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## Insights



**Judgment Call**

### **Claims processing**

*By Kate Logan, Logan & Co.*

The claims input, reconciliation and objection process is an important aspect of Chapter 11 bankruptcies.

## Claims processing

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*Published January 26, 2010 at 1:37 PM*

In a Chapter 11 bankruptcy, the claims input, reconciliation and objection process is not only a barometer for how a Chapter 11 case is proceeding, but it is also the foundation for subsequent stages of the process. Although the scheduled claims -- created from the statements and schedules -- may provide a broad snapshot of the company's debt from the days prior to filing the petition, things change.

As creditors file claims in anticipation of the bar date, new information emerges that might not have been available on day one of the bankruptcy filing. Some debts may have been paid and therefore go away, or unrecorded invoices may surface, reducing or increasing the total debt respectively. Additionally, unliquidated litigation, executory contract and tax claims are eventually given a substantive number. These all affect the bottom line, which in turn affects the plan of reorganization, the voting process and the final distribution. Thus, the accuracy and speed of processing the claims becomes all the more critical.

Even before a bar date for filing proofs of claim is set, savvy creditors will commence filing claims against a debtor or debtor-in-possession. A claims agent's duty is to process those claims, assign them unique claim numbers and update contact and notice delivery information. Even more importantly, the claims agent must identify the intentions of claimants and make judgments about reclassifying and objecting to claims, so that the claims can be reconciled with the debtor's books and records.

While debtor's counsel is working assiduously to develop a plan to be voted on, they will need to receive constant updates and detailed reports on the claims as they are being filed. An accurate and efficient claims register is what the debtor and its counsel will hang their hat on to develop a plan to emerge from Chapter 11.

After the court approves the bar date, the noticing agent sends out proof-of-claim forms to the entire pool of potential creditors. It is crucial to ensure that all parties in interest are notified that their rights may be affected. If notices are returned as undeliverable, for instance, or returned with forwarding addresses, the notices must be remailed as quickly as possible to allow for timely claim filing.

During the compilation of the statements and schedules, data is often passed to the noticing agent in less than complete form. Time depending, the agent must clean and complete these bad addresses so that the notices reach the intended party. Because data from the debtor may come from multiple accounting systems, different divisions and subsidiaries, there may also be duplicative notices sent, which could result in duplicative claims being filed.

These duplicate claims must be distinguished from those that are amending previously filed claims. Categorizing and subcategorizing such claims by class, type, dollar amount, debtor, etc., is not always a cut-and-dried business. And because the B10 proof-of-claim form can be wildly confusing, even for those who have filled one out before, the information provided by a creditor can be challenging to interpret.

Creditors often include contradictory and incomplete information on the same form, forcing the agent to make a determination about what the creditor intended to file. This is obviously not a reliable way to proceed, so the agent must then further categorize the claim for an omnibus objection to definitively determine what the creditor meant, and what the debtor believes the claim to rightly be.

At some point before or after the bar date, the creation of scheduled claims will take place. Since filed claims are considered to supersede scheduled claims, many scheduled claims simply go away. But if a company files a claim from its corporate address, and the scheduled amount is attached to a lockbox address in a distant city, it is not always possible to immediately determine that a filed and scheduled claim are one and the same.

Sometimes a creditor may file a claim under a different name or different account number, requiring further research and analysis of the debtor's books and records. A creditor might file a different claim against each debtor in a consolidated case, necessitating the elimination of the duplicating claims. Here is where the reconciliation process the claims agent undertakes with the debtor's internal team is vital. Each claim must be dealt with on an individual basis to ensure there is no duplicative allowance of a claim.

While the claims filing process is under way, debtor's counsel may be working to assume or reject leases, settle litigation disputes or resolve other contractual issues. When a creditor liquidates a claim against the debtor from an unknown amount to a hard dollar amount, the bottom line changes.

A creditor may file an initial claim as unliquidated to preserve its rights, but then later adjust and amend that claim to an agreed-upon amount. The claims database needs to reflect that change, perhaps dismissing the first claim and allowing the second through the objection process.

By the time ballots are issued for voting on a plan, a creditor may have been moved to a different voting class through this reconciliation process. The voting power of a \$1 million secured claim is not the same as a \$500,000 unsecured claim. Additionally, a claim filed in multiple classes must be treated with special care as each proportionate part of the claim may require a different ballot in the voting process, requiring the agent to send multiple ballots to one creditor. Also, during the distribution process, this may entail multiple payout calculations and multiple disbursements to the same creditor.

As long as claims are being filed, the claims agent must be in constant communication with the debtor and debtor's counsel. The claims data is constantly in flux, and thus it is important to the debtor's reorganization to communicate the latest changes.

The plan of reorganization itself may rely heavily on the total number of claims and/or the total dollar amount of claims in each class. Ensuring that the information is accurate and readily available as soon as practicable is the claims agent's duty and challenge.

By attending to the details, cross-checking the data with the scheduled information and partnering with the debtor's internal accounting team, the process should go smoothly. But as is often the case, the unpredictable can happen, and facts can emerge that change the landscape of the case.

It is up to the claims agent who receives the information to process it and pass it along to the debtor and its counsel so that the appropriate actions can be taken. This will ensure that the Chapter 11 process is used in the best way possible for a company to make a smooth transition from a debtor-in-possession to a profitable entity.

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