Rule 2082-1

Chapter 12 - General

(a) Applicability

This rule applies only to cases under Chapter 12 of the Bankruptcy Code.

(b) Tax Returns

The debtor shall provide to the trustee, and any creditor who requests, at least seven (7) days before the meeting of creditors, a copy of federal income tax returns filed for the three (3) years prior to the year in which the petition is filed together with all schedules thereto.

~~**(c) Debtor Eligibility Challenges**~~

~~Challenges to the eligibility of the debtor should be initiated at the earliest possible time in the case. Such challenges may be made by fourteen (14) days' notice and hearing to the Master Mailing List pursuant to LBR 2002-1.~~

(c) Funds of the Estate

(1) The debtor shall open a new bank account immediately upon filing a case under Chapter 12. The bank account shall be in the name of the debtor as "CHAPTER 12 DEBTOR". The account shall be separate from any account used by the debtor prior to filing of the Chapter 12 case. All amounts from the debtor's previous bank accounts shall be transferred to the new account. All receipts, including cash, after filing the case shall be deposited into the new account. The debtor shall file with the Clerk, the Chapter 12 trustee, and the United States trustee information as to the identity and location of the debtor's bank and the new account number.

(2) All bills shall be paid by check written to a named payee. Checks written to the debtor may only be for the payment of incidental family or household expenses.

(d) Compensation of Attorney for Debtor

(1) Requests for Compensation to be paid from the estate shall be made pursuant to FRBP 2016(a) and LBR 2016.

(2) A copy of the Attorney Statement of Compensation, and any amendments thereto, required to be filed by § 329 of the Code and FRBP 2016(b), shall be promptly served on the United States trustee and the Chapter 12 trustee.

(e) Monthly Operating Statement

(1) The debtor shall file and serve upon the Chapter 12 trustee a monthly statement of the estate's cash receipts and disbursements. The first monthly statement shall be filed within fifteen (15) days of the close of the month during which the case was filed. A monthly statement shall be filed within fifteen (15) days of the close of each month thereafter until the plan is completed or the case is converted or dismissed. A copy of the bank statement for the corresponding month shall be attached to the monthly statement.

(2) The monthly statement shall itemize each receipt according to the type and quantity of product sold. Disbursements relating to farming operations shall be similarly itemized. Disbursements for household and family living expenses shall not be itemized, but shall be shown as a single, lump sum amount. Disbursements made to an attorney shall be separately stated and itemized.

(3) The monthly statement shall include a certification that all taxes due since the filing of the case have been paid or deposited. The amount paid or deposited during the month, the date of payment or deposit, and the taxing agency paid or the place the tax was deposited shall be indicated in the monthly statement.

(4) The debtor shall keep a copy of all receipts, bills and invoices for all purchases or payments on behalf of the farming operation.

(5) The Chapter 12 trustee or any party in interest may present, upon seven (7) days' notice and hearing, an order to dismiss if the debtor becomes delinquent in filing any monthly statement.

(f) Valuation of Security, Determination of Extent of Lien, and Lien Avoidance

(1) Valuation of claims secured by a lien on property in which the estate has an interest shall be by a separate motion pursuant to LBR 3012-1. The order valuing the claim voids the lien to the extent of the unsecured portion of the claim pursuant to § 506(d) of the Code. In the event of dismissal of the case prior to discharge, this voided lien will be reinstated pursuant to § 349(b)(1)(C) of the Code unless otherwise ordered.

(2) All actions to determine the validity, priority or, other than (1) above, the extent of a lien, shall be made by adversary proceeding, however, such relief may also be sought in an objection to allowance of claim pursuant to LBR 3007-1.

(3) Actions to avoid judicial or non-possessory non-purchase money security interests under § 522(f) of the Code shall be by separate motion pursuant to LBR 4003-2.

(g) Motion For Valuation Hearing

(1) If the debtor intends to treat any secured creditor as other than fully secured, the debtor shall file a motion to value the property claimed as security for the claim. This motion and notice thereof shall be filed no later than thirty (30) days from the date of filing the petition initiating the Chapter 12 case, or upon the filing of the plan, whichever is sooner. Service on the Master Mailing List shall be initiated at the same time the motion is filed.

(2) Written objections for this motion shall be filed and served on the debtor within fourteen (14) days from the date of filing the notice. The objection shall state the specific grounds upon which it is based. Hearing on these objections will be held at the valuation hearing. An entity which fails to object to the motion to value may not participate at the valuation hearing.

(3) The debtor, any objecting party, or the trustee may request that a status conference be conducted in the case at any time after the expiration of the time for objection to the motion to value. The status conference will be conducted by telephone upon seven (7) days' notice to the debtor, all parties who have filed objections, and the Chapter 12 trustee.

(4) The valuation hearing shall be scheduled ninety (90) to one hundred five (105) days from the filing of the petition initiating the case. Notice of this hearing shall be included with the notice of the meeting of creditors.

(5) At least ten (10) days prior to the valuation hearing all parties participating in the hearing shall exchange and deliver to the appropriate chambers a list of witnesses expected to testify at the hearing, a summary of the expected testimony, copies of the appraisals to be introduced at the hearing, and a list identifying the comparable sales information to be relied upon in supporting the valuation. Each appraisal submitted shall identify the date of the appraisal and the name and credentials of the appraiser. Failure to comply with this rule may result in the imposition of sanctions.

(6) The Court may limit, on its own motion or at the request of a party, introduction of evidence on direct examination by affidavit only, provided, however, that said affiant be present at the time of hearing and available for cross examination.

(7) The moving party shall immediately notify the Court of the settlement of any valuation disputes prior to the valuation hearing and shall place into the record at that hearing the details of any such settlement.

(h) The Plan

(1) Filing

(A) A plan shall be filed within ninety (90) days of the filing of the petition initiating the case. An extension of time to file the plan may be allowed if an application is made prior to the expiration of the ninety (90) days from the filing of the petition. The application shall be supported by an affidavit or unsworn declaration under penalty of perjury which clearly sets forth the basis for the extension and establishes good cause for the request. The application may be made ex parte. A copy of the order of extension shall be served upon the Master Mailing List as soon as practicable by the debtor.

(B) Simultaneous with the filing of the plan the debtor shall serve upon the Master Mailing List a copy of the plan, notice of the time to file objections, and notice of the hearing on confirmation.

(2) Objections

Objection to the confirmation of the plan shall be made within fourteen (14) days of the mailing of the notice of the filing of the plan, shall include the specific basis for the objection of the plan, and shall be filed with the Court and served on the debtor, the debtor's attorney, and the Chapter 12 trustee. A party who has made an objection and who fails to appear at the hearing on confirmation or at any other hearing scheduled on the objection may be deemed to have waived such objection.

(3) Plans Filed Within Sixty (60) Days - Status Conference

If a plan is filed within sixty (60) days of the filing of the petition initiating the case, the Court will conduct a status conference as soon as practical after the expiration of the time for objections to the plan. The status conference will be conducted by telephone conference upon five (5) days' notice to the debtor, all parties who have filed objections and the Chapter 12 trustee. Among the matters to be discussed at this status conference will be possible revision of the hearing schedule in the case in light of the early filing of the plan.

(4) Contents of the Plan

The plan shall meet the requirements of § 1222 of the Code and shall also contain the following information:

(A) A schedule showing the dates, amounts, and payees of all payments to be made by the debtor and the payments to be made through the office of the Chapter 12 trustee;

(B) A cash flow budget for the current crop year and for all future crop years for the life of the plan. The cash flow budget shall describe the crops intended to be grown, the farm products intended to be produced, and the projected gross income expected to be received for each crop or product. Assumptions upon which the cash flow projections are based with historical or other data justifying such assumptions shall be included. Operating expenses and loan payments shall be detailed in the budget. Living expenses of the debtor and the debtor's family shall be listed as a lump sum and shall not be described in greater detail;

(C) Projected administrative expenses, including attorney fees;

(D) The probable tax consequences to the debtor resulting from the plan;

(E) A statement, with detailed information, specifying the need, if any, for the plan payments to be made over a period longer than three (3) years; and

(F) A liquidation analysis.

(i) Trustee's Confirmation Summary

The Chapter 12 trustee shall file a confirmation summary no less than seven (7) days prior to the date set for the confirmation hearing. At the same time a copy shall be served on the debtor, the debtor's attorney, and any party objecting to the plan. The confirmation summary shall make a recommendation as to confirmation and shall comment on each of the following:

(1) The debtor's eligibility for relief under Chapter 12;

(2) The liquidation statement, the cash flow budget, and proposed order confirming the plan;

(3) Objections to the confirmation of the plan;

(4) The status of any valuation disputes;

(5) The feasibility of the plan;

(6) The validity of the secured claims; and

(7) The appropriateness of attorney fees disclosed by the Attorney Statement of Compensation and of the total attorney fees estimated to be paid either as a cost of administration or directly by the debtor.

(j) Hearing on Confirmation

(1) The confirmation hearing shall be scheduled one hundred twenty (120) to one hundred thirty-five (135) days from the filing of the petition. Notice thereof shall be given with the notice of the meeting of creditors and at the time the plan is filed.

(2) Objections to confirmation shall be heard at the confirmation hearing. The Court will require production of evidence supporting confirmation of the plan even if no objections are before the Court. This evidence will include, but is not limited to, proof of eligibility for relief under Chapter 12, a liquidation analysis supporting the assertion that the unsecured claims will not receive less than they would receive in a Chapter 7 liquidation, and projections of future operations supporting the contention that the plan is feasible. If no objection is before the Court, the Court may determine, without receiving additional evidence, that the plan has been proposed in good faith and not by any means forbidden by law. If no objection is before the Court and the debtor requests, evidence supporting confirmation of a plan may be submitted by affidavit and the confirmation hearing conducted by telephone conference; provided, however, in such a case that the debtor must participate in such phone conference and be available under oath to answer such questions as the Court may have relating to confirmation.

(k) Preconfirmation Modification of the Plan

If, in connection with the confirmation hearing, parties modify the plan as an accommodation or settlement, the Court may conditionally approve the modified plan, adjourn the hearing on confirmation, and order notice of the modification pursuant to § 1229(b) of the Code reserving the signing of the order of confirmation until the time for objections to modification has passed without objection.

(l) Postconfirmation Modification of the Plan

(1) A party requesting modification of the plan after confirmation shall give thirty (30) days' notice and an opportunity to be heard to the debtor, all creditors, the Chapter 12 trustee, and all other parties on the Master Mailing List.

(2) Once the plan has been modified as above, without objection, the proponent of the modification shall forthwith serve on the Chapter 12 trustee a copy of the modification together with a certificate stating that:

(A) The modification has been filed with the Clerk;

(B) Notice has been given in accordance with this rule; and

(C) No objections have been filed or served. If the plan is modified after objection and Court hearing, the proponent of the modification shall serve a copy of the modification and order approving the modification on the Chapter 12 trustee.

(3) If a modified plan provides for the payment of claims not listed on the original schedules, notice of the modification shall be given to the additional creditors.

(4) The Chapter 12 trustee may pay postpetition claims only if the plan is modified as above and the postpetition creditor affirmatively agrees in writing to payment under the plan.

(m) Dismissal of Case by Debtor

Absent an order to the contrary, a debtor desiring to dismiss the case shall give notice to the Master Mailing List in accordance with LBR 2002–1.

(n) Discharge of Debtor

Upon completion of all payments under the plan, the debtor(s) shall file a motion for entry of discharge on the prescribed local form (LF 2082-1) and provide ten (10) days' notice to the Master Mailing List or file a written request to waive discharge.

Related Provisions

FRBP 1017(f)	Procedure for Dismissal, Conversion, or Suspension
FRBP 2002	Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and Unites States Trustee
FRBP 2015	Duty to Keep Records, Make Reports, and Give Notice of Case or Change in Status
FRBP 2016	Compensation for Services Rendered and Reimbursement of Expenses
FRBP 3012	Valuation of Security
FRBP 3015	Filing, Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case
FRBP 3019	Modification of Plan
FRBP 3020	Confirmation of Plan
FRBP 9013	Motions: Form and Service
11 USC 329	Debtor's Transactions with Attorneys
11 USC 349	Effect of Dismissal
11 USC 704(a)	Duties of Trustee
11 USC 1106(a)	Duties of Trustee and Examiner
11 USC 1203	Rights and Powers of Debtor
11 USC 1204	Removal of Debtor as Debtor in Possession
11 USC 1221	Filing of Plan
11 USC 1222	Contents of Plan
11 USC 1223	Modification of Plan Before Confirmation
11 USC 1224	Confirmation Hearing
11 USC 1225	Confirmation of Plan
11 USC 1228	Discharge
11 USC 1229	Modification of Plan After Confirmation

Rule 2083-1

Chapter 13 - General

(a) Applicability

This rule shall apply only to cases under Chapter 13 of the Bankruptcy Code.

(b) Filing the Plan and Other Documents

(1) The debtor shall file the following documents separately using the prescribed local forms:

(A) Chapter 13 Plan (LF 2083)
(B) Plan Payment Declaration (LF 2083A)
(C) Plan Funding Analysis (LF 2083B)
(D) Liquidation Analysis (LF 2083C)

(2) A Certificate of Debtor's Regarding Payments to and Disbursements by the Chapter 13 Trustee (LF 2083-1F) shall be filed as a separate document.

(c) Mailing of Plan to Parties in Interest

A copy of the plan required to be provided to all creditors pursuant to FRBP 3015(d) shall be as directed by the Clerk of Court. Notice of modifications and copies required to be sent to all creditors shall be provided by the party making the modification in accordance with sub-section (j) of this rule.

(d) Valuation of Security, Determination of Extent of Lien, and Lien Avoidance

(1) Valuation of claims secured by a lien on property in which the estate has an interest shall be by a separate motion pursuant to LBR 3012-1. The order valuing the claim voids the lien to the extent of the unsecured portion of the claim pursuant to § 506(d) of the Code. In the event of dismissal of the case prior to discharge, this voided lien will be reinstated pursuant to § 349(b)(1)(C) of the Code unless otherwise ordered.

(2) All actions to determine the validity, priority or, other than (1) above, the extent of a lien, shall be made by Adversary Proceeding, however, such relief may also be sought in an objection to allowance of claim pursuant to LBR 3007-1.

(3) Actions to avoid judicial or non-possessory non-purchase money security interests under § 522(f) of the Code shall be by a separate motion pursuant to LBR 4003-2.

(e) Delinquent Tax Returns

A statement as to whether or not the debtor is delinquent in the filing of any tax return shall be included in the plan as well as a statement as to when any delinquencies in filing will be cured.

(f) Treatment of Secured Creditors Secured by Real Property

(1) If at the time of the filing a petition for relief, a delinquency exists on any payments for debt secured by real property, then all payments, both current and delinquent, for such debt shall be paid through the office of the Chapter 13 trustee.

(2) If during the pendency of the plan a debt secured by real property falls into arrearage, then the plan may be modified pursuant to subsection (k) of this rule to require payments, both current and delinquent, to be paid through the office of the Chapter 13 trustee.

(3) If during the pendency of the plan arrearages are brought current, then the plan may be modified to allow for payments to be made directly to the creditor by the debtor.

(g) Funding of Plan by Sales

(1) If the debtor proposes to partially fund the plan through the sale of property of the estate, then the debtor must also file a marketing plan with the plan. The marketing plan shall include:

(A) A description of the property to be sold;
(B) Identification of all lien holders and the amount of each lien;
(C) If a broker is to be employed, the name of the broker and when the property was or will be listed;
(D) The terms of the broker's agreement;
(E) The price sought for the property;
(F) The method used in arriving at the value of the property; and
(G) The time frame, including mileposts where appropriate, during which the property will be marketed.

(2) The debtor shall provide quarterly status reports to the Chapter 13 trustee.

~~**(h) Challenges to Eligibility of Debtor**~~

~~Challenges to the eligibility of the debtor should be initiated at the earliest possible time in the case. Such challenges may be made by fourteen (14) days notice and hearing to the Master Mailing List pursuant to LBR 2002-1.~~

(h) Confirmation

(1) Upon resolution of all objections, the trustee shall file as soon as practicable an unsworn statement under penalty of perjury stating the plan is feasible and satisfies the requirements of §1325(a)(1),(4) and (5) of the Code.

(2) The court will prepare the confirmation order.

(i) Modification of Plans

(1) Modification Prior to Confirmation

Modifications made pursuant to § 1323 of the Code shall be on twenty-one (21) days' notice and hearing in accordance with LBR 2002-1. A plan shall not be confirmed until the time to object to any such modification has expired and all objections resolved.

(2) Modification After Confirmation

(A) A modification proposed by any entity other than the debtor shall be on twenty-one (21) days' notice and hearing to any adversely affected party, the Chapter 13 trustee, debtor and debtor's attorney. The modification shall become effective upon the expiration of the time to file objections, if there are no objections, or upon resolution of all objections made.

(B) A modification proposed by the debtor shall be on twenty-one (21) days' notice and hearing to the Chapter 13 trustee and any adversely affected party, and if the modification provides for payment of a post-petition debt, the holder of such debt. The modification shall become conditionally effective upon the filing and service of the notice. The modification shall become permanent upon the expiration of the time to file objections if no objections are timely made or upon resolution of all objections made.

(3) Effect of Disallowance of Modifications

If a proposed modification is disallowed, the plan in effect immediately prior to such modification shall be the plan, and debtor shall be responsible for curing any default occurring during the period of conditional modification.

(4) Modification by Stipulation Between Chapter 13 Trustee and Debtor

The Chapter 13 trustee and the debtor may stipulate to a modification before or after confirmation where no parties are adversely affected. Such modifications shall be effective upon the filing of the stipulation.

(5) The debtor shall file an amended Plan Funding Analysis (LF 2083B) upon the making or proposing of a modification pursuant to subparagraph (i)(1) or (2) of this rule.

(j) Payments To and Distributions By Chapter 13 Trustee

(1) Payments to Chapter 13 Trustee

The debtor shall make all pre- and post confirmation payments on obligations for leases of personal property and obligations owed to a creditor that has a security interest in personal property to the Chapter 13 trustee including all obligations provided by § 1326(a)(1) of the Code, as well as obligations secured by real property as required by sub-paragraph (f) of the rule, unless otherwise ordered by the court.

(2) Filing Fee Installments

Installment payments of filing fees where allowed shall be paid directly to the Clerk, however, if such fees are received by the Chapter 13 trustee, the Chapter 13 trustee may return them to the payor or deliver them to the Clerk without further order of the Court.

(3) Distributions by Chapter 13 Trustee Based on Modifications

Distributions may be made by the Chapter 13 trustee in accordance with a conditional modification until such modification becomes permanent, is disallowed or otherwise ordered, and the Chapter 13 trustee is served with a copy of such order by the objecting party.

(4) Post-petition Claims

Proofs of claim filed pursuant to § 1305(a)(1) of the Code for post-petition tax claims may be paid without a modification to the plan, however, proofs of claim filed pursuant to § 1305(a)(2) of the Code for consumer debt may only be paid if a modification to the plan so provides.

(5) Disposition of Funds on Conversion or Dismissal

On the conversion or dismissal of a case, the Chapter 13 trustee shall, as soon as practicable, disburse any remaining funds in accordance with § 1326 of the Code. If a motion is filed pursuant to § 348(f)(2) of the Code and the trustee is served a copy thereof prior to disbursement, then the Chapter 13 trustee shall not further disburse until resolution of the motion.

(6) Pre-Confirmation Distributions

The Chapter 13 trustee is authorized to make distributions prior to the confirmation of the plan on obligations for leases of personal property, and on obligations secured by personal or real property. Such pre-confirmation distributions shall be made in the sequence and in the amount set forth in the debtor's plan. If the Trustee has insufficient funds on hand to make the distributions to all classes, the funds will be distributed as provided in the plan to the extent the funds are available. Claims within a particular class which cannot be paid the proposed distribution shall be paid a pro rata share of the funds available. Upon confirmation of the plan, payments will be made as set forth in the plan.

(k) Post-confirmation Sale of Property by Debtor

If the debtor proposes to sell property pursuant to § 363 of the Code, then, unless the property is fully exempt or is valued in an amount of $7,500 or less, the debtor shall promptly provide to the Chapter 13 trustee an amended statement of income and expenses as prescribed by the appropriate official form projecting any changes occasioned by the sale and a good faith estimate of closing costs or other similar document and any other documents requested by the Chapter 13 trustee relating to such sale.

(l) Incurring Credit by Debtor During the Pendency of the Plan

If the debtor proposes to purchase any property involving a credit transaction that may potentially affect the debtor's ability to satisfy the plan, the debtor, in addition to obtaining the Chapter 13 trustee's approval if practicable, shall transmit to the Chapter 13 trustee an amended statement of income and expense as prescribed by the appropriate official form projecting any changes caused by the purchase, and if the transaction involves real estate, a good faith estimate of closing costs or other similar document and any other documents requested by the Chapter 13 trustee.

(m) Debtors Engaged in Business

Debtors engaged in business shall comply with the applicable provisions of LBR 3016-1(e) and 28 USC 959(b), and serve a copy of the Monthly Financial Report on the trustee.

(n) Income Directive

(1) The Chapter 13 trustee may, at any time, issue a Trustee's Income Directive or present an ex-parte order, based upon a proposed or confirmed plan requiring any entity from whom the debtor receives money to pay all or part of such income to the Chapter 13 trustee.

(2) In any case in which a debtor desires to make plan payments directly to the trustee in lieu of an income directive, the debtor may do so only upon the entry of an order of the court authorizing such direct payments. Such an order will be entered only:

(A) After filing of a motion for an order authorizing the debtor to make the plan payments directly to the trustee; and

(B) After seven (7) days' notice and hearing to the trustee; and

(C) Upon a showing of cause.

(o) Motion to Dismiss or Convert Case

(1) A party in interest desiring that a case be dismissed or converted shall give twenty-one (21) days' notice and hearing to the Master Mailing List.

(2) The Chapter 13 trustee may move the Court for an order of dismissal or conversion on seven (7) days' notice to the debtor and debtor's attorney and any entity that has filed and served the Chapter 13 trustee with a request to receive such notice for failure to timely file schedules or other required documents or attend the meeting of creditors and on twenty-one (21) days' notice for failure to timely make payments required by § 1326(a) of the Code or pursuant to a confirmed plan.

(3) A debtor shall serve a copy of a request for voluntary dismissal on the trustee.

(p) Minimum Plan Payments

A plan that proposes payments of less than $50 per month to be paid to the Chapter 13 trustee shall be supported by an affidavit or unsworn declaration under penalty of perjury explaining the necessity of such minimum payments.

(q) Domestic Support Obligation Certificate

Upon completion of all payments by the debtor under the plan, each debtor shall file a Domestic Support Obligation Certificate as prescribed by the appropriate form (Official Form 2830).

Related Provisions

FRBP 1006	Filing Fees
FRBP 1007	Lists, Schedules, Statements and Other Documents; Time Limits
FRBP 1017	Dismissal or Conversion of Case; Suspension
FRBP 1019	Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case
FRBP 2002	Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee
FRBP 2016	Compensation for Services Rendered and Reimbursement of Expenses
FRBP 3007	Objection to Claims
FRBP 3012	Valuation of Security
FRBP 3015	Filing, Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case
FRBP 6004	Use, Sale, or Lease of Estate Property
FRBP 9013	Motions; Form and Service
FRBP 9014	Contested Matters
LBR 2016-1	Compensation of Professionals
LBR 3016-1	Chapter 11 Pre-Confirmation Requirements
LBR 4001-2	Cash Collateral
LBR 4003-2	Lien Avoidance
LBR 9011-1	Attorney Duties
11 USC 348	Effect of Conversion
11 USC 349	Effect of Dismissal
11 USC 506	Determination of Secured Status
11 USC 522(f)	Avoidance of Liens
11 USC 1304	Debtor Engaged in Business
11 USC 1305	Filing and allowance of postpetition claims
11 USC 1307	Conversion or Dismissal
11 USC 1323	Modification before confirmation
11 USC 1325(c)	Income Directive
11 USC 1326	Payments
11 USC 1329	Modification of plan after confirmation
28 USC 959	Trustees and receivers suable; Management; State Laws

Rule 3016-1

Chapter 11 Pre-Confirmation Requirements

(a) Applicability

This rule applies only to cases under Chapter 11 of the Bankruptcy Code.

(b) Affidavit or Certificate

The debtor shall file with the petition for relief under Chapter 11, or within fifteen (15) days thereafter an affidavit or certificate under penalty of perjury that discloses the following information:

(1) The name and addresses of the members of any creditors' committee organized before the order for relief under Chapter 11;

(2) If the debtor is operating a business, the following information for the thirty (30) day period following the order for relief:

(A) The amount proposed to be paid pursuant to subdivision (d) below to insiders if the debtor is a corporation, or to the debtor, insiders or members of the partnership if the debtor is an individual or partnership;

(B) The proposed payroll for employee labor exclusive of (A) above;

(C) The operating expenses, exclusive of (A) and (B) above;

(D) The estimated profit or loss, after deduction of expenses under (A), (B), and (C) above; and

(E) Any non-cash operating expenses proposed not to be paid for any reason.

(3) An averment that no compensation shall be paid in violation of subdivision (c) of this rule.

(c) Compensation

(1) If the trustee or debtor in possession is operating a business, no compensation shall be paid to the debtor, or to insiders from the order of relief until the confirmation of a plan, except in accordance with the provisions of this subdivision.

(2) The trustee or debtor in possession shall give notice to all parties on the Master Mailing List of the intent to pay compensation. The notice shall state the amount of

compensation, to whom the compensation is to be paid, the amount of compensation paid over the past twelve (12) months, and the nature of the services to be performed. The notice shall summarize the provisions of subparagraph (3) below and shall further state that any party in interest may object to the compensation and request a hearing at any time prior to confirmation.

(3) Compensation may commence after notice is given. Any party in interest objecting to the compensation shall do so in writing, and has the duty to request a hearing on the objection. The compensation shall continue until the Court orders otherwise. The Court shall provide an expedited hearing on the objection. If the Court rules that the amount received prior to the hearing is excessive, it may order disgorgement of funds back to the estate.

(d) Funds of the Estate

Upon entry of an order for relief in a case under Chapter 11, the debtor in possession shall open or designate a depository account or accounts in the name of the debtor in possession, and close all old accounts. All funds of the estate shall be transferred to the new account or accounts. All receipts and disbursements of the debtor in possession shall be through the new account or accounts. All disbursements for living expenses of the debtor or for salary or living expenses of the debtor or insider pursuant to subparagraph (c) of this rule shall be in form of a check made payable to the debtor or insider.

(e) Monthly Financial Report

(1) A debtor in possession or trustee operating a business shall file with the Court a monthly balance sheet and profit and loss statement prepared on an accrual basis, unless such requirement is modified by the court for cause shown.

(2) The above financial information shall be filed within ~~fifteen (15)~~ ***twenty-one (21)*** days of the close of the month during which relief was ordered and within ~~fifteen (15)~~ ***twenty-one (21)*** days of the close of every month thereafter, until a plan is confirmed or the case is converted or dismissed. A copy of each monthly balance sheet and profit and loss statement shall be sent to the chairman of any creditors' committee by the debtor in possession or trustee.

(3) If the debtor is a farmer, monthly reports shall be made as required by LBR 2082-1(f).

Related Provisions

FRBP 2002	Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief Is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee
FRBP 3016	Filing of Plan and Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case
FRBP 3017	Court Consideration of Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case
FRBP 3018	Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case
FRBP 3019	Modification of Accepted Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case
FRBP 3020	Deposit; Confirmation of Plan in a Chapter 9 Municipality or Chapter 11 Reorganization Case
LBR 3017-1	Disclosure Statement and Plan - General
LBR 3018-1	Chapter 11 Plan Confirmation
LBR 3021-1	Chapter 11 Post-Confirmation Disbursement Report
LBR 3022-1	Final Account and Decree in Chapter 11 Reorganization Cases
11 USC 101(51C)	Small Business Case Defined
11 USC 1121	Who May File a Plan
11 USC 1125	Postpetition Disclosure and Solicitation
11 USC 1126	Acceptance of Plan
11 USC 1127	Modification of Plan
11 USC 1128	Confirmation Hearing
11 USC 1129	Confirmation of Plan

Rule 9070-1

Exhibits

(a) Identification and Presentation

As much as practicable, all exhibits intended to be offered into evidence shall be identified by the party offering the exhibit in the manner prescribed by the ***Courtroom Deputy*** ~~Clerk~~ prior to the hearing. A party intending to offer five or more exhibits shall furnish such exhibits in a three-ring binder ***or electronic format, and include an index.*** ~~which shall include an index.~~

(b) Disposition of Exhibits

(1) Unless otherwise ordered, upon the conclusion of a hearing or trial, all exhibits, including sealed exhibits, marked for identification or introduced into evidence and all depositions and transcripts shall be returned to the party who produced them.

(2) It is the responsibility of the party who received any documents back in accordance with subparagraph (b)(1) to produce any or all such documents if requested by this Court or any appellate court hearing any appeal taken.