

Table of Contents

Glossary of Common Bankruptcy Terms	1
Absolute Priority:.....	1
Adequate Protection:.....	1
Administrative Claim:.....	1
Adversary Proceeding:.....	1
Allowed Claim:	1
Arrangement:	1
Assume:	1
Automatic Stay:	2
Avoidance Power:	2
Ballot Date:	2
Bankruptcy Estate:.....	2
Bankruptcy Rule 2004:.....	2
Bar Date:	3
Chapter:.....	3
Claim:.....	3
Class:	3
Complaint:	3
Confirmation:.....	3
Contingent Claim:	3
Conversion:.....	4
Core Proceedings:	4
Cramdown:.....	4
Creditor:	4
Creditors' Committee:	4
Debtor:	4
Discharge:.....	4
Dischargeable Debts:	4
Dismissal:	5

Disposable Income:	5
Distressed:.....	5
Domestic Support Obligation:	5
Effective Date:.....	6
ECF or Electronic Case Filing:	6
Equitable Subordination:	6
Examiner:.....	6
Exempt Property:.....	6
First Meeting of Creditors (341 Meeting):.....	6
Gap Period:	7
Insolvent:	7
Involuntary Bankruptcy:	7
Joint Administration:	7
Liquidated Claim:	7
Liquidation:.....	7
Motion to Lift Automatic Stay:.....	7
Non-Dischargeable Debt:	7
Omnibus Hearing:.....	8
Order for Relief :.....	8
PACER (Public Access to Court Electronic Records):.....	8
Party In Interest:.....	8
Petition:	8
Post-Petition:.....	8
Preference:	8
Pre-Petition:	8
Priority Claim:	9
Schedules:	9
Secured Debt:.....	9
Set-Off:	9
Straight Bankruptcy:	9
Super-Priority Claim:.....	9
Trustee:	10

United States Trustee: 10
Unliquidated Claim: 10
Unsecured Debt: 10
Voluntary Bankruptcy: 10

Glossary of Common Bankruptcy Terms

Absolute Priority:

The order of payment to the different classes of creditors mandated by the Bankruptcy Code. Claimants with higher priority are paid in full before other claims receive anything. Junior creditors and shareholders are paid after senior creditors. Specifically, the usual order is: first, administrative claims; second, statutory priority claims such as tax claims, rent claims, consumer deposits, and unpaid wages and benefits from before the filing; third, secured creditors' claims; fourth, unsecured creditors' claims and fifth, equity claims.

Adequate Protection:

The right of a party with an interest in the debtor's property (such as a secured creditor) to assurance that its interest will not be diminished during the bankruptcy proceedings.

Administrative Claim:

A debt incurred by the debtor, with court approval, after the bankruptcy filing including: necessary costs of preserving the estate, wages, salaries, court costs, lawyers' fees, accountants' fees, trustees' expenses, etc.

Adversary Proceeding:

A lawsuit arising in or related to a bankruptcy case that is commenced by filing a complaint with the bankruptcy court.

Allowed Claim:

A claim of a creditor (or an equity interest) that is approved by the court under the plan of reorganization.

Arrangement:

May refer to a variety of formal or informal agreements concerning the conditions under which a bankrupt company may operate; often, it refers to an extension of time in which debt can be paid off. This was the term used under the old Chapter XI.

Assume:

An agreement to continue performing duties under a contract or lease.

Automatic Stay:

The postponement of collection actions against a bankruptcy filer. The automatic stay occurs simultaneously with the bankruptcy petition filing. It protects debtors from creditors seeking to seize their assets; and, creditors by preventing one creditor from obtaining an excessive share of the debtor's assets to the exclusion of other creditors. It generally proscribes creditors from taking any action that affects the bankruptcy estate of the debtor or any action against the debtor involving a pre-bankruptcy claim or debt.¹

Avoidance Power:

The power of the court to invalidate certain obligations or transactions undertaken by a debtor prior to filing bankruptcy. It is generally intended to reverse transfers of property that favor one creditor over another.

Ballot Date:

The date and time when all votes for accepting or rejecting the plan of reorganization must be received.

Bankruptcy Estate:

The property that is subject to the bankruptcy court's jurisdiction. The bankruptcy estate is created when the debtor files a bankruptcy petition. It generally consists of any legal or equitable interest of the debtor in any real, personal, tangible, or intangible property (including property that the debtor owns jointly with another person) at the time the bankruptcy petition is filed (or, in certain circumstances, property acquired within 180 days of filing for bankruptcy and property that is brought into the estate by the trustee's avoidance of pre-bankruptcy transfers).² In a Chapter 13 case, the bankruptcy estate includes wages, income, and property that the debtor receives after (s)he files for bankruptcy.³

Bankruptcy Rule 2004:

A provision of the Bankruptcy Code that allows one party in a bankruptcy proceeding to compel discovery or other examination against another party.

¹See 11 U.S.C. 362

²See 11 U.S.C. 541

³See 11 U.S.C. 1306

Bar Date:

The last date that creditors may file a claim against the debtor.

Chapter:

The Bankruptcy Code is organized into Chapters. Except for Chapter 12, the Chapters of the present code are all odd-numbered and are enumerated with Arabic numerals. (Before the Bankruptcy Reform Act of 1978, the Chapters were numbered with Roman numerals.) Chapters 1, 3, and 5 cover matters of general application. Chapters 7, 9, 11, 12, 13 and 15 concern, respectively: liquidation (business or non-business), municipality bankruptcy; business reorganization, family farm debt adjustment, wage-earner or personal (i.e. non-business) reorganization and multi-national bankruptcies.

Claim:

A claim is a creditor's right to payment from the debtor that exists at the time the debtor files for bankruptcy, notwithstanding whether it is contested or uncontested, reduced to judgment, fixed or contingent.⁴ The Bankruptcy Code generally classifies claims as allowed or unallowed, secured or unsecured, and priority or non-priority.

Class:

Each of the different categories of claims against a debtor.

Complaint:

The initiatory document in a lawsuit that notifies the court and the defendant of the grounds claimed by the Plaintiff for an award of money or other relief against the defendant.

Confirmation:

The bankruptcy court's final approval of the debtor's reorganization plan, used in Chapters 11, 12 and 13 bankruptcies. Creditors and the Court must both approve the plan before confirmation.

Contingent Claim:

A claim that may be owed by the debtor under certain circumstances. For example, where the debtor is a cosigner on another person's loan and that person fails to pay.

⁴See 11 U.S.C. 101(5), 502(b)(5)

Conversion:

Changing chapters in bankruptcy; for example, when the Court converts a Chapter 13 reorganization filing into a Chapter 7 liquidation filing.

Core Proceedings:

Those proceedings that are inherent in and fundamental to the administration of a bankruptcy case. Core proceedings are subject to the jurisdiction of the bankruptcy court. Non-core proceedings may be conducted outside the jurisdiction of the bankruptcy court.

Cramdown:

Confirmation of a plan of reorganization over the objections of one or more classes of creditors.

Creditor:

The person or organization to whom money is owed.

Creditors' Committee:

A committee of representatives of a debtor's creditors appointed by the U.S. Trustee. The committee acts on behalf of all creditors on negotiating a plan of reorganization and other major actions. In large, complex cases, there may be more than one such committee.

Debtor:

The person/ entity seeking protection from creditors under bankruptcy laws.

Discharge:

Releases the debtor from personal liability for all "dischargeable" claims. Some claims, including claims for domestic support obligations and other obligations arising from divorce or separation, are not dischargeable in bankruptcy. Discharge does not affect valid security interests that have not been avoided in bankruptcy, claims that arose after the debtor after the debtor filed for bankruptcy, most debts that were not "scheduled" by the debtor, or other claims that are nondischargeable under the Bankruptcy Code.

Dischargeable Debts:

Debts for which the bankruptcy code allows the debtor's personal liability to be eliminated.

Dismissal:

The termination of a bankruptcy proceeding. The bankruptcy court can dismiss a case if it deems that the debtor or three creditors should not have filed or that a plan can never be formulated.

Disposable Income:

In a Chapter 13 case, a debtor's disposable income is the amount of his/her income exceeding reasonable and necessary living expenses (including expenses required to pay the debtor's current, ongoing spousal and child support obligations). A debtor's disposable income is considered in determining whether the debtor's Chapter 13 plan is feasible and proposed in good faith.

Distressed:

Used to describe securities, companies and related items in or near bankruptcy or insolvency. The term does not have a strict, technical or legal definition. For example, a distressed security might be a security where the issuer has defaulted or a security that is selling at a substantially discounted price where a default is expected in the future.

Domestic Support Obligation:

A debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable non-bankruptcy law notwithstanding any other provision of this title, that is owed to or recoverable by a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or a governmental unit in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such child's parent, without regard to whether such debt is expressly so designated; established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of a separation agreement, divorce decree, or property settlement agreement; an order of a court of record; or a determination made in accordance with applicable non-bankruptcy law by a governmental unit; and not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt.

Effective Date:

The date on which a plan of reorganization is implemented. It usually occurs after all the conditions to a plan of reorganization have been satisfied.

ECF or Electronic Case Filing:

ECF is a comprehensive case management system that allows courts to maintain electronic case files and offer electronic filing over the Internet. Courts make all case information immediately available electronically through the Internet.

Equitable Subordination:

The lowering of priority of a claim because the holder of the claim is found to be guilty of some kind of improper conduct.

Examiner:

A professional appointed by the bankruptcy court to investigate and oversee certain aspects of the debtor or the proceedings. (By way of comparison, the role of the trustee is to operate the business of the debtor whereas the role of the examiner is to investigate and report to the court.)

Exempt Property:

Property that the debtor may retain and is not subject to creditor liquidation or distribution in a Chapter 7 case. In a Chapter 13 case, property that the debtor claims as exempt is not considered in determining the extent to which the claims of unsecured creditors must be satisfied. The debtor uses the exempt property to make a fresh start after bankruptcy. The federal Bankruptcy Code determines what property the debtor may claim as exempt, unless the debtor's residence state has not "opted out" of the federal bankruptcy exemptions.⁵ If the debtor's residence state has "opted out" of the federal bankruptcy exemptions, the property that the debtor may claim as exempt in a bankruptcy case is determined primarily by state law.

First Meeting of Creditors (341 Meeting):

A mandatory meeting between creditors and the debtor. It is usually held within a month of the filing of bankruptcy but often occurs later when the debtor has filed its schedules of financial information.

⁵See 11 U.S.C. 522

Gap Period:

The period between the filing of an involuntary petition and the dismissal of the petition, the entry of an order for relief or the filing of a voluntary petition (whatever the outcome).

Insolvent:

Financial condition in which a debtor's debts are greater than the total value of his/her property, or that he is unable to satisfy his obligations as they come due.

Involuntary Bankruptcy:

A bankruptcy initiated by at least three creditors holding unsecured claims aggregating at least \$5,000 against the debtor. Data from the U.S. Administrative Office of the Courts subdivides bankruptcies into voluntary and involuntary.

Joint Administration:

The combining of two or more bankruptcy proceedings for administrative convenience. Frequently, the cases of affiliated entities are jointly administered. Joint administration does not necessarily result in substantive consolidation.

Liquidated Claim:

A creditor's claim for a fixed amount of money.

Liquidation:

The dissolution of a company, or individual; usually operations cease and assets are sold by auction; Chapter 7 is usually employed for liquidations, businesses or individuals.

Motion to Lift Automatic Stay:

A request by a creditor to allow the creditor to take an action against a debtor or the debtor's property that would otherwise be prohibited by the automatic stay.

Non-Dischargeable Debt:

A debt that the bankruptcy action cannot eliminate. Non-dischargeable debts remain legally enforceable despite the bankruptcy discharge. Debts such as current support, arrears, and medical support are non-dischargeable.

Omnibus Hearing:

An omnibus hearing is a Court hearing at which the Court may hear a variety of different matters relating to one particular case.

Order for Relief :

Several sections of the Bankruptcy Code speak of the “order for relief.” For example, §727(b) says that the discharge in bankruptcy speaks as of the time of the order for relief. Debts incurred prior to the order for relief are discharged; those incurred later are not discharged. Section 301 notes that commencement of a voluntary case under any of the chapters constitutes an “order for relief.” In involuntary cases under §303, the Code gives the debtor an opportunity to prove (s)he should not be in bankruptcy. Accordingly the “order for relief” is not granted until there has been a trial to determine whether the debtor should be in involuntary bankruptcy. §303(h). Thus in an involuntary case some debts incurred after the petition are filed but before the “order” will be discharged under §727.

PACER (Public Access to Court Electronic Records):

A service provided by the court system that gives case filing information.

Party In Interest:

A party who has standing to be heard by the court in a matter to be decided in the bankruptcy case. The debtor, the U.S. trustee or bankruptcy administrator, the case trustee and creditors are parties in interest for most matters.

Petition:

The document that commences a bankruptcy proceeding.

Post-Petition:

Occurs after the filing of a petition.

Preference:

A payment by a debtor made during a specified period (90 days or one year) prior to the filing that favors one creditor over others. Preference payments can usually be recovered and returned to the debtor's estate.

Pre-Petition:

Occurring before the filing of a bankruptcy petition.

Priority Claim:

Claims that must be paid in full before payments are made to general unsecured creditors in Chapter 7 cases. Priority claims with higher priorities must be paid in full before priority claims with lower priorities. In Chapter 13 cases, priority claims generally must be paid in full through the debtor's confirmed Chapter 13 plan.⁶ Administrative expenses and salaries, wages, employee benefits, customer deposits and taxes which occurred pre-petition.

Schedules:

List submitted by the debtor along with the petition (or shortly thereafter) showing the debtor's assets, liabilities, and other financial information.

Secured Debt:

A claim given in consideration of a voluntary lien on the debtor's property or an involuntary lien such as a judgment lien or tax lien. The creditor must secure the claim under the applicable state law. If the amount of the claim exceeds the value of the property securing it, the claim is secured up to the value of the property and unsecured to the extent it exceeds the value of the property. A claim, therefore, may be secured in part and unsecured in part.

Set-Off:

The ability to discharge or reduce a debt by applying a counter claim between the same parties. For example, a bank which has lent money to a debtor may attempt to satisfy some or all of the loan by seizing the debtor's deposits at the bank.

Straight Bankruptcy:

An informal term for a Chapter 7 bankruptcy or liquidation; used more commonly to describe liquidation before the Bankruptcy Reform Act of 1978.

Super-Priority Claim:

An administrative claim that will be paid ahead of other administrative and priority claims.

⁶See 11 U.S.C. 507

Trustee:

An agent of the court who manages the property of the debtor for the benefit of the creditors. The court appoints a trustee in most Chapter 7 cases and in Chapter 11 cases when it determines that the debtor's management should not remain in their control. This type of trustee should be distinguished from the **U.S. Trustee**, who plays an administrative role in all bankruptcy cases.

United States Trustee:

An agent of the U.S. Department of Justice appointed to assist in bankruptcy cases. The U.S. Trustee administers many of the duties of the court including appointing committees, appointing trustees and examiners, scrutinizing bankruptcy documents, etc. The United States Trustee Program began in 1979. Presently, it covers all federal judicial districts except for North Carolina and Alabama, which were originally scheduled to be included in October of 2002, but whose inclusion Congress has extended indefinitely.

Unliquidated Claim:

A claim for which a specific value has not been determined.

Unsecured Debt:

A debt obligation that is not backed by collateral. If the debtor files for bankruptcy or is levied upon, the unsecured creditors are paid on a pro-rata basis only after the claims of all secured creditors are satisfied.

Voluntary Bankruptcy:

Bankruptcy filed by the debtor itself; data from the U.S. Administrative Office of the Courts subdivides bankruptcies into voluntary and involuntary.