

Bankruptcy Basics, Key Terms, and Parties



Fundamental Bankruptcy Principles

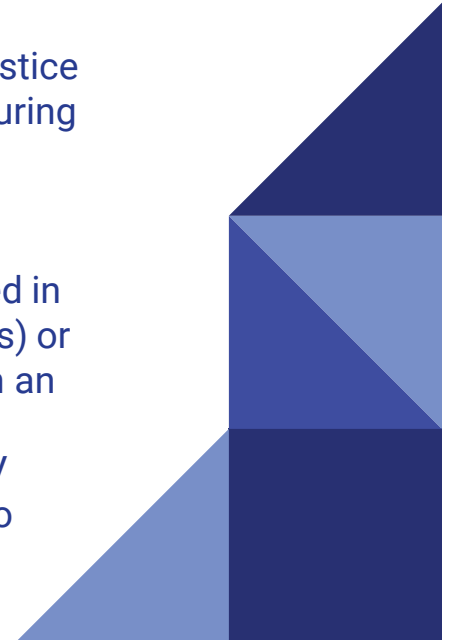
Bankruptcy law is based on the following principles to address the competing interests of debtors and creditors:

- Providing a “fresh start” for an individual or business from debts such as credit card debt, commercial debt, and many other types of debts through a discharge (elimination).
- Effectuating the orderly and fair liquidation or rehabilitation of the individual or business in bankruptcy.
- Ensuring equal treatment of similarly situated creditors.



Chapter 11 - Key Parties

- **Debtor**: The business (or individual) that filed for bankruptcy.
- **Debtor-in-Possession**: The business (or individual) that is operating in a Chapter 11 bankruptcy.
- **Creditor**: An entity or person who is owed money or obligation from the business in bankruptcy.
- **Bankruptcy Judge**: Specialized set of judges that hear only bankruptcy matters.
- **Office of the United States Trustee (OUST)**: Agency of the U.S. Department of Justice that monitors the businesses' compliance and operational requirements, *i.e.*, ensuring debtor's payment of payroll, property taxes & insurance, enforcing debtor's transactional activity, monthly reporting, and conducting an examination at case outset.
- **Trustee (Chapter 11 or 7 if the case is converted)**: An individual may be appointed in situations to take over operations if management mismanages (usually egregious) or no longer wants to manage, or in situations where the court determines that such an appointment is in the best interest of all creditors and stakeholders.
- **Subchapter V Trustee**: An individual appointed by the OUST in each Subchapter V bankruptcy case, who will work with the small business debtor and its creditors to facilitate the development of a consensual plan.



Chapter 11 - Key Terms

- **Bankruptcy Estate**: An estate created at the time of bankruptcy filing and defined in the Bankruptcy Code as all legal or equitable interest of the Debtor, including claims and appellate rights.
- **Automatic Stay**: An injunction staying all actions by creditors to recover a claim against the Debtor.
- **Discharge**: Release of debt or debt cancellation.
- **Discharge Injunction**: An injunction against collection or recovery of debt against the Debtor.
- **Proof of Claim**: Form that creditors need file to be paid from the Bankruptcy Estate.
- **Secured Claims**: Claims for debts that are secured by an interest in property (the collateral).
- **Priority Unsecured Claims**: Claims not secured by collateral but have priority over other debts under bankruptcy law.
- **General Unsecured Claims**: Claims that have no priority and are not backed by collateral.
- **Adversary Proceedings**: A lawsuit filed within a bankruptcy case.

