



**BOND MONITORING PROGRAM
REQUIREMENTS FOR CHAPTER 7,
CHAPTER 11, CHAPTER 12
AND CHAPTER 13 TRUSTEES
AND AUCTIONEERS**

ustp.region16.bankbond@usdoj.gov

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

The Liberty Mutual Insurance Company blanket bond covers all chapter 7 cases and non-operating chapter 11 cases with fund balances of less than \$5,000,000, for those trustees whose names appear on Schedule A of the bond. These cases include no asset cases that become asset cases. 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 of less than \$5,000,000, are covered.*

2. What happens 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 within five days of the increase. For example, if a case covered by the blanket bond experiences an increase to \$5,250,000, the case no longer will be covered by the blanket bond, and a new bond in the amount of \$5,250,000 (plus the 150% margin requirement) must be purchased within five days. If an individually bonded case has a fund balance that falls below \$5,000,000, the trustee should request authorization to cancel the individual bond and place the case under the blanket bond.

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

A chapter 7 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: (Funds on deposit - Funds in cases with balances that exceed \$5,000,000) x 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 \$150,000 in coverage. When the trustee's actual fund balance appears to be exceeding the \$150,000 level of coverage, the trustee should request an increase based on actual funds multiplied by the margin, following the instructions for requesting changes in blanket bond amounts, at No. 6, below.

5. Are there any bond information reporting requirements?

The United States Trustee (“UST”) has a **calendar quarter** reporting requirement for all chapter 7 and chapter 11 trustees. At the end of each calendar quarter 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 at the end of the reporting 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 at the end of the reporting period, and the amount of the individual bonds issued for those cases;
- C. A list of all chapter 11 cases assigned that require individual bonds, including operating cases and those cases with fund balances over \$5,000,000, the fund balances of those cases at the end of the reporting period, and the amount of the individual bonds issued for those cases; and
- D. A list of all chapter 11 non-operating cases assigned to the trustee with fund balances under \$5,000,000 at the end of the reporting period.

If a trustee appears to be close to exceeding his or her aggregate limit as set forth on Schedule A of the blanket bond, the Office of the United States Trustee (“OUST”) will contact the trustee to discuss an increase in coverage. However, it is the trustee’s responsibility to ensure the blanket bond is always sufficient.

The trustee should include a cover letter with the bond report that includes an explanation of any problems with bonding or to request changes in coverage. *The report is to be submitted via email to ustp.region16.bankbond@usdoj.gov to the attention of Ranetta Chappell, Paralegal Specialist, or Lester Crawford, Bankruptcy Analyst, **no later than 15 days from the calendar quarter end.***

The OUST will verify estate account balances reported by the chapter 7 trustee through its quarterly review, to ensure that each estate is within the coverage limit of the blanket bond. Again, estates with account balances which exceed the \$5 million limit must be independently bonded. The OUST also will verify estate account balances of chapter 11 trustees who have individual bonds to ensure that adequate coverage is being maintained. Monthly Operating Reports, on file with the court, will be used to verify account balances.

6. How and when should I make changes in my blanket bond coverage?

A trustee may request an increase or decrease in his or her aggregate limit of liability. 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 as soon as the trustee anticipates the change in coverage is required. Any request to increase or decrease coverage should be in an amount of no less than \$100,000 in coverage. Decreases in coverage should be made when the quarterly report is submitted.

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 of the trustee's cases covered by the blanket bond, the amount of additional or decreased coverage requested, and the reason for the requested change. Trustees may send requests by facsimile (213) 894-6778, email (ustp.region16.bankbond@usdoj.gov), or U.S. mail to the attention of Lester Crawford or Ranetta Chappell. Email is preferred.

Any trustee with bond coverage that does not meet the minimum 150% margin requirement at the time their quarterly bond report is submitted will receive notice from the OUST that an increase in coverage has been requested on the trustee's behalf.

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

When a new trustee is appointed and added as a panel trustee, the OUST will issue a letter requesting that an amendment to include the trustee be issued to Schedule A of the blanket bond. 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 Ranetta Chappell.

A trustee who is not listed on Schedule A of the blanket bond and who is elected by creditors holding allowable unsecured claims is not covered under the blanket bond. A separate bond is required. The OUST also will verify estate account balances of elected trustees who have individual bonds to ensure that adequate coverage is being maintained.

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. The surety company uses a formula of, for example, \$.50 for every \$1,000 of coverage that includes the cost of the margin. The premium cost may change each year. 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 Ranetta Chappell.

9. How do I 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, the trustee should purchase bond coverage equal to at least 150% of the bankruptcy estate's combined fund balances. The trustee may contact a qualified surety company of his or her choice. Please contact Lester Crawford for suggestions on qualified sureties.

The original bond should be filed as part of the case file maintained by the court. A copy of the bond also should be forwarded to the OUST, with a letter identifying the new bond. For Los Angeles and Riverside, direct copies to the attention of Ranetta Chappell. For Santa Ana, copies should be directed to Kris Howard, Paralegal Specialist. For Woodland Hills, copies should be directed to Sandra Cruz, Paralegal Specialist.

10. Chapter 11 - New Bonds (Including Operating Cases)

Chapter 11 trustees are required to obtain a bond with the appropriate amount of coverage, or ensure that the case is covered by the blanket bond, immediately following their appointment. The initial bond amount will be specified in the notice of the trustee's appointment, and should be in the minimum amount of any cash on hand and anticipated receipts at the time of the appointment plus the 150% margin. In the event that there are no funds in an estate, the minimum bond requirement is \$100,000. If the trustee is required to obtain an individual bond, within five days of the trustee's appointment, the trustee must file the bond with the case file maintained by the Court and forward a copy to the appropriate OUST contact 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, in such a case the trustee is not required to purchase an individual bond.

11. Changes in Individual Bond Coverage

When an increase or decrease in individual bond coverage is necessary, the trustee must submit a written request to the OUST. In addition, certain surety companies have requested that trustees obtain OUST approval for any changes to their individual bonds. Please submit all changes in writing to the appropriate field office OUST staff member. The field office staff member will forward a letter or email approving the change to the bond company and provide a copy of the letter or email to the trustee as evidence that approval has been provided.

All requests for increases or decreases must be signed by the trustee, include the reason for the request, and include a signature line for UST approval. 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, either the most recent bank statements or monthly operating reports may be submitted. Once approved, a notice of increase or decrease (whichever is

applicable) should be completed and filed with the court. A copy of the bond should be submitted to the OUST.

12. Changes in Individual Bond Coverage Upon Chapter 11 Plan Confirmation

In many instances, after a chapter 11 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 and the order confirming the plan should contain a statement that upon confirmation, the trustee is discharged and that the trustee's bond is exonerated. The trustee should provide a copy of the order confirming the plan and the effective date to the appropriate field office OUST staff member as soon as possible.

13. What are the bonding requirements for Chapter 12?

Chapter 12 case-by-case trustees are covered under the same blanket bond as the chapter 13 standing trustees. The bond amount is determined by the OUST through the annual review of the chapter 13 blanket bond. Chapter 7 trustees who are appointed as chapter 12 case-by-case trustees are not covered under the chapter 13 blanket bond and, therefore, must obtain a separate bond. Please refer to the Handbook for Chapter 12 Trustees for additional information or contact Lester Crawford.

14. What are the bonding requirements for Chapter 13?

Sections 322 and 1302 of the Bankruptcy Code require every standing trustee to maintain a bond in favor of the United States conditioned on the faithful performance of his or her official duties. The amount of the bond and the sufficiency of the surety will be determined by the OUST. The chapter 13 standing trustees in the Central District of California 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 two months for all bank accounts and certificates of deposit.

15. What are the bonding requirements for Auctioneers?

All auctioneers must be adequately bonded in an amount that is sufficient to cover all projected sale receipts, prior to taking possession of estate property. If an auctioneer maintains a blanket bond, the minimum coverage must be \$25,000 and be in favor of the United States of America. The auctioneer will be responsible for the annual renewal of that bond. If the value of estate assets to be sold exceeds \$25,000, the auctioneer must bond the estate on an individual basis for the full value of the property.

The auctioneer must forward a copy of the blanket bond and/or individual bond, if applicable, to the OUST to the attention of Lester Crawford. The auctioneer also must file the blanket bond with the Bankruptcy Court's Fiscal Section. Individual case bonds are filed with the case file maintained by the Court. Trustees should refer to Revised Supervisory Instruction #10 for information on auctioneer bonds.

16. Exoneration of an Auctioneer Bond

An auctioneer's bond may be exonerated only after all proceeds from the auction have been sent to the trustee and the Report of Auctioneer has been filed with the court. The notice of exoneration should be submitted to the OUST with a signature and date line at the bottom of the form indicating that the notice has been reviewed by the OUST, prior to submission to the court.