

Chapter 11 Types and Timelines

Chapter 11 Overview

Prior to filing a company for chapter 11 bankruptcy, attorneys and advisors will negotiate and document agreements with institutional creditors to stabilize financial operations and prepare for bankruptcy filing. As a result of these negotiations, attorneys and advisors will select a course of action or a case type as a means for proceeding through the chapter 11 bankruptcy filing.

Common chapter 11 case types are termed free fall, prearranged, prepackaged and provide a structure and timing for proceeding through the bankruptcy case. The case types are similar because they all have phases during which certain similar events and documents are exchanged and filed. The phases, known as prepetition, post petition, and post confirmation occur in all chapter 11 cases and involve certain events and documents regardless of whether in a free fall, prearranged, or prepackaged case.

What changes when a certain case type is selected, is the order of events and documents which occur during the prepetition, post petition, and post confirmation periods.



Claude Wm. Irmis founder of
Phase Eleven Consultants

Free Fall Chapter 11 Case Type

A free fall chapter 11 is the type of case which people traditionally associate with bankruptcy—a surprise filing in bankruptcy court quickly followed by an emergency first day hearing and court relief, which begins the time and data intensive process of restructuring operations and creditor negotiation and settlement.

In the prepetition period of the free fall chapter 11 case, attorneys and advisors conduct discussions and meetings with lenders and institutional creditors regarding financial forbearance, waiver and amendment to existing credit arrangements. The goal is to establish time to explore restructuring options and prepare documents and pleadings for a potential chapter 11 bankruptcy filing. In a free fall chapter 11, creditor relationships are typically strained and they are not involved in planning and timing of the filing.

In the post petition period of the free fall chapter 11 case, attorneys and advisors will file chapter 11 pleadings which stabilize, continue, and restructure company operations for the purpose of deleveraging company debt and restoring market viability. The ultimate goal of the post petition period for a free fall chapter 11 case is solicitation, creditor acceptance and court approval of a filed plan of reorganization which leads to the post confirmation period of the case.

During the post confirmation phase of the free fall chapter 11 case, attorneys and advisors will execute actions to wind down the assets of the estate and resolve and pay claims for pre-bankruptcy debt to creditors.

Prearranged Chapter 11 Case Type

A prearranged chapter 11 case is less traditional than a free fall chapter 11 because financial and institutional creditors participate in decisions to file, timing of filing, and treatment of creditors during the prepetition preparation phase of the case.

In the prepetition period of a prearranged case, creditors and the debtor company negotiate, document, and propose solicitation of a plan of reorganization. They also prepare documents and pleadings which commence a chapter 11 case.

In the post petition period of a prearranged case, the debtor company quickly obtains approval of solicitation procedures and materials and executes a plan solicitation while simultaneously filing pleadings which stabilize, continue and restructure company operations.

In the post confirmation phase of a prearranged chapter 11 case, attorneys and advisors will execute actions to wind down assets of the estate and resolve and pay claims for pre-bankruptcy debt to creditors.

Prepackaged Chapter 11 Case Type

A prepackaged chapter 11 case is the least traditional from a free fall chapter 11 because financial and institutional creditors fully participate in decisions to file, timing of filing, treatment of creditors, and the complete solicitation of a plan of reorganization in the prepetition preparation phase of the case.

In the prepetition period of a prepackaged case, creditors and the debtor company complete solicitation and obtain acceptance of a plan of reorganization. They also prepare documents and pleadings which commence a chapter 11 case.

In the post petition period of a prepackaged case, the debtor company obtains approval of both first day pleadings—which stabilize, continue, and restructure company operations—and the accepted plan of reorganization.

In the post confirmation period of a prepackaged case, attorneys and advisors will execute actions to wind down assets of the estate and resolve and pay claims for pre-bankruptcy debt to creditors.

Summary

Prepetition, post petition, post confirmation phases are a part of every chapter 11 case type, regardless of whether it is a free fall, prearranged, or prepackaged bankruptcy case. The types of documents necessary to execute restructuring actions during each of the phases of each of the case types are also similar, which allows for structure and moderate predictability during a difficult time for a chapter 11 company.

*For more information on Chapter 11 case types contact
Claude Wm. Irmis at info@11llc.com or 877-943-2233*