

## **Revisions to Forms 1, 2, and 3 Questions and Answers – Set #1**

### **Effective Dates for Implementation**

1) **When do the Form changes become effective?**

For 180-day reporting periods beginning after December 31, 1998. In other words, the changes should be fully implemented for the 180-day report covering January 1, 1999 - June 30, 1999.

2) **The transmittal memorandum attached to the 1998 Handbook specified that the 180-day reporting form changes were effective for reporting periods beginning after December 31, 1998. This effectively means that the changes are not required for submissions to the United States Trustee until the reporting period ending June 30, 1999. Assume that a software provider makes the changes available in January 1999 and a trustee's next 180-day reporting period ends March 31, 1999. May this trustee elect to conform to some of the new requirements (for example, providing the current projected TFR date), but not others (for example, listing post-petition revenues on Form 1)? Or, will the trustee have to provide the existing Forms 1, 2, and 3, and the new ones?**

We anticipate that a given reporting form may be a mix of the old and new requirements during the transition, and we will be flexible in that regard. If a trustee's timetable for preparing a 180-day report is January 31, February 28, March 31, April 30, or May 31, the trustee will not have to provide both the existing and the new Forms. Either form is acceptable.

3) **Which changes apply retroactively to all open cases?**

**Form 1**

< Header: The addition of the date filed or converted, the first date set for the § 341(a) meeting, and the claims bar date for general unsecured creditors, and the deletion of date submitted, are applicable to all cases.

< Column headings: All wording changes to the headings of Columns 1, 3, 4, and 6 apply to all cases.

< Abbreviations to designate the status of asset administration:

Column 4: Use OA for § 554(a) abandonment and DA for § 554(c)

- abandonment. No other abbreviations may be used.
- Column 6: Use FA for fully administered (e.g., abandoned, sold, liquidated, or totally exempt). No other abbreviations may be used.
- < Text to designate asset value:
- Column 2: Use "Unknown" when petition or unscheduled value is not known.
- Column 3: Use "Unknown" for the first period that an asset is reported, if the value cannot be determined by the trustee. Use "Unknown" or "N/A" for post-petition rents, dividends, and interest.
- Column 6: Use "Unknown" when "Unknown" or "N/A" appears in Column 3.
- < Bottom of Form 1: The text changes at the "Totals" line, the deletion of headings under "Major activities affecting case closing," and the addition of "Initial projected date of final report" apply to all cases.
- < Column 2: There should be no changes to the petition/unscheduled values, unless the schedules or statements are amended by the debtor.
- < Column 3: There should be no changes to the estimated net value after the value has been determined by the trustee. The value must be determined and entered by the end of the second period that an asset is reported.
- < Column 6: The method of reporting the gross value of remaining assets has changed. Column 6 should reflect the trustee's current best estimate of the gross value remaining to be collected or administered. It is not necessarily the difference between Columns 3 and 5.

### Form 2

- < Header: The addition of the trustee name and the modifications to the information about bonds apply to all cases.
- < Bottom/end of Form 2: The revisions to the column totals and the addition of totals for all accounts apply to all cases.

### Form 3

- < Header: The addition of the bond's per case limit and the deletion of date submitted apply to all cases.
- < Column headings: All wording changes to the headings of columns 3, 6, and 7 apply to all cases.

- < The estimated TFR date in Column 7 should be shown, when applicable, no matter when the case was filed.

Other

- < The revised instructions for reporting cases on Form 3 are applicable for all cases.
- < The new instructions for submitting Forms 1 and 2 after a TFR has been filed are applicable for all cases with TFRs.

4) **Which changes apply only to data (e.g., transactions, new assets) entered after January 1, 1999?**

Form 1

- < Only future post-petition revenues need to be entered with the Form 1 reference number, so that they appear on Form 1. The trustee does not need to re-enter post-petition revenues received prior to January 1, 1999, so that the entries would be linked with Form 1.
- < Column 3: The calculation for "Value Determined by Trustee" has changed. Trustees are not to change the amounts already entered in Column 3. The new calculation for "Estimated Net Value" applies to new cases reported in the January 1 - June 30, 1999, 180-day report and to new assets entered on Form 1s after December 31, 1998.

Form 2

- < Generally, trustees are not required to modify previously entered transactions in order to comply with the new requirements. For example, see above regarding post-petition rents, interest and dividends.

5) **Are non-panel trustees exempt from the new requirements?**

Yes. As non-panel trustees are winding down their caseloads and not receiving new cases, they may either continue the old reporting Forms or incorporate the new reporting requirements.

**Questions About Format**

6) **Must Forms 1, 2, and 3 look exactly as depicted in the Handbook section on Forms and Instructions?**

The Forms must contain all of the elements shown in the Forms and Instructions. Except as noted below, the formatting conventions are left to the discretion of the trustees and their software providers.

7) **What orientation and font are required?**

The page orientation should be landscape, and any legible font is acceptable.

8) **What margins are acceptable?**

The margins should be wide enough so that the Forms can be stapled or hole-punched without impairing legibility.

9) **The Handbook states that cases must be listed on Form 3 in sequence by case number (Page 9-7 and Forms – 11). The Handbook also states that transactions should be entered on Form 2 in chronological order (Page 9-6 and Forms – 8). Should the trustee's software be Year 2000 (Y2K) compliant, such that Year 2000 cases print after cases filed in 1999?**

Yes. Trustees are expected to be Y2K compliant. On Form 2, transactions dated 1/1/2000 and thereafter should be listed chronologically after transactions dated 12/31/1999.

10) **The sample Forms in the Handbook show a single line for the case name. If the case name is longer (e.g., up to 4 lines), should the full name be shown?**

The complete name of the debtor should be shown, including a DBA or AKA, if needed to identify the debtor. (See Forms – 11.) The space allotted for the name should be kept to a minimum; one to three lines should normally be sufficient.

**Form 3: Summary Interim Asset Report**

11) **Which cases should be reported on Form 3?**

Form 3 must include all asset cases administered by the trustee during the reporting period. This includes each asset case that was open at the beginning of the period and each asset case that was assigned during the period. Form 3 also must include any no-asset case in which a no-asset report has not been filed and 60 days have passed since the initial examination of the debtor at the § 341(a) meeting. (See Financial Reporting and Record Keeping on Page 9-4 and the Instructions beginning at Forms -1.)

- 12) **At page 9-4 and in the general instructions (Forms –1), the Handbook specifies that Form 3 is a summary listing of all pending asset cases (Forms – 1) . What is meant by pending?**

“Pending” means all asset cases that were open at the beginning of the reporting period and all asset cases that were assigned to the trustee during the period. Remember that, for reporting purposes, asset cases include (1) cases in which the trustee is in possession of property or funds, or expects to receive property or funds, or (2) cases in which a no-asset report has not been filed with the United States Trustee and the court and 60 days have passed since the initial examination of the debtor at the § 341(a) meeting.

- 13) **Which no-asset cases should be reported on Form 3?**

The Form 3 for a particular reporting period must list no-asset cases that meet the following criteria:

- a. the case is open at anytime during the reporting period and at least 60 days passed between the initial examination of the debtor at the § 341(a) meeting and the filing of the no-asset report. This includes any case open at the end of the prior reporting period and any case assigned to the trustee during the current reporting period, in which the no-asset report was filed more than 60 days after the initial examination of the debtor.

or

- b. if the no-asset report has not been filed, the case should be listed if more than 60 days have passed since the initial examination of the debtor.

No-asset cases are excluded from Form 3 when the no-asset report is filed within 60 days of the initial examination of the debtor. Form 3 also excludes no-asset cases that are open less than 60 days passed the initial examination of the debtor.

As mentioned in the General Instructions (Forms – 1), a no-asset case meeting the above criteria should be listed on Form 3 for each reporting period up to and including the reporting period in which the no-asset report is filed. The case should be dropped from subsequent Form 3s, unless the case is re-opened.

The following examples illustrate these instructions.

- 14) **Assume that a trustee conducts an initial examination of a debtor at the § 341(a) meeting on June 1<sup>st</sup>. The trustee does not file the no-asset report by the end of the 180-day reporting period, which is June 30. Should the trustee list the case on Form 3 for the June 30 reporting period?**

No. Sixty days have not passed since the initial examination of the debtor.

- 15) **Continuing with the preceding example, assume that the trustee files the no-asset report on July 15. Should the trustee list the case on Form 3 for the next 180-day reporting period which ends on December 31<sup>st</sup>?**

No. The no-asset report was filed within 60 days of the initial examination of the debtor at the § 341(a) meeting.

- 16) **Same facts as the preceding example, but the trustee files the no-asset report on August 15<sup>th</sup>. Should the trustee list the case on Form 3 for the December 31<sup>st</sup> reporting period?**

Yes. The no-asset report was filed 75 days after the initial examination of the debtor at the § 341(a) meeting.

- 17) **Assume that a trustee conducts an initial examination of a debtor at the § 341(a) meeting on August 1<sup>st</sup>. The trustee files the no-asset report on September 10<sup>th</sup>. Would the trustee list the case on Form 3 for the December 31<sup>st</sup> reporting period?**

No. The no-asset report was filed 40 days after the initial examination of the debtor.

- 18) **Same facts as the preceding example, but the trustee files the no-asset report on November 30. Would the trustee list the case on Form 3 for the December 31<sup>st</sup> reporting period?**

Yes. The no-asset report was filed 92 days after the initial examination of the debtor.

- 19) **Is it permissible for Form 3 to include all no-asset cases open during the period, even cases in which the no-asset report was filed within 60 days of the initial examination of the debtor?**

No. Only cases that were open longer than 60 days passed the initial examination of the debtor should be reported on Form 3.

- 20) **For no-asset cases that must be reported, can they be reported on a separate Form 3?**

No. All cases should be listed in case number order on a single Form 3.

- 21) **At Item #4 on page 9-5 and in the general instructions (Forms -1), the Handbook states that if the no-asset report was “approved” by the United States Trustee during the current reporting period, the case is to be listed on Form 3 for that reporting period, but omitted from Form 3 for future reporting periods. What is meant by “approved” and how does the usage of this term differ from the term “filed,” as used in all other references to no-asset reports (for example, see Item #1 on pages 9-4 and Forms -1)?**

*At pages 9-5 and Forms -1, the Handbook is being changed to reflect the following: If the case meets the reporting criteria specified in Item #1 above and the final account (TDR) was approved by the United States Trustee or the no-asset report was filed with the United States Trustee and the court, or the case was converted, dismissed, or reassigned, during the current reporting period, the case is to be listed on Form 3 for that reporting period, but omitted from Form 3 for future reporting periods.*

- 22) **Assume that a case was assigned to the trustee on March 1. The § 341 (a) meeting was held on March 30<sup>th</sup>, and the case was converted, dismissed, or reassigned on April 15<sup>th</sup>. Would the trustee report this case on the Form 3 for the current reporting period ending June 30<sup>th</sup>?**

It depends. If the trustee expected or declared that it was an asset case prior to conversion, dismissal or reassignment, the case would be reported. If it were a no-asset case, it would not be reported because the case was converted, dismissed, or reassigned less than 60 days after the initial examination of the debtor at the § 341(a) meeting.

- 23) **Same facts as the preceding scenario, but the case was converted, dismissed or reassigned on June 15, more than 60 days after the initial examination of the debtor. Would the case be included on the June 30<sup>th</sup> report?**

Yes.

- 24) **Assume that a case was filed on May 31<sup>st</sup> and the § 341(a) meeting was held on June 25<sup>th</sup>. The case is excluded from Form 3 for the period ending June 30<sup>th</sup> because the case is not expected or declared to be an asset case and less than 60 days have passed since the § 341(a) meeting. On July 15<sup>th</sup>, the case is converted, dismissed or reassigned. Is the case reported on Form 3 for the period ending December 31<sup>st</sup>?**

Unless the trustee declared the case to be an asset case after June 30<sup>th</sup>, it would be excluded from the December 31<sup>st</sup> Form 3 because it was converted, dismissed or reassigned less than 60 days after the initial examination of the § 341(a) meeting.

If the case were converted, dismissed or reassigned on September 15<sup>th</sup>, however, it would be included on the December 31<sup>st</sup> Form 3.

- 25) **The description of which no-asset cases to report on Form 3 has changed. Is this a policy change?**

No. The new language is meant to clarify which no-asset cases to report. Any case for which the trustee has not filed a no-asset report and 60 days have passed since the initial examination of the debtor at the § 341(a) meeting should be reported on Form 3.

- 26) **With regard to the definition of which no-asset cases to report on Form 3, does the 60-day period start running as of the first scheduled meeting, the first meeting where the debtor appears and is examined, or the conclusion of the § 341(a) meeting (including all rescheduled and continued meetings)?**

The 60-day period starts running as of the first meeting where the debtor appears and is examined.

- 27) **Should a brief “Note” or “Next Activity” statement print after each case on Form 3?**

There is no requirement for case status comments to appear on Form 3. The Form 1 section entitled “Major Activities Affecting Case Closure” is sufficient. Certain chapter 7 software products offer an optional feature that prints brief case status or “next activity” comments on Form 3. Some trustees find the brief comments on Form 3 to be helpful in administering their cases.

- 28) **There is a change to Column 7 of Form 3, which shows for each case the date of actual disposition by final report (TFR), final account (TDR), no-asset report (NDR), conversion (C), dismissal (D), or reassignment (R). In cases without a TFR, the trustee must now enter the projected TFR filing date. At the onset of a case, the trustee may not be able to estimate the TFR filing date. Is it permissible for Column 7 to be blank until a TFR date can be projected?**

No. For the first reporting period after the case is filed, the trustee must enter a realistic estimate of when the TFR will be filed. This date appears on Form 1 and Form 3. ( See Forms – 7.)

- 29) **Form 1 shows the initial projected TFR date and the current projected TFR date. Which date should appear on Form 3?**

The current projected TFR date should appear on Form 3.

- 30) **If a TFR is filed after the end of the reporting period, but before the 180-day report is submitted to the United States Trustee, should Column 7 reflect the actual TFR date, rather than the current projected TFR date?**

Trustees are not required to update Column 7 for activity that occurs after the end of the reporting period. However, if the trustee’s computer software currently provides this



information, it is not inconsistent with the 1998 Handbook requirements.

**Form 1: Estate Property Record and Report**

31) **Should the date filed or converted appear on Form 1?**

Yes. The date filed (f) or converted (c) has been added to the header information on Form 1. Trustees should enter the later of the date the case was filed under chapter 7 or the date the case converted to chapter 7. (See Forms – 3.)

32) **Should the § 341(a) meeting date and time be shown on Form 1?**

The § 341 (a) meeting date has been added. (See Forms – 3.) The meeting time should not be shown on Form 1.

33) **Which § 341(a) meeting date should be listed on Form 1, the original date or, if the debtor did not appear, the date of the initial examination of the debtor?**

The trustee should enter the first date set for the § 341(a) meeting, whether or not the meeting was continued or rescheduled. (See Forms – 3.)

34) **Which claims bar date should be listed on Form 1, the claims bar date for a governmental unit or the claims bar date for other creditors, or both?**

Trustees should reflect the claims bar date (deadline for filing a timely claim) for general unsecured creditors.

35) **When can the trustee report “unknown” as the value under Column 2, Petition/Unscheduled Values?**

For scheduled assets, the trustee must show the dollar value or “unknown,” whichever is listed by the debtor. For unscheduled assets, the trustee should enter an estimated dollar amount, but may enter “unknown” if a reasonable value cannot be estimated. Thereafter, the entries in Column 2 may never be changed, even when a value later becomes known, unless the schedules or statement of affairs are amended by the debtor. (See Forms – 4.)

36) **When can the trustee report “unknown” as the value under Column 3, Estimated Net Value (Value Determined by Trustee Less Liens, Exemptions, and Other Costs)?**

At the onset of a case, the trustee may not be able to estimate a value for an asset. In this instance, the trustee may enter “unknown” in Column 3. It is expected that the trustee will be able to determine a value by the end of the next reporting period. In this way, the trustee has 6-12 months, depending on when the case was filed, to ascertain the value. (See Forms – 5.)

- 37) **According to the Instructions at Forms - 5, “N/A” should be used in Column 3 for post-petition interest, dividends, and rent. May “unknown” be used if Column 3 is already programmed for it?**

Yes. “N/A” or “Unknown” may be used in Column 3 for post-petition interest, dividends, and rent.

- 38) **Should the value shown in Column 3 be changed if the trustee’s estimate changes or when the asset is sold?**

No. The only change that may be made to a Column 3 entry is from “unknown” to a dollar amount. Once the dollar value is estimated, the trustee may not later change it. (See Forms – 5.)

- 39) **When can the trustee report “unknown” as the value under Column 6, Asset Fully Administered (FA)/Gross Value of Remaining Assets?**

When “unknown” and “N/A” (for post-petition rents, dividends, and interest) are shown in Column 3, “unknown” may also appear in Column 6 until the asset is fully administered. In all other instances, Column 6 should reflect a dollar amount or “FA” for fully administered. (See Forms – 6 and the Illustrative Form 1 at the back of the Handbook for further details.)

- 40) **May the word “yes” be used in Column 6 to indicate that an asset is fully administered?**

No. The new Form 1 requires “FA” in Column 6. (See Forms – 6.)

- 41) **If Column 6 contains both dollar values and text, (e.g., “unknown” or “FA”), should the dollars, text, or both, be carried forward to the related Column 6 on Form 3?**

On Form 1, the trustee adds the Column 6 dollar figures and provides a total at the bottom of the column. This dollar figure, or “0” if applicable, is carried forward to Form 3. No text should appear in the space provided for the column total. (See Forms – 6 and the Illustrative Form 1 at the back of the Handbook for further details.)

- 42) **In Column 1, Asset Description, a “u” designates unscheduled assets. Should this “u” appear to the right of the asset description?**

Yes. (See the Illustrative Form 1 at the back of the Handbook for further details.)

- 43) **In Column 1, should “p” be used to designate scheduled assets?**

No.

44) **May a trustee enter “EXEMPT” in Column 4, Property Abandoned?**

No. (See Forms – 5.)

45) **May any entry other than “OA” for a § 554(a) abandonment or “DA” for a § 554(c) abandonment appear in Column 4?**

No. (See Forms – 5.)

46) **If the trustee wishes to make a footnote concerning an asset, how should the footnote be designated and shown?**

The footnote designator, such as “Note 1,” should appear to the right of or below the Asset Description in Column 1. The footnote should appear below the column totals and before the section on Major Activities Affecting Case Closing. (See the Illustrative Form 1 at the back of the Handbook and Forms – 5 for sample notes.)

47) **Must the trustee report both the initial projected final report (TFR) date and the current projected final report (TFR) date at the bottom of Form 1?**

Yes. This helps the trustee and the United States Trustee keep track of the timeliness of case closing. (See Forms – 7.)

48) **Should post-petition interest, rents and dividends be reported on Form 1? Should these receipts have a reference number on Form 2?**

Yes, these assets should be reported on Form 1 as unscheduled assets with reference numbers. The reference numbers should be used to track the receipts on Form 2. (See Forms – 4.)

49) **May the trustee have a separate case summary or narrative to explain issues such as the rationale for abandoning assets, impediments to case closure, pending sales, etc.?**

The trustee should incorporate these comments at the end of Form 1 under Major Activities Affecting Case Closing. (See Forms – 6.) The trustee may use additional pages as necessary.

50) **Is a trustee signature line required at the bottom of each Form 1?**

No. The trustee signs and certifies on Form 3 that Forms 1 and 2 for all cases listed on Form 3 have been filed, reviewed and are accurate and correct to the best of the trustee’s

knowledge.

**Form 2: Estate Cash Receipts and Disbursements Record**

51) **Should an individual debtor's social security number ever appear on Form 2?**

No. (See Forms – 8.)

52) **Should the date filed be shown in the header?**

No.

53) **Must a separate Form 2 be used for each estate bank account, including certificates of deposit?**

Yes. (See Forms – 8.)

54) **May the same Form 2 be used for renewals or rollovers of certificates of deposit?**

A separate Form 2 should be used for each individual CD. Renewals or rollovers of a CD may be reported on the same Form 2; if the CD # changes, the new number should be recorded in the transaction description. (See Forms – 8-9 and the Illustrative Form 2s at the back of the Handbook.)

55) **CDs usually mature at 3-, 6- or 12-month intervals. As a result, the maturity date may not coincide with the end of a reporting period. Is a trustee required to estimate the interest earned as of the reporting date and then enter this estimate on Form 2?**

No. Form 2 should reflect actual transactions as soon as they occur. Interest should only be recorded on Form 2 when earned and deposited in the bank account. Interest should not be estimated and recorded on Form 2 when the reporting cut-off date does not coincide with a bank statement or CD maturity date. (See Forms – 9.)

56) **Must the trustee submit a Form 2 even when an estate bank account has not been opened?**

No. A Form 2 should be submitted only if a bank account has been opened. (See Forms – 8.)

57) **Is it necessary to show the payee's or payor's address in Column 3 – Paid to/Received From?**

No. See the Illustrated Form 2 at the back of the Handbook.

- 58) **If a disbursement check is issued and later voided, is it okay to combine the original check information and the reversing information on one line?**

No. The following procedures apply when checks are voided:

- a. If a check is voided during the printing process, Form 2 should show the check number and date voided. "Void" should appear in Columns 3 or 4.
- b. If a check is printed and later voided, two transactions must be recorded. The first transaction records the date the trustee wrote (or printed) the check. The second transaction records the date the check was voided. The transaction to void the check should show the date in column 1, the check number in column 2, the original payee in Column 3, the word "void" in Column 4, and the amount of the check shown as a negative amount in Column 6.

For more information, see Forms – 10.

- 59) **If a disbursement check is voided, is it permissible to re-use the number for another check?**

No. See page 9-8.

- 60) **If the trustee makes a data entry error, such as recording a deposit to the wrong estate, may the trustee delete the transaction so that it never appears in printed reports?**

No. Correcting entries must be shown on Form 2. For example, if the trustee recorded a deposit to the wrong estate, the correcting entry should be shown on Form 2 with the date of the entry in Column 1, the payor in Column 3, the explanation for the entry in Column 4, and a negative amount in Column 5. See Handbook page 9-8, Forms – 9, and the Illustrative Form 2.

- 61) **Is there a requirement to summarize the Form 2 account balances? Where should these totals be reported?**

Yes. The total funds on hand per the Form 2 must be reported. See the Illustrative Form 2s at the back of the Handbook for the reporting format. It is permissible to print the totals on a separate page, if that is more convenient.

- 62) **If the Form 2 for an estate bank account exceeds one page, are page sub-totals required?**

Yes. See the Illustrative Form 2.

- 63) **If the trustee has a blanket bond, should the word “Blanket” appear in the header?**

No. The blanket bond per case limit is shown at the top of Form 2. (See Forms – 8.)

**Other Questions**

- 64) **Some jurisdictions still ask for the prior version of Form 1 and a Form 4 which is no longer used by the Program. Will usage of these outdated Forms be discontinued?**

Yes. The trustee is required to use the current version of Forms 1, 2, and 3, as presented in the Handbook. (See Forms – 2.)