



## U.S. Department of Justice

Executive Office for United States Trustees

Office of Oversight

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Washington, D.C. 20530

### **LIST OF CHANGES AND UPDATES TO THE HANDBOOK FOR CHAPTER 7 TRUSTEES AND SUPPLEMENTARY MATERIALS**

**March 2022 and June 2022**

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#### **HANDBOOK**

#### **Handbook Chapter 4, Duties of a Trustee in the Administration of a Case**

J. Make a Final Report and Final Account of the Estate 11 U.S.C. § 704(a)(9)  
(Pages 4-33 to 4-35)

1) Trustee's Final Report (TFR) revised to read as follows:

“For cases with gross receipts of \$25,000 or less, the trustee must provide to the United States Trustee the bank statement(s) showing that the balance in the estate account(s) matches the remaining balance on hand per the TFR. For cases with gross receipts greater than \$25,000, all original bank statements and canceled checks (from all estate accounts) must be provided, except when the United States Trustee can review the statements and canceled checks via an electronic bank statement portal. 28 U.S.C. § 586. (Language amended March 15, 2022.)”

Deleted:

“Generally, estate funds should be maintained in an interest-bearing account until the trustee is ready to distribute the funds to creditors. The trustee may receive a fee on the increase, if authorized by the court (although many trustees waive the extra fee). If the balance of estate funds on hand is less than \$5,000, the trustee has the discretion to move the funds to a non-interest bearing account when the TFR is submitted to the United States Trustee. This amount may be adjusted at the United States Trustee's discretion. If there is a substantial delay in approval of the TFR, the trustee is expected to reinvest the funds, in accordance with the trustee's duty to maximize the return to creditors. Funds should not be invested after the final tax return is prepared if the cost of preparing an additional tax return would exceed the interest earned. Normally, this situation will only be an issue for corporate or partnership cases.”

3) Trustee's Final Account (TDR) revised to reach as follows:

“Within 125 days after the entry of an order allowing final compensation and expenses, a trustee must submit to the United States Trustee for review a TDR signed under penalty of perjury certifying that the estate has been fully administered. A bank statement showing a zero balance must be available for review by the United States Trustee. All original bank statement(s), including the bank statement showing a zero balance, and all canceled checks (except those already submitted with the TFR) must be submitted to the United States Trustee, except when the United States Trustee can review the statements and canceled checks via an electronic bank statement portal. The trustee must certify that all funds have been disbursed consistent with the distribution report and that all checks have been negotiated or any remaining checks have been paid into court and that the estate has been fully administered. See Amended Memorandum of Understanding Between the Executive Office for U.S. Trustees and the Administrative Office for U.S. Courts Regarding Case Closing and Post Confirmation Chapter 11 Monitoring at Section II, 28 U.S.C. §§ 586 and 589(b), and Fed. R. Bankr. P. 5009. (Language amended March 15, 2022.)”

“Any original canceled checks and bank statements may be retained by the United States Trustee or returned to the trustee. The bank statements and canceled checks must be retained for the two-year period specified in section 322(d), or as otherwise required by the IRS, whichever period is longer. (Language amended March 15, 2022.)”

N. Other Duties of a Chapter 7 Trustee  
(Pages 4-36 to 4-37)

1) Dismissals or Conversions of a Chapter 7 Case

“The trustee must file an NDR after a case has been dismissed or converted to another chapter. If the trustee collected any funds, the trustee may need to provide Form 1 to the United States Trustee. The trustee should contact the United States Trustee for the local procedure. If the trustee opened a bank account, the trustee must provide Forms 1 and 2 and all original bank statements and cancelled checks to the United States Trustee (except when the United States Trustee can review the statements and canceled checks via an electronic bank statement portal). The NDR should be filed after a zero bank balance, if applicable, is attained. See Amended Memorandum of Understanding Between the Executive Office for U.S. Trustees and the Administrative Office for U.S. Courts Regarding Case Closing and Post Confirmation Chapter 11 Monitoring at Section II and 28 U.S.C. §§ 586 and 589(b). (Language amended March 15, 2022.)”

## **Handbook Chapter 5, Financial Policies, Procedures and Reporting Requirements**

### B. Control Procedures to be Personally Performed by the Trustee (Page 5-2)

Revised as follows:

- “4) Review the monthly bank statements and canceled checks before they are accessible to other staff members and/or distributed to the trustee’s electronic filing system for errors, unusual transfers and endorsements, alterations, and forged or unauthorized signatures within 10 days of receipt; and immediately report discrepancies to the bank. Evidence of alterations, forgeries, and similar concerns must also be reported to the United States Trustee. If a canceled check image is illegible, the trustee must request a clearer image or a substitute check. If original paper bank statements are received by mail, the person who receives the mail must give the unopened envelope directly to the trustee. The trustee is required to initial and date the bank statements as evidence of this review. If the bank statements are received electronically, the trustee’s review may be done electronically if evidence of the review is recorded electronically, such as with a time stamp showing the trustee’s User ID and date. (Language amended March 15, 2022.)”
- “5) Review, date, and initial the monthly bank account reconciliations in accordance with Handbook Chapter 5.E.5 and the Chapter 7 Trustee Bank Account Review and Reconciliation Procedures contained in Handbook Supplementary Materials. For reconciliations prepared by a staff member, the trustee’s initials and the date should appear on the summary account reconciliation and on a sample of individual account reconciliations. (Language amended March 15, 2022.)”

### E. Controls over Estate Bank Accounts and Investment of Estate Funds (Pages 5-7 to 5-8, 5-10)

Revised as follows:

“Generally, a trustee should utilize a single banking institution. The trustee must monitor bank account activity on a regular and ongoing basis. 28 U.S.C. § 586. (Language amended March 15, 2022.)

#### 1) Types of Accounts

Section 345(a) provides that a trustee may deposit or invest monies of an estate as will yield the maximum, reasonable net return on such money, taking into account the safety of such deposit or investment. (Language amended March 15, 2022.)

##### a. Interest Bearing Accounts

Interest-bearing estate accounts are either money market accounts or savings accounts. In considering whether to place estate funds in an interest-bearing estate bank account and the reasonableness of the return on the interest-bearing estate bank account, the trustee may consider the following factors: (1) size of the

account; (2) expected duration of the deposit; (3) size of the interest rate differential between the bank's rate and comparable market rates in other institutions or investment vehicles; (4) whether the trustee has negotiated with the bank for the highest possible interest rate; (5) interest rates offered by other banks that provide bankruptcy services; and (6) the value and cost of software and other services provided by the trustee's bank. (Language amended March 15, 2022.)

~~The trustee may be held personally liable for lost interest.~~

#### b. Investment Accounts

When substantial funds (e.g., \$50,000) are received by the estate, which will not be distributed for an extended period of time (e.g., six months), the trustee should consider higher yield investments such as Certificates of Deposit or Treasury Bills. 28 U.S.C. § 586. In general, investments are to be as risk free as possible. The trustee must avoid investments that will predictably delay closing but at the same time exercise care that no early withdrawal of funds or sale of an investment such as a Treasury Bill results in a loss to the estate. 28 U.S.C. § 586. Investment vehicles must be opened, issued or purchased in the name of the trustee as trustee of the estate. Any such investment vehicles must be reported on its own Form 2. The trustee may not use investment vehicles such as repurchase agreements, reverse repurchase agreements, non-bank money market accounts, mutual funds, stocks, corporate bonds, and commercial paper. (Language amended March 15, 2022.)

#### c. Non-Interest-Bearing Accounts

The trustee may maintain money of the estate in a non-interest-bearing checking account. Some of those circumstances are:

- (1) Interest-bearing accounts are not available or the benefit to the estate is *de minimis*, taking into account the considerations described above for interest-bearing accounts.
- (2) The interest-bearing account only allows a limited number of withdrawals each month and the trustee needs to pay administrative expenses in excess of the monthly limit;
- (3) The trustee will soon be making an interim or final distribution to creditors; or
- (4) The trustee is directed by court order to make an immediate distribution.

(Language amended March 15, 2022.)”

#### “5) Bank Account Reconciliations

“The trustee or an assistant must reconcile all bankruptcy estate accounts before the end of the following month. 28 U.S.C. § 586. A bank reconciliation identifies the account balance per the bank statement and the account balance per the accounting records (Form 2), as of month end, and identifies the differences, such as deposits or

transfers in transit, outstanding checks, NSF checks, service charges, and errors made by the bank or by the trustee. The reconciliation preparer must initial and date each bank reconciliation. The trustee, if not the reconciliation preparer, must review, initial and date the reconciliation reports as noted above. 28 U.S.C. § 586. Additional requirements for bank account reconciliations are provided in the Chapter 7 Trustee Bank Account Review and Reconciliation Procedures contained in Handbook Supplementary Materials. (Language amended March 15, 2022.)”

G. Other Recordkeeping Procedures and Internal Controls  
(Pages 5-19 to 5-20)

5) Records Security and Retention

b. Form of Records

“(2) Following is a non-exhaustive list of items that must be kept in paper form:

- (a) Bank statements, canceled or imaged checks and returned items, if any, from case inception through the date that these documents become available for United States Trustee review via an electronic portal provided by the trustee’s bank (language amended March 15, 2022);”

“(4) Evidence of individual and summary (if used) estate bank account reconciliations must be preserved and made available for review by the United States Trustee, upon request, or during the course of an audit or review of the trustee’s operation. Summary reconciliations, which because of their format cannot be filed by estate, must be maintained for a minimum of four years. Individual bank reconciliations filed in estate files must be retained in accordance with the next section. (Language amended March 15, 2022.)”

c. Individual Case Records Retention

“(2) Following is a non-exhaustive list of items that must be maintained for each asset case:

- (a) All bank account statements, duplicate deposit slips, and canceled checks. (Language amended March 15, 2022.)”

## SUPPLEMENTARY MATERIALS

### Chapter 7 Trustee Bank Account Review and Reconciliation Procedures

Revised as follows:

“2. Trustee review of bank statements and canceled checks for unusual items (Handbook Chapter 5.B.4):

- a. The trustee must conduct an initial review of bank statements and canceled checks within 10 days of receipt to detect errors, unusual transfers and endorsements, alterations, and forged or unauthorized signatures. This review must occur before

an assistant has access to the documents for the purpose of preparing the bank reconciliations.

- b. If the bank statements and canceled checks are available electronically, the trustee may review them electronically if: 1) the review is recorded electronically, such as with a time stamp showing the trustee's User ID and date, and 2) the statements are not accessible to the trustee's staff until the trustee's review is completed.
- c. If original paper bank statements are utilized, the person who receives the mail must give the unopened envelopes containing the monthly statements and canceled checks directly to the trustee. The trustee is required to initial and date the bank statements as evidence of this review
- d. If discrepancies are discovered, the trustee must bring them to the bank's attention immediately (e.g., within ten days of receiving the bank statements). Evidence of alterations, forgeries, and similar concerns must also be reported to the United States Trustee.

(Language amended March 15, 2022.)”

“3. Reconciliation of the bank statement and Form 2 balances (Handbook Chapter 5.E.5

- a. On a monthly basis, the trustee or an assistant reconciles all bankruptcy estate accounts before the end of the following month.
- b. The reconciliation can be documented electronically or handwritten on the face of the bank statement or another form created for this purpose. A bank reconciliation report generated from the trustee's case management system may be used. A complete reconciliation contains the following information:
  1.
    - i. Bank statement balance
    - ii. Form 2 balance
    - iii. All reconciling items, individually identified and explained (see d below)
    - iv. Preparer's initials and the date to document who prepared the reconciliation
    - v. Trustee's initials and the date for a sample of reconciliations selected by the trustee to review and approve

Note: Initials and dates on the bank statements, by themselves, do not constitute a bank reconciliation. The preparer must record the Form 2 balance on the statement, note the difference, and explain the reconciling items if the difference is other than zero. (These items may be [1] handwritten if the reconciliation is printed in hard copy or [2] entered electronically using applicable software tools.)

(Language amended March 15, 2022)”

“4. As the bank reconciliations are being prepared, it is a good time to do the following:

- a. If an account has a zero balance and the TDR has been filed, the trustee should arrange with the bank to close the account.
- b. The trustee or assistant should verify that all canceled checks listed on the bank statement have been received and are legible. Notify the bank if any canceled checks are missing. If any canceled check image is illegible, request a clearer

image, a full-size image, or a substitute check. The bank will need to provide the replacement canceled check images to the trustee and to the United States Trustee (if an electronic bank statement portal is utilized). This also enables the trustee or assistant to identify checks that cleared the bank without a check number (due to bank error).

- c. The trustee can verify, on a test basis, that incoming receipts are promptly and properly deposited by comparing the cash receipts log to the deposit slips and bank statements.

(Language amended March 15, 2022.)”

#### Primary Uniform Transaction Code List (July 12, 2012)

Simplified and updated. Lists now provided in numerical order and category order. Effective date of changes: cases filed on or after June 1, 2022.

#### Primary Uniform Transaction Code Reference Guide (November 16, 2015)

Updated for changes to Primary Uniform Transaction Code List. New examples added for changes in types of transactions encountered by trustees. Effective date: cases filed on or after June 1, 2022.

#### Form 4 and UTC Questions and Answers (February 20, 2003)

Rescinded. Form 4 was discontinued. UTC Questions and Answers now incorporated in Primary Uniform Transaction Code Reference Guide (June 1, 2022)