



CREDITORS' COMMITTEES

Why You Should Sign Up

Although chapter 11 bankruptcy usually strikes fear in the hearts of most creditors, serving on a creditors' committee presents an exceptional opportunity for creditors to have a meaningful impact on the bankruptcy process. Without incurring any direct costs, creditors can affect their recovery in the bankruptcy case and their future business relationship with the bankrupt company.

The creditors' committee impacts the distribution creditors receive and the future of the bankrupt company because it is responsible for overseeing the bankrupt company's operations, monitoring its business, investigating questionable transactions in which the bankrupt company or its principals might have engaged, and negotiating how the bankruptcy case will be resolved.

The creditors' committee selection process often begins within days of the chapter 11 filing when the U.S. Trustee notifies the bankrupt company's largest unsecured creditors and solicits their participation on the creditors' committee.

Creditors other than those contacted by the U.S. Trustee can become members by demonstrating:

- Their knowledge of the bankrupt company's particular industry or
- Their claims will not be adequately represented without their participation

Once formed, the creditors' committee retains counsel to represent it as a whole (as opposed to the individual members and their individual interests). The bankrupt company pays the expenses of the committee's counsel and the expenses of individual committee members for their service on the committee.



Creditors' committees gain information about the bankrupt company's financial situation and operations not otherwise available to the general public. This information is given to committee members to allow them to determine whether a going concern sale, reorganization, liquidation, dismissal of the bankruptcy case, or the appointment of a trustee or examiner will provide the greatest recovery for unsecured creditors.

Through the chapter 11 case, the bankrupt company will seek the support of the creditors' committee because the bankruptcy court will often rely upon the committee's opinions and recommendations. The creditors' committee's support is frequently most crucial to the bankrupt company during the plan confirmation process. Whether a debtor's unsecured creditors as a whole vote for or against the bankrupt company's plan is usually contingent upon whether the committee endorses the plan. **Bottom line: The creditors' committee is an important constituency to any sizable bankruptcy case.**

In addition to shaping the bankrupt company's future, participating on a committee provides a unique opportunity to work with other individuals involved in the same industry. As a result of the committee's access to confidential information, members often times view committee

service as a way to sustain or strengthen the existing business relationship with the bankrupt company and other committee members who may provide vital business to the creditor.

Within days of receiving notice of a bankruptcy, you should act swiftly to take full advantage of the protections and rights the Bankruptcy Code offers creditors. Call our office if you'd like some help.

Bankruptcy, Insolvency + Restructuring
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