



Restructuring, Bankruptcy & Creditors' Rights checklist

The Proactive Creditor: 7 Practical Tips to Make the Most of Your Customer's Bankruptcy Filing

1. Confirm Initial Filing

- Alert appropriate internal personnel (credit department, sales teams, etc.)
- Identify critical information relating to filing (i.e., case number, jurisdiction, debtor's counsel)
- Review bankruptcy petition to determine if your organization is listed as a top 20 creditor
- If you are a top 20 creditor, consider applying for membership in the Unsecured Creditors' Committee, if one is organized by the United States Trustee
- Review First Day Motions for impact on your organization
- Review First Day Motions for an early determination of the potential success in a Chapter 11 context

2. Reclamation Issues

- Do you have a reclamation claim to assert?
- If yes, promptly transmit a "Reclamation Letter"
- Assemble documents and data to support reclamation claim

3. Administrative Claim Issues

- Did you sell goods to the debtor in the ordinary course of business within 20 days before the filing of the bankruptcy case?
- If yes, assemble documents and data to support Administrative Claim
- File Request for Administrative Claim in appropriate bankruptcy case as soon as possible

4. Debtor's Schedules

- Did the debtor file its schedules with its bankruptcy petition?
- If yes, confirm debtor's obligations to you are listed correctly (e.g., amount, secured vs. unsecured, disputed, contingent, or unliquidated, etc.)
- Confirm debtor identifies your proper mailing address (no P.O. boxes), if not, file a Request for Notice with the Bankruptcy Court
- Confirm your debt is not listed as contingent, disputed or estimated
- Record deadline to file proof of claim if debtor receives authority from the court to file late schedules

5. Preference Exposure Issues

- Retrieve and secure records (e.g., invoices, packing/shipping slips, check copies, emails, etc.) relating to transaction with the debtor
- Information retrieved (or at least preserved) should be for approximately 15 months prior to the debtor's bankruptcy filing
- Consider proactive preference analysis to determine potential exposure and proof of claim strategy

6. Proof of Claim Issues

- File proof of claim before receiving official form from the Bankruptcy Court
- Before filing, however, (i) consider potential preference exposure and (ii) determine if you agree with debtor's schedules (since claim may be unnecessary)
- Consider pursuing other third parties obligated under the debt
- Determine value of claim – for claims sale purposes (to consider if you want to sell your claim)

7. Miscellaneous Considerations

- Consider a Motion Requesting Service of All Pleadings or authorize counsel to receive and monitor case via e-filing
- Consider authorizing counsel to file an appearance on your behalf
- If your prepetition claim against the debtor is significant, consider monitoring the debtor's case for any "critical vendor" motions and, where appropriate, raise objection to same if you are not identified as a critical vendor

Schiff Hardin represents clients on all sides of corporate reorganizations, restructurings, workouts, liquidations, foreclosures and bankruptcies. This includes debtors, secured and unsecured lenders, major trade creditors, lessors, and committees of unsecured creditors and equity holders.

Our trial lawyers have successfully litigated lender liability, fraud, fraudulent transfer and preference cases in all levels of the federal and state judicial systems.

We represent clients who initially hire us for bankruptcy matters, as well as regular firm clients who are landlords or institutional lenders, in secured and unsecured financing, real estate lending, floor plan financing, venture capital lending and leveraged buyout financing.

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