

CREDITOR'S RIGHTS TOOLKIT

What Is a 341 Meeting, and Do I Need to Attend?

Pursuant to Section 341 of Title 11 of the U.S. Code (the Bankruptcy Code), the U.S. Trustee is required to convene and preside over a meeting of the creditors of a debtor (the 341 Meeting). The purpose of the 341 Meeting is to examine the debtor's financial position and to confirm facts stated by the debtor in the bankruptcy filing. While creditors are not required to attend the 341 Meeting, creditors have an opportunity to examine the debtor and ask questions related to the debtor's financials and the bankruptcy case. The 341 Meeting can inform creditors of how claims might be treated and the debtor's ultimate plan for their bankruptcy case.

Key Issues

- **WHEN AND WHERE IS THE 341 MEETING HELD?**

The 341 Meeting is held within a reasonable time after the filing of a voluntary petition under the Bankruptcy Code, typically about one month after filing. Often, however, the U.S. Trustee will postpone the 341 Meeting if the debtor has not yet filed its Schedules of Assets and Liabilities (Schedules) and Statement of Financial Affairs (Statements), which represent a snapshot of the debtor's financial position as of the petition date. Notice of the 341 Meeting is typically provided to all creditors who appear on the debtor's creditor matrix. In the District of Delaware, the 341 Meeting is held telephonically, and the dial-in instructions are provided in (i) the notice filed by the U.S. Trustee, and (ii) the notice of commencement filed by the debtor. Other districts may hold the 341 Meeting in person and information related to other districts can be found in the 341 Meeting Notice or on the respective bankruptcy court's website.

- **HOW DOES THE MEETING PROCEED?**

A representative witness for the debtor (usually an executive or the individual who signed the Schedules and Statements) is placed under oath. The U.S. Trustee opens the meeting and begins examining the debtor by asking various questions. Creditors are then given an opportunity to ask questions and examine the debtor. The 341 Meeting is recorded by the U.S. Trustee.

- **WHAT TOPICS CAN BE EXPECTED AT THE 341 MEETING?**

The U.S. Trustee will begin the meeting by verifying the identity of the debtor, reviewing the petition(s), and reviewing the debtor's Schedules and Statements. Examples of some topics

the U.S. Trustee might cover include, among others, the debtor's interest in real estate (if any), debtor's transfers of property within the one-year period preceding the bankruptcy filing, whether the debtor is a plaintiff or defendant in any lawsuits, payments or transfers to insiders before the bankruptcy filing, and the debtor's responsibilities and obligations as a debtor in possession under the Bankruptcy Code.

- **WHAT QUESTIONS CAN CREDITORS ASK?**

Creditor questions are typically related to topics and information contained in (or missing from) the debtor's Schedules and Statements, or to the debtor's operations and, in Chapter 11 cases, restructuring intentions. Creditors may be restricted in their questioning on specifics of their individual claim, or matters related to any pending litigation involving the creditor. However, creditors might ask about how the debtor plans to deal with its debt, the anticipated case timeline, and whether a sale is anticipated (in a Chapter 11 case) the methods the debtor used to value its assets as reflected on the Scheduled and Statements, and other matters of general interest to creditors.

- **DO I NEED TO ATTEND?**

No, attendance is not mandatory. Because of the limited nature of the 341 Meeting, attendance by creditors typically is light, and no rights are prejudiced by not attending. However, if there are specific questions creditors have related to the debtor's Schedules and Statements, it would be the appropriate time to ask.

Takeaway

The 341 Meeting can be useful in acquiring an understanding of the debtor's financial wherewithal. A creditor may gain insight into the debtor's ability to pay its creditors and identify potential assets that might be available for that purpose. While the debtor's representative may not be able to answer questions specifically related to the treatment of an individual creditor's claim, attending sometimes can be helpful to better understand the debtor's assets and liabilities.