



# U.S. Department of Justice

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### BOND MONITORING PROGRAM REQUIREMENTS FOR CHAPTER 7, CHAPTER 11 AND CHAPTER 13 TRUSTEES

**1. Who and what is covered by the blanket bond?**

The Liberty Mutual Insurance Company blanket bond was designed to cover all Chapter 7 cases, including no asset cases that become asset cases and Chapter 11 non-operating cases, for those trustees whose names appear on Schedule A of the bond. The bond does not list a trustee's individual cases but rather limits liability to a specific dollar amount. Only Chapter 7 cases and Chapter 11 non-operating cases with fund balances less than \$5,000,000 are covered.

**2. What should happen if a case covered by the blanket bond exceeds \$5,000,000?**

Any chapter 7 case or chapter 11 non-operating case with a fund balance exceeding \$5,000,000 must be bonded on an individual basis for the full amount of the fund balance. For example, if a case covered by the blanket bond experiences an increase to \$5,250,000, the case is automatically not covered by the blanket bond, and a new bond in the amount of \$5,250,000 must be purchased. If an individually bonded case has a fund balance that falls below \$5,000,000, the case must continue to be bonded individually. Once a chapter 7 case or chapter 11 non-operating case is not covered by the blanket bond, it may not be covered by it in the future.

**3. What are the bonding requirements for a Chapter 7 operating case?**

An operating case is covered by the blanket bond as long as the fund balance is below \$5,000,000.

**4. How is my blanket bond coverage determined?**

Schedule A of the blanket bond lists an aggregate limit of liability for each trustee covered by the bond. Each trustee's total case coverage is limited to the amount stated for that trustee. In order to determine a trustee's aggregate liability, the following formula is used:  $(\text{Funds on Deposit} - \text{Cases exceeding } \$5,000,000) \times 150\%$

The 150% margin requirement allows for fluctuations in a trustee's fund balances, minor case load changes, and funds-in-transit. This does not mean that a trustee's total fund balance is required to continuously meet a 150% margin requirement. The margin is used 1) to establish an initial level of coverage and 2) when increases become necessary because the existing margin is not adequate. For example, a trustee with a \$100,000 fund balance at the time the blanket bond was executed would have been required to purchase \$125,000 in coverage. When the trustee's actual fund balance appears to be exceeding the \$125,000 level of coverage, the trustee should request an increase based on actual funds multiplied by the margin. However, a trustee may elect to use a higher margin at any time.

**5. Are there any bond information reporting requirements?**

The United States Trustee has a semi annual reporting requirement for all Chapter 7 and Chapter 11 trustees. At the end of each semi annual period every trustee must prepare a report that includes the following information:

- A. A list of all Chapter 7 asset cases assigned to the trustee with fund balances under \$5,000,000 as of the semi annual period;
- B. A list of all other Chapter 7 asset cases assigned that require individual bonds, including those with fund balances over \$5,000,000, the fund balances of those cases as of the semi annual period, and the amount of the individual bonds issued for those cases;
- C. A list of all Chapter 11 operating cases assigned, the fund balances of those cases as of the semi annual period, and the amount of the individual bonds issued for those cases;

- D. *A list of all Chapter 11 non-operating cases assigned to the trustee with fund balances under \$5,000,000 as of the semi annual period.*

*If we determine that a trustee appears to be close to exceeding his or her aggregate limit as set forth on Schedule A of the blanket bond, our office will contact the trustee to discuss an increase in coverage. Decreases in a trustee's total aggregate liability coverage will be allowed at this time. However, any request to increase/decrease coverage should be made in an amount not less than \$100,000.*

*If necessary, the trustee should include a cover letter that includes an explanation of any problems with bonding, or to request changes in coverage. **Two copies** of the report are to be submitted **no later than 15 days from the semi annual period** to the attention of Frances S. Hwang, Paralegal Specialist.*

**6. *How often can I make changes in my blanket bond coverage?***

*A trustee may request an increase in his or her aggregate limit of liability at any time. Trustees should monitor their funds balances at regular intervals in order to determine if their coverage should be increased, or if a case has exceeded the \$5,000,000 case limit. A request for an increase in coverage should be made **no later than 5 days after the margin is exceeded**. Please keep in mind that any request to increase/decrease coverage should be in an amount no less than \$100,000.*

*As stated previously, requests for decreases in coverage will only be reviewed on a semi- annual basis.*

*Any requests for changes in blanket bond coverage should be made in writing and signed by the trustee. The request should set forth the total fund balance for all cases covered by the blanket bond, the amount of additional coverage requested, and be accompanied by a list of the blanket bond cases and their fund balances. Requests should be sent to the attention of Lester Crawford, Bankruptcy Analyst, or Frances Hwang. Requests may be faxed to (213) 894-6778.*

**7. *How is a new trustee added to the blanket bond?***

*When a new trustee is appointed, a letter will be issued by our office requesting that an amendment be issued to Schedule A of the blanket bond that includes the trustee. The minimum amount of coverage for all new trustees is \$100,000. Any questions from new trustees concerning their blanket bond participation should be directed to Lester Crawford or Frances Hwang.*

**8. *How should I bill the estates for blanket bond coverage?***

*Each trustee will be charged an annual premium based on his or her amount of aggregate coverage based on the formula of \$.65 for every \$1,000.00 which includes the cost of the margin. Generally speaking, the costs should be prorated to each of the estates covered at the time of the billing. Any specific questions concerning prorating should be directed to Lester Crawford or Frances Hwang.*

**9. *How do I request changes in coverage or obtain individual case bonds?***

***Chapter 7 or Chapter 11 non-operating - New Individual Bonds***

*Once a chapter 7 case or chapter 11 non-operating case is required to be individually bonded you should contact the surety company of your choice and purchase bond coverage equal to at least 100% of the bankruptcy estate's combined fund balances. The original bond should be filed with the court and a copy is to be forwarded to this office or the appropriate supervising field office. For Los Angeles, direct copies to the attention of Denise Tucker. For Santa Ana, copies should be directed to Kris Howard. For Riverside, copies should be directed to George Alfano. For Woodland Hills, copies should be directed to Sandra Cruz. A letter identifying the new bond should accompany the copy submitted.*

***Chapter 11 - New Bonds***

*Chapter 11 trustees are required to obtain a bond with the appropriate amount of coverage immediately following their appointment. The bond should be in the amount of any cash on hand at the time of the appointment, taking into consideration the minimum requirement of \$10,000. The original bond is to be filed with the court within five days of the trustee's appointment and a copy is to be forwarded to the appropriate office as indicated previously.*

*Please keep in mind that if a trustee is listed on schedule A of the blanket bond, and the case is a non-operating chapter 11 with a fund balance less than \$5,000,000, the case will automatically be covered by the blanket bond. Thus, a trustee is not required to purchase an individual bond.*

***Noticing Changes in Individual Bond Coverage***

*When increases and decreases in coverage are necessary, the attached notice should be completed and submitted to the appropriate office as indicated above, along with three copies. The original and two copies will be filed with the court, and the fourth copy will be maintained by our office. We will review the notice, update our case bonding records, and file the package on behalf of the trustee with the court. You will note that a line has been added to the bottom of the form indicating that the notice has been reviewed by the staff prior to*

submission to the court. Copies of the most recent bank statements for a chapter 7 case must be submitted with all requests for decreases in bond coverage. For chapter 11 cases, you may submit either the most recent bank statements or interim reports.

#### **Requests for Changes in Individual Bond Coverage**

Certain surety companies have requested that trustees obtain our approval of any changes to their individual bonds. If you are subject to this requirement, please submit all changes in writing to the appropriate field office UST staff member. Copies of bank statements or interim reports to support the requested change should be included. The field office staff member will forward a letter approving the change to the bond company and provide a copy of the letter to the trustee as evidence that approval has been provided.

#### **Exoneration of a Chapter 11 Bond**

In many instances, after a plan has been confirmed, the responsibility of distributing estate funds is that of the disbursing agent. As a result, the chapter 11 trustee is no longer required to be bonded. Therefore, the plan should contain a statement that the trustee is discharged and that the trustee's bond is exonerated. Notice of the change in coverage should be provided to the appropriate field office UST staff member as soon as possible.

#### **What are the bonding requirements for Chapter 13?**

All standing trustees are required by Sections 322 and 1302 to maintain a bond in favor of the United States conditioned on the faithful performance of official duties. The amount of the bond and the sufficiency of the surety will be determined by the United States Trustee. The standing trustees in this region participate in an aggregate blanket bond. The minimum amount of the blanket bond is 150% of the average monthly bank balance(s) for the prior three months for all bank accounts and certificates of deposit. Refer to the Handbook for Chapter 13 Standing Trustees, Chapter 2, for additional information regarding the blanket bond.