



U.S. Department of Justice

*Office of the United States Trustee
District of Maryland*

Baltimore Division

101 W. Lombard Street, Ste 2625
Baltimore, MD 21201
410.962.4300

Greenbelt Division

6305 Ivy Lane, Ste 600
Greenbelt, MD 20770
301.344.6216

**OPERATING GUIDELINES AND REPORTING REQUIREMENTS OF THE
UNITED STATES TRUSTEE
District of Maryland**

FOR CHAPTER 11 DEBTORS-IN-POSSESSION and CHAPTER 11 TRUSTEES

Revised April 22, 2024

TO: CHAPTER 11 DEBTORS-IN-POSSESSION, ATTORNEYS, AND TRUSTEES

The United States Trustee Program is a component of the U.S. Department of Justice responsible for overseeing the administration of bankruptcy cases. As part of the United States Trustee's oversight responsibility, these Chapter 11 Guidelines are promulgated to assist debtors-in-possession in meeting their obligations while in Chapter 11.

It is important that debtors-in-possession review and understand these requirements and immediately seek assistance from counsel when needed because timely compliance with each of the requirements contained herein is mandatory. Failure to comply with any requirement may result in a motion by the United States Trustee or another party to dismiss or convert a case to Chapter 7, to appoint a Chapter 11 trustee or examiner or to request other relief.

In addition to the requirements discussed in these Guidelines, all applicable provisions of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules, General Orders, and other orders of the court must be observed in Chapter 11 cases.

Any request to amend or modify these requirements for a particular Chapter 11 case must be made in writing. To be effective, any modification must be approved by the United States Trustee in writing.

THE DEBTOR-IN-POSSESSION IS A FIDUCIARY

Chapter 11 provides an opportunity for a debtor to reorganize its debts while continuing to operate. With the filing of a voluntary Chapter 11 petition, a debtor becomes a new entity called a debtor-in-possession. The debtor-in-possession, often with the participation of creditors, develops a plan of reorganization proposing a method for payment of its debts. The debtor-in-possession may continue to operate pending approval of its plan of reorganization unless the court orders the appointment of a trustee under Chapter 11. A debtor-in-

possession has a fiduciary duty to its creditors, pursuant to which it must act to preserve and maintain the bankruptcy estate and to operate its business (or themselves if an individual) efficiently to maximize payments to creditors. Debtors-in-possession must establish and observe certain operating procedures and file certain financial reports with the Bankruptcy Court and any committee appointed in the case by the United States Trustee.

COURT APPROVAL REQUIRED FOR CERTAIN TRANSACTIONS

The United States Trustee's staff will not provide legal advice to a debtor-in-possession. The debtor-in-possession should consult with its counsel when a question arises about compliance with any requirement discussed in these guidelines. Generally, a debtor-in-possession is required to get court approval for any action that is outside the ordinary course of business, including the following:

- Making a payment on a pre-petition debt,
- Obtaining a loan or financing,
- Entering into a settlement agreement,
- Selling or transferring any of the debtor-in-possession's assets other than in the ordinary course of the debtor-in-possession's business,
- Paying pre-petition wages after the petition date,
- Using cash collateral (funds encumbered by a security interest),
- Employing and/or making a payment to a professional, such as an attorney, accountant, realtor, appraiser, auctioneer, business consultant, engineer, or other professional.

DUTY TO MAINTAIN POST-PETITION RECORDS

The debtor-in-possession is required to maintain records post-petition. The debtor-in-possession's accounting records should establish a clear cut-off between financial transactions that occurred before the Chapter 11 filing, and those that occur on and after the date of filing.

BANK ACCOUNTS / MONEY OF THE ESTATE

Section 345(b) of the Bankruptcy Code requires a debtor-in-possession to protect its creditors' interests by depositing its funds in a financial institution that will collateralize or bond those funds in favor of the United States. The debtor-in-possession must immediately close pre-petition bank accounts and open a new "Debtor-in-Possession" bank account. The account must be opened in a financial institution approved by the United States Trustee. The "Authorized Financial Institutions for Baltimore and Greenbelt" listing can be found on our website under the District of Maryland header. (Note: Baltimore and Greenbelt may have different authorized depositories.) [https://www.justice.gov/ust-regions-r04/region-4-general-information-0.](https://www.justice.gov/ust-regions-r04/region-4-general-information-0))

The debtor-in-possession must report to the United States Trustee each financial institution in which estate funds are maintained and execute an authorization for the release of information pertaining to estate accounts. A Statement of Depository and Authorization for Release of Information Form is provided. (See **Exhibit 1.**) This report and authorization is due within 15 days after the date of the petition in a voluntary case, the order for relief in an involuntary case, or the appointment of a trustee. **This report and authorization should be sent only to the Office of the U.S. Trustee. It should not be filed with the court.**

ALL funds should be deposited into the debtor-in-possession account. All disbursements should be made by check, debit card or via an online transaction from this debtor-in-possession account. The debtor-in-possession may NOT use any bank accounts other than its disclosed debtor-in-possession account without an order of the court approving the debtor-in-possession's use of such bank account.

The debtor-in-possession is required to notify the United States Trustee within five business days of any change of bank accounts and must provide proof of compliance with section 345(b) for each new account.

INSURANCE

The debtor-in-possession is required to maintain adequate insurance to preserve the interests of its creditors by protecting estate assets. The insurance must include coverage customary in the debtor's business and may include a combination of various property, liability, and workers compensation policies. **The debtor-in-possession's failure to maintain appropriate insurance is cause for dismissal of the case or conversion to Chapter 7. See 11 U.S.C. §1112(b)(4)(C).**

All documents provided as evidence of insurance must clearly state the policy expiration date, the types and amounts of coverage, the location(s) covered, the deductible, the named insured, the insurer, and the name, address, and telephone number of the local agent.

The debtor-in-possession is required to provide a certificate of insurance to the Office of the U.S. Trustee, which must indicate that the United States Trustee is notified in the event of any change, cancellation, or expiration of the policy. The certificate of insurance should provide the following notification information:

Baltimore Division

For Notice Purposes Only

Office of the U.S. Trustee

Re: Case XX-XXXXX

101 W. Lombard Street, Ste 2625

Baltimore, MD 21201

Greenbelt Division

For Notice Purposes Only

Office of the U.S. Trustee

Re: Case XX-XXXXX

6305 Ivy Lane, Ste 600

Greenbelt, MD 20770

TAXES

The debtor-in-possession must remain current on all post-petition federal, state, and local taxes and file all tax returns on a timely basis. Failure to timely pay post-petition taxes or to file post-petition tax returns is cause for conversion or dismissal of the case. See 11 U.S.C. §1112(b)(4)(I).

TYPES OF DEBTORS-IN-POSSESSION

There are four types of debtors-in-possession:

- Small Business not electing subchapter V status
- Small Business electing subchapter V status
- Business (any non-Small Business)
- Individuals

Some specific differences:

Small Business Debtors not electing subchapter V status

1. A "small business case" is a case in which the debtor-in-possession is a "small business debtor," (as defined by the Bankruptcy Code) and in which Subchapter V status is not elected. See 11 U.S.C. § 101 (51C) and (51D).
2. At the start of the case, the small business debtor must file with the Court its most recent balance sheet, statement of operations, cash flow statement, and federal income tax return. If these documents do not exist, then the small business debtor must file with the Court a statement made under penalty of perjury that a tax

return has not been filed and / or that financial statements have not been prepared. The small business debtor must file these documents with the Court no later than 7 days after filing the petition.

3. The small business debtor must provide the Office of the United States Trustee with a six-month projection of receipts and disbursements. Until the case is dismissed, converted to Chapter 7 or a Chapter 11 plan is confirmed, the small business debtor must file monthly operating reports (described in more detail below) using Form 425C. Once a Chapter 11 plan is confirmed, operating reports need only be filed quarterly. Quarterly post-confirmation reports are filed using UST Form 11-PCR.

Small Business Debtors electing subchapter V status (“Subchapter V”)

1. A “Subchapter V case” is a case in which the debtor-in-possession is a “small business debtor” who elects Subchapter V status. *See* 11 U.S.C. § 101 (51C) and (51D).
2. A subchapter V trustee is appointed to all subchapter V cases. The Subchapter V debtor-in-possession has a duty to cooperate with the subchapter V trustee.
3. At the start of the case, the Subchapter V debtor-in-possession must file with the Court its most recent balance sheet, statement of operations, cash flow statement, and federal income tax return. If these documents do not exist, then the Subchapter V debtor-in-possession must file with the Court a statement made under penalty of perjury that a tax return has not been filed and / or that financial statements have not been prepared. The Subchapter V debtor-in-possession must file these documents with the Court no later than 7 days after filing the petition.
4. The Subchapter V debtor-in-possession must provide the Office of the United States Trustee with a six-month projection of receipts and disbursements. Until the case is dismissed, converted to Chapter 7 or a Chapter 11 plan is confirmed, the Subchapter V debtor must file monthly operating reports (described in more detail below) using Form 425C. No post confirmation reports are required unless the approved Chapter 11 plan or a court order requires such reporting.
5. The Subchapter V debtor-in-possession does not pay quarterly fees.
6. The Subchapter V debtor-in-possession must comply with certain deadlines not imposed in other Chapter 11 cases:
 - a. The Initial Debtor Interview should be held within 10 days of the filing of the petition.
 - b. The Meeting of Creditors should generally be held within 21 - 30 days of the filing of the petition.
 - c. The Court will hold a status conference not later than 60 days after the case is filed.
 - d. Not later than 14 days before the status conference, “the debtor shall file with the court and serve on the trustee and all parties in interest a report that details the efforts the debtor has undertaken and will undertake to attain a consensual plan of reorganization.” *See* 11 U.S.C. § 1188(c).
 - e. The Subchapter V debtor-in-possession shall file a plan not later than 90 days after the petition date, except that the court may extend the period.

Individuals

Chapter 11 includes several provisions that apply specifically to individual debtors-in-possession including the following:

1. Property of the bankruptcy estate includes property acquired post-petition. *See* 11 U.S.C. § 1115(a)(1).
2. Property of the bankruptcy estate includes post-petition earnings from personal services. *See* 11 U.S.C. § 1115(a)(2).

3. The filing of an individual Chapter 11 case creates a separate taxable entity under Section 1398 of the Internal Revenue Code. The individual Chapter 11 debtor-in-possession must obtain an Employer

Identification Number (EIN) for the estate. In the case of married joint debtors, each debtor must obtain his or her own EIN. The IRS treats the estates as two separate entities for tax purposes. The individual Chapter 11 debtor-in-possession must prepare and file estate income tax returns (Form 1041) and attach a statement indicating that the individual debtor filed a Chapter 11 bankruptcy case. *See* IRS Notice 2006-83 and Publication 908 for further guidance. It is strongly recommended that individual Chapter 11 debtors-in-possession consult a tax professional.

4. An individual debtor-in-possession owing a “domestic support obligation” as defined at 11 U.S.C. § 101(14A) (alimony, child support, etc.) must provide written notice of the bankruptcy filing to the recipient and to the appropriate state child support enforcement agency. The initial notices of an individual Chapter 11 debtor-in-possession’s bankruptcy filing must be sent within three days of the Meeting of Creditors, and a certification must then be filed with the court. Notification of receiving a bankruptcy discharge must be sent to these same parties after a discharge is obtained.

INITIAL REPORTING REQUIREMENTS

Upon filing Chapter 11, the United States Trustee will send a notice requiring the submission of documents as an Initial Reporting Requirement. The Initial Reporting Requirements must be submitted to the United States Trustee **at least 48 hours prior to the Initial Debtor Interview in electronic format**. Initial Reporting Requirements are not filed with the court. They are intended to provide the United States Trustee with information about the debtor-in-possession and to ensure the debtor-in-possession meets its bankruptcy requirements. The Initial Reporting Requirements include, but are not limited to, the following:

1. Last two filed federal tax returns with supporting schedules/statements, and a copy of an extension request (if applicable),
2. Previous three months of statements for all open financial institution accounts,
3. Check register for 90 days prepetition,
4. Copies of the declaration page for all insurance policies,
5. Certificate of insurance listing Office of United States Trustee as a notice holder (to include all asset and liability coverages of the debtor-in-possession),
6. Copies of last year’s financial statements,
7. Copies of last month and year to date Income Statement and Balance Sheet,
8. Copies of all business licenses,
9. Payroll register for businesses,
10. Recent paystub and most recent W2 for individuals,
11. Debtor-in-possession bank information (**Exhibit 1** of the Guidelines completed) and
12. If debtor-in-possession has at least a 20% ownership interest in any entity, copies of prior year and year to date financial statements for that entity.

INITIAL DEBTOR INTERVIEW

The United States Trustee will schedule an initial debtor interview (IDI) with the debtor-in-possession and the debtor-in-possession’s counsel (and in a Subchapter V case, the Subchapter V trustee) to be conducted as soon as practicable before the Meeting of Creditors. The IDI will occur at the debtor’s place of business, at the United States Trustee’s office, or virtually. A person knowledgeable about the debtor-in-possession’s accounting operations must attend the IDI. During the IDI, the United States Trustee’s representative will ask questions about the debtor’s accounting records, bank accounts, insurance, and other administrative matters, among other things. The United States Trustee’s representative will explain the monthly operating report requirements, payment of statutory fees, and the debtor-in-possession’s other obligations.

The debtor-in-possession should review thoroughly the information contained in these Guidelines before the IDI so that any administrative questions can be addressed at that time. The debtor-in-possession's failure to attend meetings reasonably requested by the United States Trustee is cause for conversion or dismissal of the case. 11 U.S.C. § 1112(b)(4)(H).

MEETING OF CREDITORS

The United States Trustee will convene and preside over a Meeting of Creditors in accordance with the timeline set forth in Fed. R. Bankr. P. 2003(a), usually between 21 and 40 days after the petition was filed. Unless otherwise noticed, all Chapter 11 meetings are held virtually or in person. If held virtually, the United States Trustee will provide the required hyperlink, phone number or other information necessary to attend the meeting. If held in person, meetings are held at:

Baltimore Division

Office of the U.S. Trustee
101 W. Lombard Street, Suite 2650
341 Meeting Room
Baltimore, MD 21201

Greenbelt Division

Office of the U.S. Trustee
6305 Ivy Lane, Suite 620 / 621
341 Meeting Rooms
Greenbelt, MD 20770

The United States Trustee will examine the debtor-in-possession under oath. Creditors will also have an opportunity to ask the debtor-in-possession questions. Attendance by the debtor-in-possession is mandatory, and both spouses must appear if the case is a joint filing. In the case of a non-individual debtor, a person knowledgeable about the debtor-in-possession's business operations, activities, and finances along with the debtor-in-possession's attorney must appear. If the debtor-in-possession is a partnership or limited liability company, one of the general partners or managing members must appear with the debtor's attorney.

If the debtor-in-possession is an individual, the debtor-in-possession must provide proof of identification and social security number at the Meeting of Creditors. Fed. R. Bankr. P. 4002(b). If the meeting is conducted virtually, then the debtor-in-possession must provide such documents to their counsel who will have to provide the United States Trustee with a Declaration of Identification.

The debtor-in-possession's failure to attend the Meeting of Creditors without good cause is grounds for conversion or dismissal of the case. *See* 11 U.S.C. §1112(b)(4)(G). If necessary, the United States Trustee may continue a meeting to a later date to resolve open matters. Failure by the debtor-in-possession to submit bank authorizations, insurance certificates, and other required documents may result in a continuation of the meeting.

MONTHLY OPERATING REPORTS

There are two versions of the monthly operating report (MOR): one for small business debtors-in-possession (both non-Subchapter V and Subchapter V) and one for all others.

Non-Small Business (Individual & Business) and Non-Subchapter V Cases

UST Form 11-MOR: On June 21, 2021, the United States Trustee Program's rule entitled Uniform Periodic Reports in Cases Filed Under Chapter 11 of Title 11, published at 28 C.F.R. § 58.8 (the "Final Rule") became effective. The Final Rule, mandated by 28 U.S.C. § 589b, requires that chapter 11 debtors-in-possession and trustees, other than in small business and subchapter V cases, file monthly operating reports using streamlined, data-embedded, uniform forms in every judicial district where the U.S. Trustee Program operates.

UST Form 11-MOR, Monthly Operating Report (“MOR”), is the periodic financial report that must be filed on a calendar monthly basis from the petition date to the earlier of the effective date of a confirmed plan, the conversion date of the case to another chapter, or the dismissal of the case.

Report filers (defined as the actual party filing the MOR with the Court) must refer to the Final Rule and instructions for the MOR form for important information, including who must file each report, when the reports must be filed, who the reports must be served upon and what documentation must be filed along with each report.

To access the latest version of the MOR form, instructions for its use and filing, and other important information related to periodic reporting under the Final Rule, please refer to <https://www.justice.gov/ust/chapter-11-operating-reports>. While at that webpage, please subscribe to the “Chapter 11 Operating Reports E-mail Updates” feature to automatically receive email updates about periodic reporting under the Final Rule.

Small Business (both non-Subchapter V and Subchapter V) Cases

Official Form 425C: Each month, debtors-in-possession shall file Official Form 425C, the Small Business Monthly Operating Report. Reports should also include basic financial information (report of receipts and disbursements, balance sheet, profit and loss statement, copies of bank statements and bank reconciliations). Small business debtors-in-possession (non- Subchapter V and Subchapter V) must submit a Monthly Operating Report for each month (or portion thereof) after the petition is filed until the case is dismissed, converted, the confirmed Chapter 11 plan’s effective date in the case of a non-Subchapter V, or the confirmed Chapter 11 plan’s confirmation date in the case of a Subchapter V.

Report Due Dates

All Monthly Operating Reports, whether on UST Form 11-MOR or Official Form 425C are due **twenty-one days** after the end of the calendar month. The debtor-in-possession’s unexcused failure to satisfy timely any filing or reporting requirement is cause for conversion or dismissal of the case. 11 U.S.C. § 1112(b)(4)(F).

PERIODIC REPORTS REGARDING ENTITIES IN WHICH THE DEBTOR-IN-POSSESSION HAS A SUBSTANTIAL OR CONTROLLING INTEREST

The debtor-in-possession must file periodic reports of the value and profitability of any entity in which the debtor-in-possession has a substantial or controlling interest. Fed. R. Bankr. P. 2015.3. The debtor-in-possession’s first report must be filed no later than seven days before the first date set for the Meeting of Creditors. Subsequent reports must be filed no less frequently than every six months (July 1st and January 1st), until the effective date of a plan or the case is dismissed or converted. The periodic reports required by Fed. R. Bankr. P. 2015.3(a) must be prepared on Official Form 426.

REPORTS IN CASES CONVERTED TO CHAPTER 7

In the event a Chapter 11 case is converted to a case under Chapter 7, the debtor must file a schedule of unpaid debts incurred after commencement of the Chapter 11 case. The report must be filed within fourteen days after entry of an order converting the case to a case under Chapter 7. A final report and account must be filed within 30 days after entry of the order converting the case. *See* Fed. R. Bankr. P. 1019(5). A sample of a final report can be found on our website at: <https://www.justice.gov/ust-regions-r04/region-4-general-information-0>.

POST CONFIRMATION REPORTS

As authorized by 28 U.S.C. § 589b, all reorganized debtors other than Subchapter V debtors must file UST Form 11-PCR, Post-confirmation Report (“PCR”). The PCR is the periodic financial report that must be filed on a calendar quarterly basis once the effective date of a confirmed plan occurs by any post-confirmation entities, which would include the reorganized debtor and any other “authorized parties” charged with administering the confirmed plan, until the earlier of the date the case is closed, dismissed, or converted to another chapter. Each data-embedded report must be filed with the bankruptcy court no later than the 21st day of the month immediately following the end of the calendar quarter.

Subchapter V reorganized debtors are not required to file any post confirmation reporting unless required by the confirmation order. However, according to Local Rules, Subchapter V reorganized debtors are required to file progress reports every six months after confirmation until the case is closed, dismissed or converted. See Local Rules for what information is required to be provided in these reports.

The United States Trustee will send an email shortly after confirmation of the reorganized debtor’s plan to refer the debtor to the quarterly reports that will need to be completed.

Report filers (defined as the actual party filing the PCR with the Court) must refer to the Final Rule and instructions for the PCR form for important information, including who must file each report, when the reports must be filed, who the reports must be served upon and what documentation must be filed along with each report.

To access the latest version of the PCR forms, instructions for their use and filing, and other important information related to periodic reporting under the Final Rule, please refer to <https://www.justice.gov/ust/chapter-11-operating-reports>. While at that webpage, please subscribe to the “Chapter 11 Operating Reports E-mail Updates” feature to automatically receive email updates about periodic reporting under the Final Rule.

STATUTORY QUARTERLY FEES

All Chapter 11 debtors-in-possession (except Subchapter V debtors) must pay to the United States Trustee a quarterly fee for each quarter, or fraction thereof, from the petition date until the case is dismissed, converted, or closed by final decree. 28 U.S.C. § 1930(a)(6). The Bankruptcy Code further provides that for a plan to be confirmed, all quarterly fees must be paid timely or the plan must provide for payment of all fees on the effective date of the plan 11 U.S.C. § 1129(a)(12). The debtor-in-possession’s failure to timely pay quarterly fees is cause for conversion or dismissal of a Chapter 11 case. 11 U.S.C. § 1112(b)(4)(K).

The fee for each calendar quarter is based on total payments or disbursements made by the debtor-in-possession’s estate during the quarter and any payments made by any other entity on the debtor-in-possession’s behalf. The fee is due on the last day of the calendar month following the calendar quarter for which the fee is owed. Interest will be charged on unpaid quarterly fees, pursuant to 31 U.S.C. § 3717.

Chapter 11 quarterly fees may be paid online at <https://www.pay.gov/public/form/start/672415208> via an online transfer from their debtor-in-possession account. Payment may also be made by mailing the tear-off portion of the billing statement and a check, made payable to “United States Trustee” to the address listed on the payment stub. Additional information concerning fees and the fee structure may be found at: <https://www.justice.gov/ust/chapter-11-quarterly-fees>.

IN GENERAL

The debtor-in-possession should be aware that in addition to the requirements of the Bankruptcy Code, there are many requirements for debtors-in-possession found in the Federal Rules of Bankruptcy Procedure, as well as Local Bankruptcy Rules and Standing Orders for the District in which the debtor-in-possession filed its bankruptcy case. The website for the District of Maryland Bankruptcy Court is: <https://www.mdb.uscourts.gov>.

Any request to amend or modify these requirements for a particular Chapter 11 case must be made in writing. To be effective, any modification must be approved by the United States Trustee in writing.

DEBTOR-IN-POSSESSION STATEMENT OF DEPOSITORY AND AUTHORIZATION FOR RELEASE OF INFORMATION (DO NOT FILE THIS DOCUMENT WITH THE COURT)

RE:

Form with fields for Case Name, d/b/a, and Case Number.

This will confirm that the above referenced Debtor-in-Possession has established the following account(s) at _____.

That said account(s) have been designated as Debtor-in-Possession and are federally insured.

That said account(s) have been titled:

- Debtor's Name
Debtor-In-Possession
Optional: Type of Account such as Operating, Payroll, etc.
Address
City, State, Zip

All Debtor-in-Possession opened accounts at this depository are as follows:

Table with 4 columns: ACCOUNT NUMBER, ACCOUNT TYPE, BALANCE / DATE, WHO CAN SIGN CHECKS.

I hereby authorize the release to the United States Trustee of any information and for copies of documents pertaining to funds or accounts that are property of the above-referenced bankruptcy estate, including, but not limited to checking accounts, savings accounts, trust, and investment accounts.

Was the Debtor provided a debit card with the above Debtor-in-Possession Account(s)?
Was the Debtor provided a month-end bank statement cutoff date, which the Office of the US Trustee requests? If no, then what is the cutoff date for the above account(s)?

This form is to be completed and signed by the depository bank and debtor and the original returned to the Office of the United States Trustee.

Debtor Signature

Bank Authority Signature

Print Name and Title
Date:

Print Name and Title
Date:

Co-Debtor Signature (if applicable)

Bank Name:

Address:

Print Name and Title

Telephone No.:

Date:

Fax No.: