69, div. B, title VII, § 1701 (Nov. 21, 2019).

² In previous rounds of distribution, a single calculation methodology applied to all claimants. The USVSST Fund allocated all funds to eligible claimants in a single *pro rata* calculation, subject to the statutory limitations.

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Fund due to the superseded statutory provision relating to the VCF. These claimants may now be included in payment calculations, along with all other eligible 9/11-related claimants.³

The Act also places limits on the amount of compensatory damages included in the USVSST Fund's payment calculations. As explained below and in the examples, in the event any applicant is awarded a judgment with gross compensatory damages that exceed \$20 million, the Special Master will treat that claim as if the compensatory award were \$20 million. Act § (d)(3)(A)(ii)(I). This \$20 million individual cap applies to all claimants (9/11-related and non-9/11-related), and has been in effect since the USVSST Fund's inception.

The Act applies family-based limitations on awards, in addition to the individual cap. The Clarification Act mandates different family caps for the 9/11-related victims and their families than for non-9/11-related victims and their families. The Clarification Act applies a \$35 million cap⁴ to family groups comprised of 9/11 victims, 9/11 spouses, and 9/11 dependents. Act § (d)(3)(A)(ii)(III); *see also* (j)(10)-(14) (defining terms). The Clarification Act applies a lower \$20 million cap to family groups comprised of 9/11 family members who are not 9/11 victims, 9/11 spouses, or 9/11 dependents. *Id.* at (d)(3)(A)(ii)(IV). This lower cap applies to, for example, non-dependent parents or siblings of 9/11 victims. The USVSST Fund applies the \$20 million individual cap before applying the relevant family cap (\$35 million or \$20 million), and then uses these adjusted amounts when calculating payments. These new family caps for 9/11-related claims in the Clarification Act mean that some eligible 9/11-related claimants from the initial and second rounds of distributions may be subject to different family groupings and caps in the third round than in those prior rounds.

The sections below explain further how the USVSST Fund calculated awards to allocate the \$537.5 million available for eligible 9/11-related claimants, incorporating the requirements in the Act, as amended by the Clarification Act.

I. Payments are *Pro Rata*

The key sections of the Act that govern the calculation of an eligible claimant's compensation are found in subsection (d), titled "Payments." In general, the USVSST Fund pays eligible claimants *pro rata*⁵ based on the compensatory damage award in qualifying judgments.⁶ Only eligible claims with "amounts outstanding and unpaid" are included in the calculation.

³ The Clarification Act provides that the amendments it made to the USVSST Fund's statute "shall take effect on the date of the enactment of this Act [Nov. 21, 2019.]" Pub. L. No. 116-69, div. B, title VII, § 1701(d) (Nov. 21, 2019). Therefore, the Clarification Act's provisions affecting calculation of 9/11-related claimants' awards do not affect any previous distributions. Moreover, the Clarification Act included a specific provision that the Special Master's previous determinations regarding treating VCF award amounts as controlling (before the enactment) "shall not prejudice a claim of a 9/11 victim, 9/11 spouse, or 9/11 dependent." *Id.* at (c).

⁴ The \$35 million family cap for non-9/11-related claimants has been in effect since the inception of the USVSST Fund and is explained further in the separate "Payment Calculation Explanation for Non-9/11-Related Claims."

⁵ "Except as provided in subparagraph (B) and subject to the limitations described in clause (ii), the Special Master shall carry out paragraph (1), by ... dividing the funds ... on a pro rata basis, based on the amounts outstanding and unpaid on eligible claims..." Act § (d)(3)(A)(i)(II)-(III).

⁶ *See also* Act § (c)(1)-(2).

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Act § (d)(3)(A)(i). Claimants who have already received full payment of their compensatory damages will not receive any compensation from the USVSST Fund.

II. Individual and Family Caps for 9/11-Related Claims

Certain provisions of the Act limit payments if compensatory damage amounts exceed certain amounts: \$20 million for individuals, and then one of two different family caps for 9/11-related claims: a \$35 million cap for family groups comprised of 9/11 victims, 9/11 spouses, and 9/11 dependents; and a \$20 million cap for family groups comprised of 9/11 family members who are not 9/11 victims, 9/11 spouses, or 9/11 dependents.⁷ The USVSST Fund groups 9/11-related claimants according to these statutory requirements. Specifically, 9/11-related claimants are assigned to family groups based on their status as 9/11 victims or their relationships to a 9/11 victim as a 9/11 spouse, 9/11 dependent, or 9/11 family member, as defined in the Act.

Individual cap: If an individual claimant has an eligible compensatory damage award amount in a qualifying judgment of more than \$20 million, the USVSST Fund will calculate his or her award as if the amount were \$20 million.

*Example:*⁸ An individual claimant's compensatory damage amount is \$25 million in the judgment. When calculating payments, the USVSST Fund must treat this claim as the statutory maximum for an individual claim: \$20 million.

Family Cap – 9/11 Victim, Spouse, and Dependents: Groups of 9/11 victims, 9/11 spouses, and 9/11 dependents whose total compensatory damages in qualifying judgments add up to more than \$35 million are subject to a separate family cap. The USVSST Fund will calculate their awards after adjusting the damage amounts so that the total eligible compensatory damage amounts for the 9/11 victim, 9/11 spouse, and 9/11 dependent do not exceed \$35 million.

Example: Five claimants in this type of 9/11 family group have individual judgments of \$10 million each. (*See* chart below). The family group's total damages are therefore \$50 million, which exceeds the Act's cap of \$35 million for a 9/11 victim, 9/11 spouse, and 9/11 dependents. When calculating payments, the USVSST Fund must allocate the \$35 million family cap for these claims among them in proportion to their individual compensatory damage awards. Therefore, the USVSST Fund must treat each claim as if it is \$7 million (\$35 million allocated among the five equal claims).

⁷ As explained more fully below, the USVSST Fund applies the individual cap before applying the family cap.

⁸ The USVSST Fund does not disclose information about individual claimants. The examples in this document illustrate how the USVSST Fund calculates awards – they do not represent actual claims.

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	9/11 Victim	9/11 Spouse	9/11 Dependent A	9/11 Dependent B	9/11 Dependent C	Group Total
Judgment Award Amount	\$10 million	\$10 million	\$10 million	\$10 million	\$10 million	\$50 million
After Family Cap	\$7 million	\$7 million	\$7 million	\$7 million	\$7 million	\$35 million

Family Cap – 9/11 Family Members: There is a different, lower cap for groups of 9/11 family members who are not 9/11 victims, spouses, or dependents. Depending on individual families’ circumstances, these 9/11 family member groups could include, for example, 9/11 victims’ non-dependent siblings or parents. If these 9/11 family member groups’ total compensatory damages in qualifying judgments add up to more than \$20 million, they are subject to this cap. The USVSST Fund will calculate their awards after adjusting the damage amounts so that the total eligible compensatory damage amounts for the 9/11 family members’ claims do not exceed \$20 million.

Example: Five claimants in this type of 9/11 family group have individual judgments of \$10 million each. (See chart below). The family group’s total damages are therefore \$50 million, which exceeds the Act’s cap of \$20 million for groups of 9/11 family members. When calculating payments, the USVSST Fund must allocate the \$20 million family cap for these claims among them in proportion to their individual compensatory damage awards. Therefore, the USVSST Fund must treat each claim as if it is \$4 million (\$20 million allocated among the five equal claims).

	9/11 Family Member A	9/11 Family Member B	9/11 Family Member C	9/11 Family Member D	9/11 Family Member E	Family Group Total
Judgment Award Amount	\$10 million	\$10 million	\$10 million	\$10 million	\$10 million	\$50 million
After Family Cap	\$4 million	\$4 million	\$4 million	\$4 million	\$4 million	\$20 million

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The Individual Cap Applies Before the Family Cap: The USVSST Fund will apply the individual cap first, and then the relevant family cap. For some family groups, applying the individual cap may mean that the group’s total compensatory damages no longer exceed the family cap.

Example: A 9/11 victim, spouse, and dependent have judgments: the victim has a \$45 million damage amount; the spouse and dependent each have \$5 million judgments. See chart below. The USVSST Fund must treat the 9/11 victim’s individual claim of \$45 million as the statutory individual maximum, \$20 million. After applying the individual cap, reducing the 9/11 victim’s \$45 million damage amount to \$20 million, the relevant 9/11 family group cap is not triggered.

	9/11 Victim	9/11 Spouse	9/11 Dependent	Group Total
Judgment Award Amount	\$45 million	\$5 million	\$5 million	\$55 million
After Individual Cap	\$20 million	\$5 million	\$5 million	\$30 million

For other family groups, some individuals may have their gross compensatory damage award amounts capped at \$20 million, and then further reduced when the family cap is applied.

Example: A 9/11 victim, spouse, and dependent have judgments; the 9/11 victim has a \$45 million damage amount; the spouse has \$25 million; and the dependent has \$10 million. See chart below. The USVSST Fund must treat the 9/11 victim’s claim of \$45 million as the statutory maximum for individuals, \$20 million. The USVSST Fund must also treat the 9/11 spouse’s claim of \$25 million as the statutory maximum, \$20 million. After applying the individual cap, the family group cap is triggered because the total still exceeds the statutory maximum of \$35 million. The USVSST Fund allocates the \$35 million family cap among the family group members in proportion to their individual compensatory damage awards, after applying the individual caps.

	9/11 Victim	9/11 Spouse	9/11 Dependent	Group Total
Judgment Award Amount	\$45 million	\$25 million	\$10 million	\$80 million
After Individual Cap	\$20 million	\$20 million	\$10 million	\$50 million
After Family Group Cap	\$14 million	\$14 million	\$7 million	\$35 million

The same processes would reduce the awards of 9/11 family members who are not 9/11 victims, spouses, or dependents – however, those family groups are subject to the lower \$20 million cap. If a group of 9/11 family members had the same award amounts shown in the chart above, their awards would first be reduced by the individual cap, and then be reduced to meet the lower \$20 million cap for 9/11 family member groups.

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Example: A group of three 9/11 family members has judgments: 9/11 Family Member A has a \$45 million damage amount; 9/11 Family Member B has \$25 million; and 9/11 Family Member C has \$10 million. *See* chart below. The USVSST Fund must treat 9/11 Family Member A’s claim of \$45 million as the statutory maximum for individuals, \$20 million. The USVSST Fund must also treat 9/11 Family Member B’s claim of \$25 million as the statutory maximum, \$20 million. After applying the individual cap, the family group cap is triggered because the total still exceeds the statutory maximum of \$20 million. The USVSST Fund allocates the \$20 million family cap among the family group members in proportion to their individual compensatory damage awards, after applying the individual caps.

	9/11 Family Member A	9/11 Family Member B	9/11 Family Member C	Group Total
Judgment Award Amount	\$45 million	\$25 million	\$10 million	\$80 million
After Individual Cap	\$20 million	\$20 million	\$10 million	\$50 million
After Family Group Cap	\$8 million	\$8 million	\$4 million	\$20 million

III. Payments from Other Sources

Certain provisions of the Act limit payments to eligible claimants – both 9/11-related and non-9/11-related – who have received payments from sources other than this Fund.⁹ They do not apply to eligible claimants who have not received any such payments.

One subsection applies only to claimants who have received 30 percent or more of their compensatory damages from sources other than this Fund. It provides that these claimants “shall not receive any payment from the USVSST Fund until such time as all other eligible applicants have received from the USVSST Fund an amount equal to 30 percent of the compensatory damages.”¹⁰ This is determined using the amount of payments from other sources and the

⁹ “The term ‘source other than this Fund’ means all collateral sources, including life insurance, pension funds, death benefit programs, payments by Federal, State, or local governments, and court awarded compensation related to the act of international terrorism that gave rise to a claimant’s final judgment.” Act § (j)(6). All USVSST Fund applicants must identify all such other sources. The Special Master retains discretion in assessing any identified source other than this Fund and determining how it will factor into an award calculation. As one 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 affect claimants’ awards. Moreover, money claimants received from the VCF, whether as an award, award determination, or estate distribution, is not considered in USVSST Fund award calculations. *See* FAQ 4.8 on the USVSST Fund’s website. Throughout this paper, “payments from sources other than this Fund” is used exclusively to refer to those payments included in the calculations.

¹⁰ “Any applicant with an eligible claim described in subsection (c)(2) who has received, or is entitled or scheduled to receive, any payment that is equal to, or in excess of, 30 percent of the total compensatory damages owed to such applicant on the applicant’s claim from any source other than this Fund shall not receive any payment from the Fund until such time as all other eligible applicants have received from the Fund an amount equal to 30 percent of the compensatory damages awarded to those applicants pursuant to their final judgments or to claims under subsection (c)(2)(B) or (c)(2)(C). For purposes of calculating the pro rata amounts for these payments, the Special Master shall

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compensatory damages (or the capped amounts described above, if applicable). The USVSST Fund cannot include these claimants in its payment calculations, because no claimants have yet received, nor will any claimants after the third round of payments have received, payments of 30 percent of their compensatory damages from the USVSST Fund. For 9/11-related claimants, the payment percentages for the first three rounds of payments combined total 18.61 percent.¹¹

Example: A claimant has compensatory damages of \$10 million, and has received \$4 million from sources other than this Fund. Because this claimant has received 40 percent of her damages, she will not receive a payment from the USVSST Fund.

A separate subsection applies to claimants who have received some payments from sources other than the USVSST Fund, but these payments do not total 30 percent or more of their gross compensatory damages.¹² The subsection requires the USVSST Fund to account for claimants' payments from sources other than this Fund when calculating awards from the USVSST Fund.¹³

As explained in the methodology below, the USVSST Fund will calculate the "maximum potential payment amount" due from the USVSST Fund. Claimants who have received some compensation from other sources will have their award amounts reduced from this maximum to reflect these payments from other sources. Claimants who have received more than the maximum potential payout amount from sources other than the USVSST Fund will not receive payments. *See also* Section V, calculation examples, below.

IV. Methodology for Calculating Payments

The sections of the Act discussed above mandate the methodology for the award calculations. The funds available for 9/11-related claimants must be distributed *pro rata* to these eligible claimants after accounting for the individual cap of \$20 million, the family cap of either \$35 million or \$20 million, and compensation from sources other than the USVSST Fund. This section explains the fundamental methodology of calculating awards.

Payment Percentage: For purposes of the USVSST Fund's calculations, a "payment percentage" is computed. The payment percentage is the amount of funds available to pay to all

not include the total compensatory damages for applicants excluded from payment by this subparagraph." Act § (d)(3)(B)(i).

¹¹ The payment percentage for the initial round of payments was 13.6561 percent (generally rounded to 13.66 percent in USVSST Fund communications). The payment percentage for the second round of payments was 4.1955 percent (generally rounded to 4.2 percent in USVSST Fund communications). The payment percentage for 9/11-related claimants in the third round of payments is 0.7568 percent (generally rounded to 0.76 percent in USVSST Fund communications). The payment percentage total for all three rounds for 9/11-related claimants is 18.6084 percent, rounded here to 18.61 percent.

¹² "To the extent that an applicant with an eligible claim has received less than 30 percent of the compensatory damages owed that applicant under a final judgment or claim described in subsection (c)(2) from any source other than this Fund, such applicant may apply to the Special Master for the difference between the percentage of compensatory damages the applicant has received from other sources and the percentage of compensatory damages to be awarded other eligible applicants from the Fund." Act § (d)(3)(B)(ii).

¹³ Money claimants received from the VCF, whether as an award, award determination, or estate distribution, is not considered an offset and is not considered in USVSST Fund award calculations. *See* FAQ 4.8 on the USVSST Fund's website.

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9/11-related eligible claimants¹⁴ divided by their compensatory damages after accounting for the individual cap of \$20 million, and the family caps (either \$35 million or \$20 million), and compensation from sources other than this Fund (see below). **For third-round payments, the USVSST Fund payment percentage for 9/11-related claimants is 0.76 percent.**¹⁵

Payment Percentage = $\frac{\text{Total Amount of Funds Available for Distribution to 9/11-Related Eligible Claimants}}{\text{Compensatory Damages (after accounting for the individual and family caps and compensation from sources other than this Fund)}}$

Divided by

Compensatory Damages (after accounting for the individual and family caps and compensation from sources other than this Fund)

Maximum potential USVSST Fund award amount: When performing payment calculations, the USVSST Fund also calculates a maximum potential USVSST Fund award amount for each 9/11-related claimant. The maximum potential USVSST Fund award amount is the payment percentage of the claimant’s compensatory damages after applying the caps. For 9/11-related third-round payments, this is calculated by determining 0.76 percent of the post-caps amount. Thereafter, the USVSST Fund will offset the compensation from other sources, if any, to determine the USVSST Fund award payment.

The USVSST Fund payment calculation methodology is the same for all eligible 9/11-related claimants. There are six basic steps in the calculation.

1. Determine the amount of gross compensatory damages.
2. Apply the \$20 million individual cap, if applicable.
3. Apply the \$35 million or \$20 million family cap, if applicable.
4. Determine the amount of compensation received from sources other than the USVSST Fund.¹⁶
5. Compute the maximum potential USVSST Fund award amount (before accounting for compensation from other sources).
6. Compute the USVSST Fund award payment (maximum potential Fund award amount less compensation from sources other than this Fund).

¹⁴ The USVSST Fund allocated \$537.5 million for third-round payments to eligible 9/11-related claimants.

¹⁵ The USVSST Fund has rounded this from the 0.7568 percent figure used in the actual calculations. (Note that the payment percentage for non-9/11-related claimants in the third round of payments is 5.84 percent.)

¹⁶ As noted earlier, VCF awards are not considered “sources other than the USVSST Fund” in this calculation. See n.13, *supra*.

V. Illustrative Examples of the Calculations Used to Determine USVSST Fund Payments to 9/11-Related Claimants Under Varying Circumstances

The following illustrative examples show the calculations used to determine a USVSST Fund award payment for 9/11-related claimants participating in the third round of payments. The USVSST Fund does not disclose information about individual claimants. The examples in this document illustrate how the USVSST Fund calculates awards – they do not represent actual claims.

In these examples, the payment percentage (explained above) is assumed to be 10 percent. **The 10 percent payment percentage in these examples is used to simplify the arithmetic. As noted above, the USVSST Fund payment percentage for 9/11-related claimants is 0.76 percent for third-round payments.**

The examples show calculations for four situations:

1. Claimants Without Compensation from Other Sources, Individual Claimant (no other family members)
2. Claimants Without Compensation from Other Sources, Individual Claimant (with family members)
3. Claimants With Compensation from Other Sources, Individual Claimant (no other family members)
4. Claimants With Compensation from Other Sources, Individual Claimant (with family members)

1. Claimants Without Compensation from Other Sources *Individual Claimant, No Family Members, No Compensation from Other Sources*

These individuals are subject to the individual \$20 million cap, and the \$35 million or \$20 million family cap, if applicable. The following examples show the computation of the USVSST Fund award payment under alternative scenarios.

Example 1 (chart below) shows the calculation of the USVSST Fund award payment for an individual claimant (with no immediate family members who are also eligible claimants) who has a judgment of \$45 million in gross compensatory damages. The individual cap applies to limit the eligible compensatory amount to \$20 million. The family cap does not apply. No adjustments for payments from other sources are required.

The maximum potential award amount from the USVSST Fund is \$2 million (10 percent of the \$20 million eligible compensatory amount after applying the individual cap – the family cap is not relevant here). The individual claimant did not receive compensation from other sources so the USVSST Fund pays the entire maximum potential Fund award amount as the USVSST Fund award payment.

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Example 1:

Category/Computation	Individual Claimant
Gross Compensatory Damage Amount	\$ 45,000,000
Compensatory Damages after Applying Individual Cap	\$ 20,000,000
Compensatory Damages after Applying Individual and Family Cap (No change: no eligible family members, so no family cap applies.)	\$ 20,000,000
Amount Received from Other Sources	
Amount	\$0
Percent of Gross Compensatory Damages	0%
Maximum Potential Fund Award Amount	\$ 2,000,000
Less: Amount Received from Other Sources	\$0
Equals: USVSST Fund Award Payment	\$ 2,000,000
Grand Total: Amount Received from USVSST and Other Sources	\$ 2,000,000

2. Claimants Without Compensation from Other Sources

Claimants with Family Members who are also Eligible Claimants, No Compensation from Other Sources

Examples 2A and 2B show the computations when the individual has immediate family members who are also eligible claimants. Therefore, the claimant is potentially subject to both the individual and the family caps. The individual cap is applied first, which eliminates the need to apply the family cap in some cases, as shown below.

In example 2A (chart below), gross compensatory damages total \$55 million for a family group comprised of a 9/11 victim, spouse, and dependent; therefore, the \$35 million family limitation is exceeded. However, the 9/11 victim has a judgment of \$45 million, which is the primary reason for exceeding the family cap. As for all eligible claimants, the first step in the calculation is to apply the \$20 million individual cap. When the individual cap is applied, the family group's total compensatory damages are reduced to \$30 million – so the relevant \$35 million family cap is no longer triggered.

The maximum potential award amount from the USVSST Fund for the family group is \$3 million (10 percent of the compensatory damages after applying the individual and family caps). No family members received compensation from other sources. Accordingly, the USVSST Fund pays the entire potential award amount as the USVSST Fund award payment.

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Example 2A:

Category/Computation	9/11 Victim	9/11 Spouse	9/11 Dependent	Family Total
Gross Compensatory Damage Amount	\$45,000,000	\$ 5,000,000	\$ 5,000,000	\$55,000,000
Compensatory Damages after Applying Individual Cap	\$20,000,000	\$ 5,000,000	\$ 5,000,000	\$30,000,000
Compensatory Damages after Applying Individual and Family Cap	\$20,000,000	\$ 5,000,000	\$ 5,000,000	\$30,000,000
Amount Received from Other Sources				
Amount	\$0	\$0	\$0	\$0
Percent of Gross Compensatory Damages	0%	0%	0%	n/a
Maximum Potential Fund Award Amount	\$ 2,000,000	\$ 500,000	\$ 500,000	\$ 3,000,000
Less: Amount Received from Other Sources	\$0	\$0	\$0	\$0
Equals: USVSST Fund Award Payment	\$ 2,000,000	\$ 500,000	\$ 500,000	\$ 3,000,000
Grand Total: Amount Received from USVSST and Other Sources	\$ 2,000,000	\$ 500,000	\$ 500,000	\$ 3,000,000

Example 2B (chart below) shows the calculation in a situation where the \$35 million family cap affects the calculations. As for all eligible claimants, the individual cap is applied first, but the family’s total compensatory amount remains \$50 million even after that, so the family cap is still exceeded. Each family member must have his or her compensatory damages limited proportionally (*pro rata* shares of the \$35 million capped amount). The individuals’ compensatory damage amounts are reduced using the same factor – the ratio of \$35 million (the cap) divided by \$50 million (the post-individual cap total). Since the 9/11 victim and spouse have the same eligible compensatory amount after applying the individual cap (\$20 million), they have the same compensatory damage amount of \$14 million (\$20 million times \$35 million divided by \$50 million) after applying the family cap. The 9/11 dependent (unaffected by the individual cap) has a compensatory damage amount of \$7 million after applying the family cap using the same factor (\$10 million times \$35 million divided by \$50 million).

Next, the USVSST Fund payment percentage is used to calculate the maximum potential award amount from the USVSST Fund for the individuals (10 percent of the eligible award amounts). For the entire family, this totals \$3.5 million (10 percent of the compensatory damages after applying the individual and family caps). No family members received compensation from other sources and therefore, the USVSST Fund pays the entire maximum potential award amount as the USVSST Fund award payment.

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Example 2B:

Category/Computation	9/11 Victim	9/11 Spouse	9/11 Dependent	Family Total
Gross Compensatory Damage Amount	\$45,000,000	\$25,000,000	\$10,000,000	\$80,000,000
Compensatory Damages after Applying Individual Cap	\$20,000,000	\$20,000,000	\$10,000,000	\$50,000,000
Compensatory Damages after Applying Individual and Family Cap	\$14,000,000	\$14,000,000	\$ 7,000,000	\$35,000,000
Amount Received from Other Sources				
Amount	\$0	\$0	\$0	\$0
Percent of Gross Compensatory Damages	0%	0%	0%	n/a
Maximum Potential Fund Award Amount	\$ 1,400,000	\$ 1,400,000	\$ 700,000	\$ 3,500,000
Less: Amount Received from Other Sources	\$0	\$0	\$0	\$0
Equals: USVSST Fund Award Payment	\$ 1,400,000	\$ 1,400,000	\$ 700,000	\$ 3,500,000
Grand Total: Amount Received from USVSST and Other Sources	\$ 1,400,000	\$ 1,400,000	\$ 700,000	\$ 3,500,000

3. Claimants With Compensation from Other Sources

Individual Claimant, No Family Members, With Compensation from Other Sources

These individuals are potentially subject to the individual cap of \$20 million, the relevant family cap of \$35 million or \$20 million, and adjustments of the maximum potential USVSST Fund award amount to account for compensation received from other sources. The following examples show the computation of USVSST Fund award payment amounts in several of these scenarios.

Example 3 (chart below) shows the calculation of a USVSST Fund award payment for an individual claimant (no family members) who has a judgment of \$45 million and has received \$1 million from other sources. After applying the individual cap, the claimant's eligible compensatory amount is \$20 million. Thereafter, the calculation accounts for the payment percentage and the payment from other sources.

The maximum potential award amount from the USVSST Fund is \$2 million (10 percent of the eligible compensatory amount after applying the individual and family caps – although the family cap is not relevant here). The claimant received \$1 million in compensation from sources other than this Fund and thus, the USVSST Fund award payment amount is \$1 million (the \$2 million maximum potential award amount less \$1 million received from other sources).

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Example 3:

Category/Computation	Individual Claimant
Gross Compensatory Damage Amount	\$ 45,000,000
Compensatory Damages after Applying Individual Cap	\$ 20,000,000
Compensatory Damages after Applying Individual and Family Cap (No change: no eligible family members, so no family cap applies.)	\$ 20,000,000
Amount Received from Other Sources	
Amount	\$ 1,000,000
Percent of Gross Compensatory Damages	2%
Maximum Potential Fund Award Amount	\$ 2,000,000
Less: Amount Received from Other Sources	\$ 1,000,000
Equals: USVSST Fund Award Payment	\$ 1,000,000
Grand Total: Amount Received from USVSST and Other Sources	\$ 2,000,000

4. Claimants With Compensation from Other Sources

Claimants with Family Members, With Compensation from Other Sources

In Example 4A (chart below), gross compensatory damages total \$55 million for a family comprised of a 9/11 victim, spouse, and dependent; therefore, the \$35 million family cap is exceeded. However, the 9/11 victim’s judgment of \$45 million is the primary reason for exceeding the family cap. As for all eligible claimants, the first step in the calculation is to apply the \$20 million individual cap. When the individual cap is applied, the family’s total compensatory damages are reduced to \$30 million – so the family cap is no longer exceeded.

The maximum potential award amount from the USVSST Fund for the entire family is \$3 million (10 percent of the compensatory damages after applying the individual and family caps). This results in maximum potential award amounts of \$2 million for the 9/11 victim and \$500,000 each for the 9/11 spouse and dependent. The 9/11 victim, with a maximum potential award amount of \$2 million, received \$1 million in compensation from other sources. Therefore, the 9/11 victim receives a USVSST Fund award payment of only \$1 million. The 9/11 spouse and dependent did not receive compensation from other sources, so they receive the entire maximum potential award amount as the USVSST Fund award payments. The family is awarded a total of \$3 million.

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Example 4A:

Category/Computation	9/11 Victim	9/11 Spouse	9/11 Dependent	Family Total
Gross Compensatory Damage Amount	\$45,000,000	\$ 5,000,000	\$ 5,000,000	\$55,000,000
Compensatory Damages after Applying Individual Cap	\$20,000,000	\$ 5,000,000	\$ 5,000,000	\$30,000,000
Compensatory Damages after Applying Individual and Family Cap (No change: Family cap not exceeded.)	\$20,000,000	\$ 5,000,000	\$ 5,000,000	\$30,000,000
Amount Received from Other Sources				
Amount	\$ 1,000,000	\$0	\$0	\$ 1,000,000
Percent of Gross Compensatory Damages	2%	0%	0%	n/a
Maximum Potential Fund Award Amount	\$ 2,000,000	\$ 500,000	\$ 500,000	\$ 3,000,000
Less: Amount Received from Other Sources	\$ 1,000,000	\$0	\$0	\$ 1,000,000
Equals: USVSST Fund Award Payment	\$ 1,000,000	\$ 500,000	\$ 500,000	\$ 2,000,000
Grand Total: Amount Received from USVSST and Other Sources	\$ 2,000,000	\$ 500,000	\$ 500,000	\$ 3,000,000

Example 4B (chart below) shows the calculation in a situation where the \$35 million family cap affects the calculation, and multiple family members received compensation from other sources. This example includes a 9/11 victim with a \$45 million judgment, a 9/11 spouse with a \$25 million judgment, and a 9/11 dependent with a \$10 million judgment. The 9/11 victim has received \$5 million from other sources. The 9/11 spouse has received \$1 million from other sources. The 9/11 dependent has not received any compensation from other sources.

First, as for all eligible claimants, the individual cap is applied; this affects the 9/11 victim and spouse. Although they have differing gross compensatory damage award amounts, each is reduced to \$20 million when the individual cap is applied. After the individual cap, the family total remains \$50 million, so the relevant \$35 million family cap is still exceeded. Each family member must have his or her eligible compensatory amount limited proportionally (*pro rata* shares of the \$35 million capped amount). The individuals' eligible compensatory amounts are reduced using the same factor – the ratio of \$35 million (the family cap) divided by \$50 million (the post-individual cap total). Because the 9/11 victim and spouse have the same eligible compensatory amount after applying the individual cap, they have the same eligible compensatory amount of \$14 million (\$20 million times \$35 million divided by \$50 million). After applying the individual and family caps, the 9/11 dependent has an eligible compensatory amount of \$7 million using the same factor (\$10 million times \$35 million divided by \$50 million).

The maximum potential award amounts for the entire family total \$3.5 million (10 percent of the eligible claim amounts after applying the individual and family caps). However, two of the family members received payment from other sources. The 9/11 victim received \$5 million from other sources (an amount in excess of the maximum USVSST Fund payment of \$1.4 million), so the 9/11 victim does not receive a payment from the USVSST Fund. The 9/11 spouse received a much smaller payment of only \$1 million from other sources (less than the maximum USVSST Fund award amount), so can receive a payment from the USVSST

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Fund. The end result is that the USVSST Fund pays only \$1.1 million to the entire family – no payment to the 9/11 victim, \$400,000 to the 9/11 spouse, and \$700,000 to the 9/11 dependent.

Example 4B:

Category/Computation	9/11 Victim	9/11 Spouse	9/11 Dependent	Family Total
Gross Compensatory Damage Amount	\$45,000,000	\$25,000,000	\$10,000,000	\$80,000,000
Compensatory Damages after Applying Individual Cap	\$20,000,000	\$20,000,000	\$10,000,000	\$50,000,000
Compensatory Damages after Applying Individual and Family Cap (Amounts reduced proportionally to cap amount.)	\$14,000,000	\$14,000,000	\$ 7,000,000	\$35,000,000
Amount Received from Other Sources				
Amount	\$ 5,000,000	\$ 1,000,000	\$ 0	\$ 6,000,000
Percent of Gross Compensatory Damages	11%	4%	0%	n/a
Maximum Potential Fund Award Amount	\$ 1,400,000	\$ 1,400,000	\$ 700,000	\$ 3,500,000
Less: Amount Received from Other Sources	\$ 5,000,000	\$ 1,000,000	\$ 0	\$ 6,000,000
Equals: USVSST Fund Award Payment	\$ 0	\$ 400,000	\$ 700,000	\$ 1,100,000
Grand Total: Amount Received from USVSST and Other Sources	\$ 5,000,000	\$ 1,400,000	\$ 700,000	\$ 7,100,000