

Toys-Delaware Settlement Agreement Frequently Asked Questions¹

1. **Question:** What will administrative creditors receive under the Settlement Agreement?

Answer: Administrative Claim Holders that are eligible to participate in the Administrative Claims Distribution Pool will be eligible to receive their pro rata share of the following distributions:

- **\$160 million** (which will be funded by the B-4 Lenders prior to repayment of the Term DIP Facility);
- **\$20 million** in recoveries from Toys-Delaware (which will be funded by the B-4 Lenders immediately following the repayment of the Term DIP Facility, which is expected to be repaid by September 2018);
- **Contingent** recoveries if the aggregate recovery of the B-4 Lenders from assets of Toys-Delaware and Wayne exceeds an amount equal to 50% of the B-4 Lenders' approximately \$1 billion in aggregate prepetition claims (with the Administrative Claims Distribution Pool sharing in 50% of excess assets from Toys-Delaware and Wayne after this threshold is met); and
- **Contingent** recoveries equal to 80% of any recoveries from the Non-Released Claims Trust (which includes claims against the directors, officers, and managers and avoidance actions held by certain Debtor entities), subject to any sharing that is later negotiated with the creditors of Toys, Inc.
- Aggregate distributions to Administrative Claim Holders from the Administrative Claims Pool, funded as described above, will be net of the amounts used to fund the Non-Released Claims Trust (\$5 million) and the substantial contribution claim (\$2 million) provided for by the Settlement Agreement.

2. **Question:** Who can participate in the Administrative Claims Distribution Pool?

Answer: Holders of Allowed Administrative Claims **who do not opt out of the Settlement Agreement** can participate in the Administrative Claims Distribution Pool. "Administrative Claim Holders" include (i) all merchandise vendors who have unpaid administrative claims arising under sections 503(b)(1) and 503(b)(9) of the Bankruptcy Code and for agreed to, but unpaid, critical vendor payments, in all such cases arising out of ordinary course sales of goods or provision of services to Toys-Delaware for the value of such goods and services, and (ii) holders of other unpaid Administrative Claims at Toys-Delaware (including merchandise vendors) not otherwise accounted for in the Wind-Down Budget (excluding professional fee claims and adequate protection claims).

¹ All information provided herein is qualified by the terms of the Settlement Agreement. Neither the Debtors, the Committee, their advisors in these Chapter 11 proceedings, Prime Clerk nor JND are permitted to provide you with legal advice. The decision whether or not to opt in or opt out of the Settlement Agreement amounts to legal advice. It is recommended you seek your own legal counsel.

3. Question: What are the opt-out procedures?

Answer: The opt-out procedures contemplate that Administrative Claim Holders will have 14 days from the date of service (which will be within three days of entry of the order approving the settlement, which the Settlement Parties anticipate will be entered on or about August 7, 2018) to return an opt-out form in either electronic or paper form. **If you do not wish to opt out of the Settlement Agreement, you do not need to return any forms and do not need to take any further action with respect to the Settlement Agreement. In others words, you are deemed to opt in so long as you do not affirmatively opt out.**

If holders of more than 7.5% in aggregate value of Administrative Claims elect to opt out, the Ad Hoc Group of B-4 Lenders and the Debtors each have a right to terminate the Settlement Agreement.

4. Question: How much of a payout should be expected?

Answer: Holders of Allowed Administrative Claims, **who do not opt out**, will share pro rata in a baseline recovery of \$180 million (less the amounts necessary to fund the Non-Released Claims Trust and the substantial contribution claim) and will share in the recoveries of the Term B-4 Lenders once their recoveries exceed 50% of their prepetition claims from the assets of certain Debtors, and in 80% of the recoveries from the Non-Released Claims Trust, all subject to the terms of the Settlement Agreement. The Debtors estimate that Administrative Claims that are entitled to participate in the Administrative Claims Distribution Pool are approximately \$800 million. If accurate, this would imply an estimated recovery of approximately 21% on such Administrative Claims. **However, Administrative Claims are still being reviewed and reconciled and there can be no assurance that the Allowed Administrative Claims entitled to participate in the Administrative Claims Distribution Pool will be equal to or less than \$800 million. If Allowed Administrative Claims exceed \$800 million, the estimated recoveries on account of such Administrative Claims may be less than any estimated recovery percentages.**

5. Question: How are amounts being distributed from the Administrative Claims Distribution Pool?

Answer: Funds available for distribution from the Administrative Claims Distribution Pool will be distributed to eligible holders of Allowed Administrative Claims on a pro rata basis.

6. Question: When will distributions occur?

Answer: The Settlement Agreement contemplates an initial distribution to holders of Allowed Administrative Claims that are entitled to participate in the Administrative Claims Distribution Pool by no later than **September 30, 2018**. Later distributions will be based upon the reconciliation of asserted Administrative Claims.

7. Question: What happens if the Debtors do not agree with an Administrative Claim Holder's asserted Administrative Claim?

Answer: The Debtors' professionals, in consultation with the Claims Oversight Representative, are working directly with holders of Administrative Claims in an effort to reconcile such claims in an expeditious manner. To the extent a consensual resolution on the validity or amount of a creditor's Allowed Administrative Claim cannot be reached, the Debtors may file an objection to the claim for resolution by the Court and the affected creditor will be able to address the dispute before the Court.

8. Question: Who is getting a release under the Settlement Agreement?

Answer: The Settlement Agreement contemplates the granting of releases to (a) the Debtors and their estates, (b) the Creditors' Committee and its members, (c) each member of the Ad Hoc Vendor Group, (d) the Term DIP Agent, (e) each member of the Ad Hoc Group of B-4 Lenders (whether as a Prepetition Secured Lender or as a Term DIP Lender), (f) each of the other lender parties to the Settlement Agreement, (g) each of the other administrative creditors party to the Settlement Agreement, (h) the Prepetition Term Loan Agent, (i) each of the Sponsors, (j) all holders of Administrative Claims at Toys-Delaware that **do not** affirmatively opt out of participating in the Administrative Claims Distribution Pool, in each case in their respective capacities as such, and (k) for each of those persons' or entities' identified in (b)-(j) above, such parties non-Debtor affiliates and its and their respective, directors, officers, agents, advisors, or professionals. However, *the Debtors' directors, officers, and managers (including any Sponsor-affiliated directors, officers and managers) are **not** being released under the Settlement Agreement.*

The Settlement Agreement also contemplates the release by the Debtors of avoidance actions against non-insider creditors, as discussed in Question 9 below.

9. Question: Are vendors and other creditors (who are not insiders) also getting a release under the Settlement Agreement?

Answer: Yes. **The Debtors and their estates are providing a release of avoidance actions (including preference claims) against all non-insider creditors (including prepetition creditors, regardless of whether they are eligible to participate in the Administrative Claims Distribution Pool, and holders of Administrative Claims *who do not opt out of the Settlement Agreement*). In other words, as long as you are a non-insider vendor or other non-insider creditor that does not opt out, you will get a release from avoidance actions (including preference claims) even if you do not have an Allowed Administrative Claim.**

Note, however, that prepetition general unsecured creditors that do not have an Administrative Claim are not being solicited as to whether to “opt in” or “opt out” of the Settlement Agreement, but are still receiving the releases of avoidance actions described above.

10. Question: What potential liability will directors, officers, and managers face?

Answer: Directors, officers, and managers are **not** being released under the Settlement Agreement, and all claims against directors, officers, and managers of the Debtors (including Sponsor-affiliated directors, officers and managers) are being transferred to a litigation trust (defined as the “Non-Released Claims Trust” under the Settlement Agreement). Therefore, directors, officers and managers can be sued for pre- and post-petition conduct. However, the parties to the Settlement Agreement agreed that the personal assets of directors, officers, and managers will not be a source of recovery for the Non-Released Claims Trust. Instead, any recovery from a successful lawsuit against a director, officer, or manager will be limited to amounts available under the Debtors’ D&O insurance policies.

11. Question: What are the insurance policies limits?

Answer: The applicable D&O insurance policies have aggregate limits of \$95 million.

12. Question: Why does the Settlement Agreement preserve director and officer claims with respect to only Toys R Us, Inc. and Toys-Delaware?

Answer: The Settlement Agreement represents a negotiated compromise of numerous issues, and includes the agreement by the Toys R Us, Inc. and Toys-Delaware Debtors to preserve and contribute their claims and causes of action against the directors and officers as well as any non-released avoidance actions to the Non-Released Claims Trust, subject to the terms set forth in the Settlement Agreement. Director and officer claims related to the Geoffrey Debtors are being preserved for the benefit of the Term B-4 Lenders in accordance with the terms of the Settlement Agreement. Toys-Delaware and certain of its subsidiary Debtors are anticipated to be Debtors under the Plan that will incorporate the terms of the Settlement Agreement. The treatment of the claims and/or causes of action of other Debtors (including the TRU Taj Debtors, PropCo II, and any other Debtors not addressed under or party to the Settlement Agreement) will be addressed separately in those Debtors’ respective chapter 11 plans or other resolutions of those chapter 11 cases.

13. Question: What needs to happen for there to be a distribution of the contingent amounts beyond the \$180 million provided for in the Settlement Agreement?

Answer: Holders of Allowed Administrative Claims, who do not opt out of the Settlement Agreement, will share in 50% of any excess assets of Toys-Delaware and Wayne, after the recoveries of the Term Loan B-4 Lenders from assets of Toys-Delaware and Wayne exceed 50%

on account of their prepetition claims, and will share in a certain portion of any recoveries of claims pursued by the Non-Released Claims Trust. Recoveries from assets of Toys-Delaware and Wayne may come from (i) real estate sales of Toys-Delaware and the liquidation of any other assets of Toys-Delaware, (ii) excess value from PropCo II (once all secured claims of PropCo II and its direct parent entity are paid), or (iii) excess value from PropCo I that would inure to the benefit of Wayne. Additional recoveries from the Non-Released Claims Trust include potential claims against directors and officers with recoveries from the director and officer liability insurance policies as well as other avoidance actions held by Toys, Inc. and Toys-Delaware, including potential intercompany avoidance actions.

14. Question: How are prepetition general unsecured creditors benefitting under the Settlement Agreement?

Answer: Prepetition general unsecured creditors are **receiving a waiver by the Debtors and their estates of all potential avoidance actions** that could be brought against such creditors, including potential preference actions for transfers made by the Debtors to creditors within the 90 days prior to the Petition Date of September 18, 2017. Based on the Debtors' preliminary analysis, there was up to approximately \$1 billion of potential preference exposure for prepetition general unsecured creditors and postpetition administrative creditors, subject to certain defenses that could be asserted by such creditors. All such causes of action are being waived. Prepetition general unsecured creditors who do not have Administrative Claims are not entitled to participate in the Administrative Claims Distribution Pool and will only receive a recovery if all prepetition secured claims and postpetition Administrative Claims are paid in full. **Prepetition general unsecured creditors who do not have Administrative Claims are not providing any releases under the Settlement Agreement, and therefore do not need to choose whether to "opt in" or "opt out" of the Settlement Agreement, but will continue to receive the above-referenced benefits under the Settlement Agreement.**

15. Question: Does an Administrative Claim Holder have to waive its general unsecured claims in order to opt in to the Settlement Agreement?

Answer: No. The Settlement Agreement provides for distributions on account of Allowed Administrative Claims, once reconciled. Administrative Claim Holders are not waiving their general unsecured claims under the Settlement Agreement. However, the Settlement Agreement does provide for releases of parties-in-interest, including the DIP Lenders, the prepetition secured lenders, the Creditors' Committee and its members, and the Sponsors. **Any Administrative Claim Holder that does not opt out of the Settlement Agreement will be bound by its terms (including the treatment provided to holders of Administrative Claims and the releases) and will be deemed to have consented to the treatment of Administrative Claims under the Plan. Any party that exercises its right to opt out will not be entitled to its pro rata portion of the Administrative Claims Distribution Pool.**

16. Question: What do I get if I opt OUT?

Answer: Creditors who opt out will receive nothing under the Settlement Agreement. You will not be entitled to participate in the Administrative Claims Distribution Pool. Any Administrative Claim Holder that opts out will not (i) receive the releases of any potential avoidance actions (including preference claims) against it, or (ii) be deemed to grant any of the releases under the Settlement Agreement.

17. Question: What do I get if I opt IN?

Answer: So long as you do not affirmatively opt out, you are deemed to have opted into the Settlement Agreement and automatically receive the benefits of the settlement (even if you are only a general unsecured creditor). Any Administrative Claim Holder that does **not** affirmatively opt out following the procedures approved by the Court (i.e., opts in) will receive its pro rata share of the consideration contemplated thereby (to the extent there are no objections to the claim). Any Administrative Claim Holder that does not opt out of the Settlement Agreement (i.e., opts in) will be bound by its terms, including deemed consent to the treatment of holders of Administrative Claims under the Plan and shall be entitled to receive the releases of any potential avoidance actions (including preference claims) against it.

Prepetition general unsecured creditors that do not have an Administrative Claim are not being solicited as to whether to “opt in” or “opt out” of the Settlement Agreement, but are receiving certain benefits under the Settlement Agreement (as set forth in Question 9, above).

18. Question: Why should I choose not to opt out of the Settlement Agreement?

Answer: If you choose to opt out of the Settlement Agreement, you will **not** receive any distribution from the Administrative Claims Distribution Pool and no distribution on account of your Administrative Claims can be guaranteed. If you opt out of the Settlement Agreement, you will not be providing the releases described in the Settlement Agreement, but you will also **not** receive any releases in your favor and may be subject to potential avoidance actions to recover payments made within the “preference period” of 90 days prior to the Petition Date of September 18, 2017. The Debtors, the Creditors’ Committee, the Ad Hoc Vendor Group (consisting of holders of \$100-150 million of Administrative Claims) and the Ad Hoc B-4 Lender Group all recommend that you **not** opt out of the Settlement Agreement and therefore be deemed to “opt in”.

We cannot provide you with any legal advice as to how to proceed with respect to the Settlement Agreement and you should consult with your own legal or financial professionals as to how to proceed with respect to the Settlement Agreement.

19. Question: Can a holder of Administrative Claims change its decision if the holder initially chooses to opt out of the Settlement Agreement?

Answer: Yes. Those who choose to opt out of the Settlement Agreement can later choose to opt in and receive the benefits of the Settlement Agreement by notifying the Debtors at the contact information set forth on the opt-out form **prior to the opt-out deadline, which is expected to be August 24, 2018.**

20. Question: What was the alternative to the Settlement Agreement?

Answer: The potential alternatives to the Settlement Agreement and the determination of the parties to the Settlement Agreement to enter into the various compromises of claims and causes of action are set forth in detail in the Debtors' motion seeking approval of the Settlement Agreement, [available here](#).

Of note, substantially all of Toys-Delaware's assets, including possible claims and causes of action against interested parties such as avoidance actions against officers, directors, sponsors and vendors, were pledged to the B-4 Lenders to secure their \$450 million Term DIP Facility and any adequate protection claim for any diminution in value of the Term B-4 Lenders' prepetition collateral (which could have amounted to hundreds of millions of dollars in light of the significant losses incurred by the B-4 Lenders' collateral during the chapter 11 cases). Among these causes of action include potential claims to recover approximately \$1 billion in claims against vendors and other creditors for transfers made during the "preference period" of 90 days prior to the Petition Date.

In addition, pursuant to the negotiations that took place at the outset of the Debtors' wind-down in March and April 2018, the parties had negotiated for the establishment of a Merchandise Reserve for holders of Administrative Claims, which was funded based on the value of goods and services provided to the Debtors on and after March 5, 2018. This Merchandise Reserve was estimated at \$156 million, however, the final amount was subject to reconciliation of Administrative Claims arising after March 5 and could have ultimately been much less.

The Settlement Agreement protects unsecured creditors from avoidance actions, establishes a litigation trust to pursue claims against the Debtors' directors, officers and managers; provides for a baseline \$180 million in recovery for holders of Administrative Claims; and supports the development of an orderly wind-down plan that protects the Debtors' estate assets from value-destructive behavior that could materialize without a plan and in the context of widespread litigation.

21. Question: What consideration are the Sponsors contributing to the Settlement Agreement?

Answer: In addition to agreeing to cooperate in connection with the implementation of the Settlement Agreement and any Plan or order of dismissal, the Sponsors are, among other things,

(i) waiving and releasing all claims for further payments of any management, advisory, or other fees or expenses from the Debtors and their estates; and (ii) agreeing to not take any action that would require compliance with the equity trading order ([linked here](#)) entered at the beginning of the case, thus agreeing to delay seeking to take any worthless stock deductions with respect to their equity interest in the Debtors.

22. Question: How will the Non-Released Claims Trust be established and governed?

Answer: The Non-Released Claims Trust will be governed by a Non-Released Claims Trust Manager that, prior to making material decisions on behalf of the Trust, will consult with the Non-Released Claims Trust Oversight Committee consisting of three members that will be appointed: (i) one by the Creditors' Committee, (ii) one by the Ad Hoc Vendor Group, and (iii) one by the Ad Hoc Group of B-4 Lenders. The Non-Released Claims Trust will initially be funded with \$5 million from the amounts distributed to the Administrative Claims Distribution Pool. The identity of the Non-Released Claims Trust Manager and the Oversight Committee will be disclosed prior to the hearing on the Settlement Agreement. Any compensation arrangements for the Non-Released Claims Trust Manager and/or the members of the Oversight Committee will be determined by the Non-Released Claims Trust.

23. Question: When is the bar date for Administrative Claims?

Answer: For Administrative Claims arising before June 30, 2018, the bar date for filing proofs of claim was July 16, 2018.

For Administrative Claims arising after June 30, 2018, the bar date is the earlier of: (a) the 15th day of the month following the month in which the claim arose (e.g., a claim arising in the month of July 2018 must be filed by August 15, 2018) and (b) 14 days following any hearing on a plan of liquidation, structured settlement, or other proposed resolution to the Debtors chapter 11 cases.

24. Question: How are professionals' fees being treated?

Answer: The fees and expenses of estate professionals in connection with the liquidation are subject to heavily-negotiated budgets that have monthly caps as agreed with the Ad Hoc Group of B-4 Lenders. Estate professionals' fees are also subject to review by the fee examiner that has been appointed in the chapter 11 cases.

25. Question: Where can I find copies of the Settlement Agreement and Term Sheet?

Answer: Visit the Creditors' Committee's website at: <http://www.jndla.com/cases/ToysCommittee> to obtain a copy of the [Settlement Agreement](#) or [Term Sheet](#) .