



## U.S. Department of Justice

### Executive Office for United States Trustees

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#### **CHAPTER 11 BANKRUPTCY CASE CONFIRMATION RATE DOUBLED BETWEEN 1980 AND 1995, DATA SHOW**

The success rate of Chapter 11 bankruptcy cases, as measured by the percentage of cases confirmed each year, has doubled since the early 1980s, according to a new study of data collected by the United States Trustee Program.

The study showed, on average, a 27 percent annual confirmation rate of Chapter 11 cases filed between 1989 and 1995. Previous statistics indicated that only around 17 percent of Chapter 11 cases were confirmed.

A Chapter 11 debtor, often with participation from creditors, creates a plan to repay part or all of its debts. A case is "confirmed" if the bankruptcy court approves that plan.

The report, published in the February 1998 issue of American Bankruptcy Institute Journal, was prepared by Ed Flynn and Gordon Bermant for the Executive Office for United States Trustees. The EOUST performs administrative and supervisory functions for the United States Trustee Program, a component of the Justice Department that monitors the administration of bankruptcy cases nationwide.

Flynn and Bermant analyzed data obtained from the EOUST's Fee Information and Collection System (FICS) data base, which is maintained to support the USTP's collection of quarterly fees from Chapter 11 cases. FICS contains data on 131,089 Chapter 11 filings between Jan. 1, 1989, and Dec. 31, 1995.

According to Flynn and Bermant, previously the most comprehensive source of information on national Chapter 11 confirmation rates was a 1989 report by the Administrative Office of the United States Courts on cases filed in 15 judicial districts between 1979 and 1986. The estimated annual confirmation rate over that period was 17 percent. However, the AOUSC data showed a trend of increasing confirmation rates: in 1982, 13 percent of Chapter 11 cases were confirmed, compared with a 22 percent confirmation rate in 1986.

The FICS data sustained the national trend toward higher confirmation rates, Flynn and Bermant concluded. "The average annual confirmation rate over the period measured in FICS, approximately 27 percent, is about twice the rate that was achieved in the early 1980s."

The FICS data also showed a clear trend toward faster confirmations in Chapter 11 cases. The median time from the bankruptcy petition filing date to the case confirmation date decreased by about 27 percent from 1989 to 1997. The greatest changes were apparent among the cases slowest to confirm, with intervals between filing and confirmation decreasing by about 37 percent.

But Flynn and Bermant noted that confirmation is not a necessary condition for success in Chapter 11. "Dismissal sometimes follows a successful accommodation between a debtor and its creditors without the need for a court-approved plan of reorganization." The FICS data base revealed that the median intervals between filing and dismissal, as well as the median intervals between filing and conversion from Chapter 11 to Chapter 7, have shortened considerably over the last eight years.

Flynn and Bermant said in their report that they plan to refine their analyses of the FICS data base, explore opportunities for linking that data with other bankruptcy data sources, and explore ways to make much of the FICS data available to other analysts.

Flynn is a bankruptcy statistical analyst in the EOUST's Office of Research and Planning. Bermant, who retired last September as director of planning and technology for the Federal Judicial Center, is a consultant to the USTP.

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