

## **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 twenty-one (21) days of the close of the month during which relief was ordered and within 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).

**(f) Initial Status Conference**

- (1) Except as provided in subsection (f)(2), not later than 60 days after the entry of the order for relief in any Chapter 11 case, the court shall hold a status conference to further the expeditious and economical resolution of the case.

- (2) The court may extend the period of time for holding a status conference under subsection (f)(1) if the need for an extension is attributable to circumstances for which the debtor should not justly be accountable.
- (3) Not later than 14 days before the date of the status conference under subsection (f)(1), the debtor shall file with the court and serve on all parties in interest a report that details the efforts the debtor has undertaken and will undertake to attain a consensual plan of reorganization.

### **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

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