



NATLUST'S 'RAPID FUNDING' CLAIM FINANCING PROGRAM

For a variety of reasons, a number of state sponsored UST funds ('Fund') are slow to process claims, often taking six months or more to issue a claim decision. The consequence of slow claims processing is that owner/operators and their consultants often have substantial amounts of working capital tied up for long periods. In some states, slow claim processing results in owner/operators delaying the next phase of cleanup until their previously submitted claims are approved and paid.

NatLUST believes it can help by providing liquidity earlier in the cleanup process. Accordingly, NatLUST is piloting a new 'Rapid Funding' claim assignment program (the 'RF Program') whereby certain creditworthy claimants can receive immediate payment upon submitting a claim to the Fund (in advance of the Fund issuing the claim decision). As NatLUST gains experience with the RF Program and conditions in the credit markets improve, our goal is to shift the focus to experienced consultants, where the RF Program can be made available to smaller owner/operators.

Some key points about the RF Program:

- **Initial & Residual Payments.** As with our regular 'approved claim' financing program, the RF program is considered an asset sale, where claimant sells its right to the reimbursement payment to NatLUST. The sale is made using the NAT-1 assignment form. NatLUST will fund an accepted RF claim in two increments, with the 'Initial Payment' being made immediately upon receiving the executed NAT-1 assignment form. Upon receipt of the reimbursement by the Fund, NatLUST will deduct the accrued carrying costs from the amount held back, and will send the difference to the Payee in the form of a second and final 'Residual Payment'.
- **Asset Sale with Limited Recourse.** Under the RF Program, NatLUST retains limited recourse against the claimant in the event an assigned claim is (a) partially or fully denied by the Fund, or (b) not approved within one year. Subject to the conditions set forth in the NAT-1 assignment form, recourse to the claimant will terminate once NatLUST has received notification from the Fund (e.g. a copy of the decision letter) that it has approved a claim for reimbursement in an amount sufficient to cover the principal amount advanced by NatLUST, plus NatLUST's estimated carrying costs through the projected reimbursement date.
- **Direct Payment Option.** Claimants may instruct NatLUST to pay their consultant directly. Under direct payment, the consultant is typically absorbing the carrying charges; however, in cases where the claimant has agreed to bear the carrying costs but still wants to use direct payment, NatLUST will provide a mechanism whereby the consultant can 'back bill' the claimant once the claim has been reimbursed.
- **Treatment of Claim Denials.** Claimants may negotiate arrangements to constructively transfer the risk of claim denial to their consultant (although NatLUST will still retain recourse to the claimant). NatLUST would only assert its right of recourse against the claimant if the consultant defaults on its obligations. Accordingly, the claimant's choice of consultant is a consideration.

For Cases Where The Consultant Agrees to Assume Shortfalls. If the consultant has agreed to assume the risk of claim denial, NatLUST will first attempt to recover from them. For example:

- NatLUST may decide to wait for the denied amounts to be recovered on appeal with the Fund;
- NatLUST may offset other claims payable to the consultant;
- NatLUST could lower the advance rate on subsequent claims until it is made whole; or
- The consultant can reimburse NatLUST directly for any shortfall

NatLUST will not offset deficient claims from one consultant against another in instances where the consultants are both working for the same claimant.

For Cases Where The Claimant Has Agreed To Assume Shortfalls. In situations where the claimant assumes the risk of claim denial, they will be responsible for reimbursing NatLUST for amounts denied.

- **NatLUST Must Approve Claimants In Advance.** Because NatLUST is taking the risk that a claimant will not honor its recourse obligations to NatLUST for a deficient claim, the claimant’s creditworthiness is important to the viability of the RF Program. Accordingly, NatLUST and its credit providers reserve sole and absolute discretion to approve claimants. During the pilot phase of this program, not all claimants will qualify.

One approved, a claimant is eligible to finance claims in any state that NatLUST has approved for this program. For larger privately held companies interested in using the program, you will need to provide us with three years of financial statements and tax returns to be considered for the RF Program.

As the RF Program develops, NatLUST’s intention is to shift the focus to the consultant, where NatLUST will allow certain consultants to use the RF Program to finance smaller owner/operators.

- **NatLUST Assumes Credit Risk of Fund.** NatLUST assumes the risk of a payment default by the Fund. Participating claimants are assuming only the contingent risk that an assigned claim may be partially or fully denied by the Fund, not the credit risk of the Fund itself.
- **Carrying Costs.** Absent any notice by NatLUST to the contrary, carrying costs charged on RF claims will not exceed what we charge for claims financed under our ‘approved claim’ financing program (when expressed on an annualized basis), for any particular state.

Carrying costs are a combination of fixed and variable charges that NatLUST assesses to recoup the cost of managing the program. Carrying charges are always deducted from the back end residual payment. Specific information for each state can be found on NatLUST’s website on the [‘Forms & Instructions’](#) page.

- **Variable Charges.** Variable charges are assessed from the date we fund the claim until we process and issue the reimbursement, and are calculated on an actual/360 basis on the amount advanced. Variable charges primarily include the cost of our borrowed money, but also include management and other expenses that are not directly allocable against specific claims (e.g. cost of accounting, legal, etc.).

As of the date of this document, variable charges are indexed to one-month Libor (about .50% per year) plus 2.75% per year. NatLUST’s credit lines reset monthly, which means that the variable charges will fluctuate directly with changes in market interest rates. Should NatLUST change its index margin, it will notify participants in writing.

- **Fixed Charges.** NatLUST also assesses a one-time fixed charge on the amount advanced concurrent with funding a claim. NatLUST’s fixed charge varies from state-to-state depending on the frequency of claim turnover. This is done in an attempt to equalize the APR we are charging between states. Should NatLUST change the schedule of fixed charges, it will notify participants in writing. As of the date of this document, NatLUST is assessing fixed charges on Rapid Funding claims as follows:

California:	TBA
Colorado	TBA
Connecticut:	Not to exceed 2/10 of 1%
Georgia:	Not to exceed 1% on CAP A; ½ of 1% on all other claims
Illinois:	Not to exceed 1%
Massachusetts:	Not to exceed ½ of 1%
New Mexico:	TBA
Ohio:	TBA
Virginia:	Not to exceed ½ of 1%

- **Person Assigning Claims Must Be Authorized.** Claimants will be required to provide a one-time legal opinion or other evidence (e.g. a ‘delegated authority’ resolution) confirming that the person or persons assigning claims are authorized to execute and deliver the assignments. For a form of the opinion of counsel, see www.natlust.org/RF/opinion.doc

- **Initial Payment Rate.** Initial Payment rates may vary between states, or may change from time-to-time depending on various factors, including the time it takes for a Fund to reimburse a claim. As of the date of this document, the applicable Initial Payment rates are:

California:	TBA
Colorado:	TBA
Connecticut:	85%
Georgia:	85%
Illinois:	85%
Massachusetts:	85% (will advance 100% to comply with Fund rules. Contact us for details)
New Mexico:	TBA
Ohio:	TBA
Virginia:	85%

- **Cost Recovery.** Claimants and their consultants retain the risk that a Fund may later assert its right to recover amounts paid on a claim, together with the costs of such recovery.
- **Certain State/Claimant/Consultant Specific Issues.** NatLUST recognizes that certain state UST programs have rules that will require us to be flexible. In addition, certain claimants and consultants may seek alternative arrangements (e.g. splitting the carrying costs). NatLUST intends to accommodate such situations wherever possible.