

FREQUENTLY ASKED QUESTIONS - CHAPTER 9 BANKRUPTCY CASES

1. This bankruptcy petition was filed under Chapter 9 of the U.S. Bankruptcy Code. What does this mean?

The purpose of Chapter 9 is to enable an insolvent municipality (e.g., city, town, county, municipal utility) to gain protection from its creditors while it reorganizes its debts through a plan, known as a “plan of debt adjustment.” To be a Chapter 9 debtor, a municipality must meet certain eligibility requirements; for example, it must be specifically authorized by its state to file bankruptcy. 11 U.S.C. § 109(c). Objections to the petition may be filed, and the court may dismiss the petition if the court finds that it was not filed in good faith or does not meet statutory requirements. 11 U.S.C. § 921(c).

If the court does not dismiss the petition, it will enter an order for relief allowing the case to proceed. During the course of a Chapter 9 case, the municipality continues its operations with the goal of confirming and implementing a plan of debt adjustment. Due to the sovereign powers of the states under the Tenth Amendment and statutory restrictions in Chapter 9, the court has limited power over the operations of the municipal debtor. See 11 U.S.C. §§ 903-904. To learn more about Chapter 9, you may refer to Bankruptcy Basics on the judiciary’s public website available at:

<http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics/Chapter9.aspx>

2. How can I see, or get a copy of, the municipality's bankruptcy petition and where will I be able to find all the documents filed in connection with this bankruptcy case?

The initial petition and other important papers are available on the bankruptcy court’s website at: <http://www.mieb.uscourts.gov/>. At all court locations, the public has free access to documents filed in the case through the court’s public terminals and can print copies from the public terminals for ten cents per page.

Copies of the municipality’s bankruptcy petition, as well as all other documents filed in the case, can also be obtained through the Public Access to Court Electronic Records (PACER) system. PACER is the federal judiciary’s electronic public access service that allows users to obtain case and docket information from appellate, district and bankruptcy courts via the Internet. Anyone seeking access to PACER must register with the PACER Service Center at:

http://www.pacer.gov/reg_pacer.html. A fee of 10 cents per page is charged for

electronic access to court data via PACER.

3. Is there a phone number to call to get basic case information?

Basic information for the City of Detroit case only can be found by calling the toll free number (888) 980-8079.

4. How was the judge who will preside over the case chosen?

The chief judge of the court of appeals for the circuit in which the case is filed designates the bankruptcy judge to preside over the case. 11 U.S.C. § 921(b).

5. Role of U.S. Bankruptcy Judge

A U.S. Bankruptcy Judge is a judicial officer with decision-making authority over bankruptcy cases. Court functions include determining whether the municipality is eligible for Chapter 9, determining whether the plan of adjustment should be confirmed, adjudicating disputes that arise in connection with the case, and ensuring implementation of the plan. As noted above, the court has limited power over the operations of a municipal debtor due to the Tenth Amendment and statutory limitations under Chapter 9. See 11 U.S.C. §§ 903-904.

6. Role of Debtor

While the municipal debtor's financial affairs are being reorganized in the Chapter 9 case, it has broad power to continue its operations. For example, the municipality can use its property, raise taxes, make expenditures in the ordinary course of its governmental affairs, reject executory contracts and unexpired leases with court approval, and borrow money. Additionally, the Chapter 9 debtor can reject collective bargaining agreements and retiree benefit plans without being subject to the same procedures as a Chapter 11 debtor.

7. Role of Creditors

Creditors play a more limited role in Chapter 9 cases than in other chapters (e.g., creditors are not authorized to propose a competing plan of adjustment). A creditors' committee is appointed in the case. A creditors' committee may: consult with the municipal debtor regarding the administration of the case; investigate the acts, conduct, assets, liabilities and financial condition of the debtor; participate in the formulation of a plan; and perform other services that are in the best interest of those it represents. 11 U.S.C. §§ 901(a), 1103.

8. Role of United States Trustee

The U.S. trustee is an officer of the U.S. Department of Justice responsible for supervising the administration of bankruptcy cases, estates, and trustees; however, in Chapter 9 cases, the U.S. trustee's role is limited to the appointment of a creditors' committee. Otherwise, the U.S. trustee is generally not involved in the Chapter 9 case.

9. How long does the municipality have to come up with a plan for the adjustment of its debts?

The municipal debtor files a plan with its petition or at a later time that the court fixes. 11 U.S.C. § 941.

10. While the reorganization unfolds, who's watching out for the creditors -- all those who are owed money?

As noted above, a creditors' committee is appointed in the case to oversee and protect creditors' interests. As parties in interest, creditors have the right to be heard in the case and object to plan confirmation. 11 U.S.C. §§ 901(a), 1109, 1128(b).

11. Who else might participate in the Chapter 9 case?

The Secretary of the Treasury, representatives of the state where the debtor is located, a labor union or employees' association, the U.S. Securities and Exchange Commission (SEC), and parties in interest have the right to be heard in the case. *See* Fed. R. Bankr. P 2018(c); 11 U.S.C. §§ 901(a), 1109. Parties in interest, such as special taxpayers, may object to plan confirmation. 11 U.S.C. §§ 901(a), 943, 1109, and 1128(b).

12. Can creditors be treated differently?

Yes, the plan will set forth different classes of creditors and will identify how those classes will be repaid under the plan.

13. Are all bond claims treated the same?

No, treatment of a bond claim will depend on the type of bond. General

obligation bonds are treated as general debt and may be renegotiated and restructured under the plan; whereas, special revenue bonds continue to be secured and serviced during the course of the Chapter 9 case. 11 U.S.C. § 928.

14. What is a proof of claim and how does a creditor file one?

A proof of claim is a written statement that describes the reason why a debtor owes a creditor money. Official Form B10 is used to file a proof of claim and is available at:

<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx> The court will provide information regarding the time limit for filing a proof of claim. Not all creditors need to file a proof of claim. For example, a proof of claim is deemed filed if the claim appears in the list of creditors filed by the debtor and is not listed as disputed, contingent or unliquidated. 11 U.S.C. § 925.

15. Can an individual contact the court to obtain legal advice?

No, employees of the court are prohibited from giving legal advice to the public. 28 U.S.C. § 955 prohibits clerks of court and their deputies and assistants from practicing law in any court of the United States. The provision of legal advice by the clerk's office may also violate state restrictions on the practice of law.