

# Summary of Amendments and New Official Forms Effective February 19, 2020

**Applies to:** Chapter 11 Practitioners  
**Case type:** Chapter 11 Bankruptcy Cases  
**Official Forms:** 101, 201, 309E, 309E2 (new) 309F, 209F2 (new), 314, 315, and 425A  
**Guidance:** Small Business Reorganization Act of 2019, P.L. No. 116-54 (SBRA)

## Amended and New Official Forms

### Official Form 101 Voluntary Petition for Individuals Filing for Bankruptcy

#### Form amended on page 4, line 13 to:

1. The existing checkbox for a small business debtor is modified to indicate the debtor is not electing to proceed under subchapter V of chapter 11; and
2. A new checkbox for a small business debtor to indicate the debtor is electing to proceed under subchapter V of chapter 11.

**13. Are you filing under Chapter 11 of the Bankruptcy Code and are you a *small business debtor*?**

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

*If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines. If you indicate that you are a small business debtor, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).*

- No. I am not filing under Chapter 11.
- No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
- Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.
-   Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

### Official Form 201 Voluntary Petition for Non-Individuals Filing for Bankruptcy

#### Form amended on page 2, line 8 to:

Form amended to include a new checkbox for a small business debtor to indicate that it is electing to proceed under subchapter V of chapter 11.

**8. Under which chapter of the Bankruptcy Code is the debtor filing?**

Check one:

- Chapter 7  
 Chapter 9  
 Chapter 11. *Check all that apply:*

- Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
-   The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and it chooses to proceed under Subchapter V of Chapter 11.
- A plan is being filed with this petition.
- Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

Chapter 12

## Summary of Amendments and New Official Forms Effective February 19, 2020

**Official Form 309E**  
**Notice of Chapter 11 Cases (For Individuals or Joint Debtors)**

The form is renumbered as 309E1.

**Official Form 309E2 (New)**  
**Notice of Chapter 11 Cases (For Individuals or Joint Debtors [under Subchapter V](#))**

The new form provides the name and contact information of the subchapter V trustee.

**Official Form 309F**  
**Notice of Chapter 11 Case (For Corporations / Partnerships)**

The form is renumbered as 309F1.

**Official Form 309F2 (New)**  
**Notice of Chapter 11 Cases (For Corporations / Partnerships [under Subchapter V](#))**

The form provides the name and contact information of the subchapter V trustee.

## Summary of Amendments and New Official Forms Effective February 19, 2020

### Official Form 314 Ballot for Accepting or Rejecting Plan of Reorganization

The first three paragraphs, of the form, are amended to place braces around all references to a disclosure statement. When there is a disclosure statement filed in the case, the ballot should include the language in the braces.

*Note: Section 1125 of the Code does not apply to subchapter V cases unless the court for cause orders otherwise. Therefore, in most subchapter V cases there will not be a disclosure statement.*

#### **Class [ ] Ballot for Accepting or Rejecting Plan of Reorganization**

[Proponent] filed a plan of reorganization dated [Date] (the Plan) for the Debtor in this case. {The Court has [conditionally] approved a disclosure statement with respect to the Plan (the Disclosure Statement). The Disclosure Statement provides information to assist you in deciding how to vote your ballot. If you do not have a Disclosure Statement, you may obtain a copy from [name, address, telephone number and telecopy number of proponent/proponent's attorney.]}

{Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court.}

You should review {the Disclosure Statement and} the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your [claim] [equity interest] has been placed in class [ ] under the Plan. If you hold claims or equity interests in more than one class, you will receive a ballot for each class in which you are entitled to vote.

### Official Form 315 Order Confirming Plan

The form is amended to include citations to the statutory provisions governing subchapter V cases.

### Official Form 425A Plan of Reorganization for Small Business Under Chapter 11

The form is amended to:

1. Include a new background section for cases filed under subchapter V.
2. Article 3.02 includes language regarding a special rule for the treatment of administrative expense claims in subchapter V plans that are confirmed non-consensually.
3. Article 9 includes descriptions of the effect of a discharge in a case under subchapter V. The plan proponent is directed to include in the plan the particular provision that is appropriate for the case.