

BEFORE WE BEGIN

- Mute microphone/Turn off camera
- Have MOR/PCR forms at the ready
- Q&A at end of presentation



UST FORM 11-MOR: MONTHLY OPERATING REPORT UST FORM 11-PCR: POST-CONFIRMATION REPORT

U.S. Department of Justice
U.S. Trustee Program



June 9, 2021

UNIFORM REPORTING REQUIREMENTS

Authorized by 28 U.S.C. § 589(b), which establishes uniform rules for collection of bankruptcy data

Final Rule requires periodic reports by all non-small business debtors in possession or trustees in cases under chapter 11 of title 11 (28 CFR Part 58)

Effective Date June 21, 2021

MANDATORY DATA ELEMENTS REQUIRED BY 28 U.S.C. § 589b(e)

Industry classification

How long case has
been pending

Number of full-time
employees at order
for relief and
reporting date

Cash receipts for the
period and
cumulatively

Cash disbursements
for the period and
cumulatively

Profitability for the
period and
cumulatively

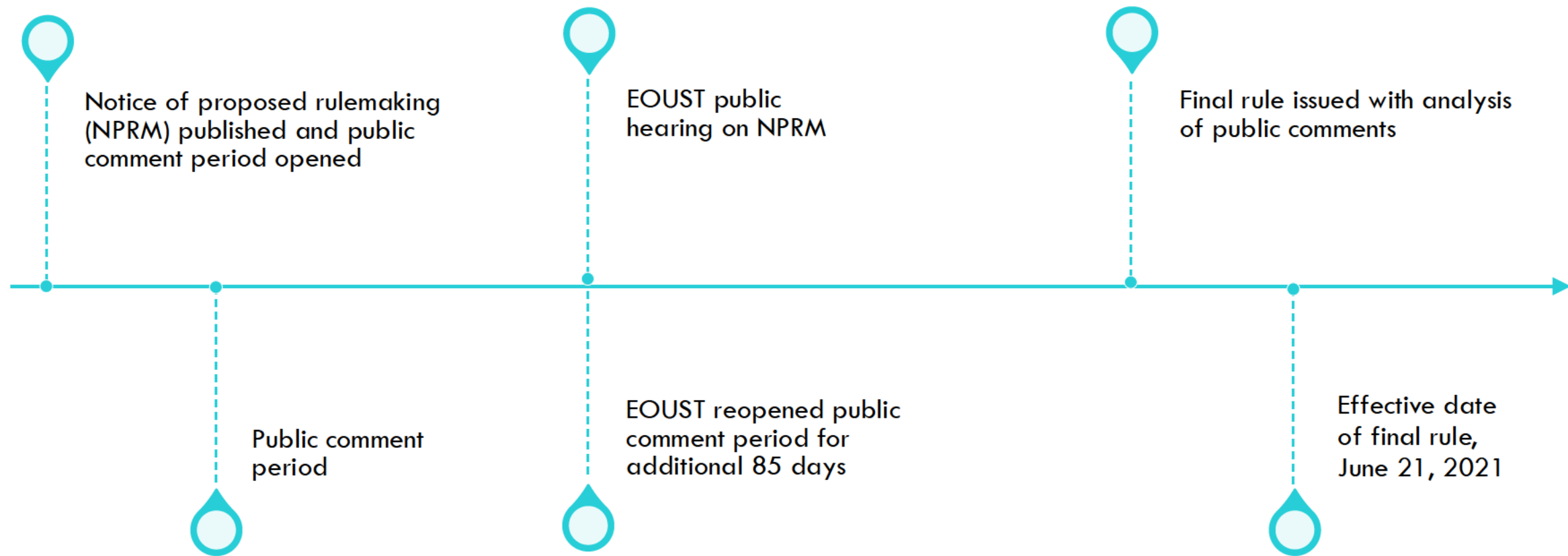
Compliance with
title 11 and tax
obligations

Professional fees
reported multiple
ways for the period
and cumulatively

Plans filed and
confirmed

Creditor recoveries in
aggregate dollars
and by percentage
per class

A ROBUST RULEMAKING PROCESS



COMMENTS AND CONSENSUS

USTP received 12 written public comments on the NPRM

- General comments on the rule fell into four broad categories
 - Accounting methods
 - Certification and signature requirements and filing and service deadlines
 - Publicly available data
 - Scope of information and supporting documents required beyond mandatory data elements
- Specific comments addressed ten issues

Five witnesses testified at the public hearing

Comments and testimony offered competing and divergent perspectives

Final Rule modified NPRM in ten ways and reflected consensus views developed during the rulemaking process

Challenge to draft single rule and single, uniform form that works for every debtor regardless of size and complexity

KEY BENEFITS DERIVED FROM UNIFORMITY IN PERIODIC REPORTING

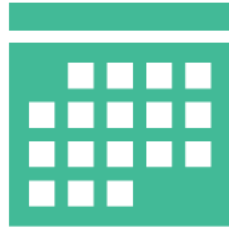
Simple forms provide meaningful access to information

Nationwide uniform forms facilitate efficient preparation and review

Opportunity for aggregated national data

KEY INFORMATION REGARDING NEW FORMS

TWO UNIFORM FORMS



UST Form 11 - MOR:

Must be used in every *pre-effective date* chapter 11 case in which debtor does **not** qualify as a “small business debtor” or sub V debtor



UST Form 11 - PCR:

Must be used in every *post-effective date* chapter 11 case in which debtor does **not** qualify as a “small business debtor” or a sub V debtor

FORMS ARE DATA-ENABLED AND DATA-EMBEDDED

Data-Enabled

- Interactive (PDF fillable) forms in which users can enter & save data

Data-Embedded

- Allows extraction of data entered on MOR & PCR

BEFORE YOU START

Carefully read and understand the instructions available on the U.S. Trustee website:

<https://www.justice.gov/ust/chapter-11-operating-reports>

Best viewed online due to inclusion of hyperlinks and bookmarks to useful references

DOWNLOADING FORMS & INSTRUCTIONS

Operating Reports

- ▶ Retention and Compensation of Professionals in Bankruptcy
- ▶ Consumer Information
- ▶ Credit Counseling & Debtor Education

Means Testing Information

- ▶ Press & Public Affairs

Employment Opportunities

What's New

Site Map

USTP FOIA

USTP Privacy Act

Contact the Program

Forms (Effective June 21, 2021)

CLICK HERE TO DOWNLOAD THE GUIDE FOR OPENING THE MOR/PCR FORMS

Title	Description	Date Modified
UST Form 11-MOR – Monthly Operating Report	This is a sample of what will ultimately be a data-embedded PDF form.	May 3, 2021
UST Form 11-PCR – Post-confirmation Report	This is a sample of what will ultimately be a data-embedded PDF form.	May 3, 2021

Instructions (Effective June 21, 2021)

Title	Description	Date Modified
UST Form 11-MOR – Monthly Operating Report Instructions	General information and instructions for the completion of the MOR Form.	March 26, 2021
UST Form 11-PCR – Post-confirmation Report Instructions	General information and instructions for the completion of the PCR Form.	March 26, 2021

Complete Data Dictionary (Effective June 21, 2021)

Title	Description	Date Modified
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BACKGROUND

28 U.S.C. § 589b authorizes the Department of Justice to issue rules requiring uniform periodic reports filed by debtors-in-possession or trustees in cases under chapter 11 of title 11.

Please be sure to review the Guide for Opening the MOR/PCR Forms before downloading the forms.

reports in non-small business cases filed under Chapter 11 of Title 11" rule was published in the Federal Register.

For additional background, "Introducing the USTP's New Chapter 11 Periodic Reports," an article written by USTP staff, appeared in the February 2021 issue of *ABI Journal*. This article discusses the basis for the Final Rule, the USTP's development of consensus views through robust

KEY INFORMATION

- Specific procedure for activating data-embedded features
- Forms must be filed on Bankruptcy Court's Case Management/Electronic Case Filing System (CM/ECF)
- Supporting documentation provides more detail
- Separate forms must be filed for **each case**, even if jointly administered, unless substantively consolidated
- After effective date, separate forms must be filed for reorganized debtor and any “other authorized parties”

UST FORM 11-MOR

TIMING OF FILING FOR MOR



- Filed monthly
- Due date is 21st day of month immediately following reporting period*
- For example, MOR for calendar month of October must be filed no later than November 21

*Unless otherwise provided by local rules

UST FORM 11-MOR OVERVIEW

Cover Page

Part 1 – Cash Receipts and Disbursements

Part 2 – Asset and Liability Status

Part 3 – Assets Sold or Transferred

Part 4 – Income Statement

Part 5 – Professional Fees and Expenses

Part 6 – Postpetition Taxes

Part 7 – Questionnaire

Part 8 – Individual Chapter 11 Debtors



COVER PAGE - MOR

UNITED STATES BANKRUPTCY COURT			Clear All Fields
_____ DISTRICT OF _____			
<u><Enter Division name if applicable, else delete this text></u>			
In Re.	§	Case No. _____	
	§		
_____ Debtor(s)	§	Lead Case No. 	
	§	<input checked="" type="checkbox"/> Jointly Administered	
< select a report type >			Chapter 11
Monthly Operating Report			
Amended Monthly Operating Report			
< select a report type >			

COVER PAGE (CONT'D)

Reporting Period Ended. Enter month-end date

For Final MORs. Enter effective date or date order was entered converting or dismissing case

Petition Date. Enter date chapter 11 case was filed

Monthly Operating Report

Chapter 11

Reporting Period Ended: _____

Petition Date: _____

COVER PAGE (CONT'D)

Months Pending. Automatically calculated field

Industry Classification. For non-individual debtors, enter the NAICS 4-digit code (individual debtors enter “0000”)

Reporting Method. Select debtor’s prepetition accounting method (cash or accrual)

Note. Some debtors may need to provide both cash and accrual information on various parts of the MOR

Months Pending: 0	Industry Classification: <input type="text"/>
Reporting Method:	Accrual Basis <input type="radio"/> Cash Basis <input type="radio"/>

COVER PAGE (CONT'D)

Debtor's Full-Time Employees (current). Enter full-time equivalent employees ("FTEs") as of the end of the reporting period

Debtor's Full-Time Employees. Enter FTEs as of date of order for relief

Note. See instructions for how to calculate FTEs

Debtor's Full-Time Employees (current):

Debtor's Full-Time Employees (as of date of order for relief):

SUPPORTING DOCUMENTATION

Supporting Documentation (check all that are attached):

(For jointly administered debtors, any required schedules must be provided on a non-consolidated basis for each debtor)

- ☐ Statement of cash receipts and disbursements
- ☐ Balance sheet containing the summary and detail of the assets, liabilities and equity (net worth) or deficit
- ☐ Statement of operations (profit or loss statement)
- ☐ Accounts receivable aging
- ☐ Post petition liabilities aging
- ☐ Statement of capital assets
- ☐ Schedule of payments to professionals
- ☐ Schedule of payments to insiders
- ☐ All bank statements and bank reconciliations for the reporting period
- ☐ Description of the assets sold or transferred and the terms of the sale or transfer

- Required in non-individual cases:

- *Statement of Cash Receipts & Disbursements*
- *Balance Sheet*
- *Statement of Operations*

SUPPORTING DOCUMENTATION

Supporting Documentation (check all that are attached):

(For jointly administered debtors, any required schedules must be provided on a non-consolidated basis for each debtor)

- ☐ Statement of cash receipts and disbursements
- ☐ Balance sheet containing the summary and detail of the assets, liabilities and equity (net worth) or deficit
- ☐ Statement of operations (profit or loss statement)
- ☐ Accounts receivable aging
- ☐ Post petition liabilities aging
- ☐ Statement of capital assets
- ☐ Schedule of payments to professionals
- ☐ Schedule of payments to insiders
- ☐ All bank statements and bank reconciliations for the reporting period
- ☐ Description of the assets sold or transferred and the terms of the sale or transfer

- U.S. Trustee may require additional supporting documentation
- Check applicable box for each document filed as attachments to MOR
- Supporting documentation must be filed as attachments to MOR using CM/ECF

UST FORM 11-MOR

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Part 1: Cash Receipts and Disbursements

- Report figures for current month and cumulative
- Line a – Cash balance beginning of month
- Line e – Disbursements made by third party for benefit of the estate
- Line f – Total disbursements for quarterly fee calculation

UST FORM 11-MOR

Part 2: Asset and Liability Status

- Required for all businesses and for individuals engaged in business
- Balance Sheet provides basis
- Line d – Total current assets
- Line e – Total assets

NOTE: Only specific asset categories are on MOR so do not calculate lines (d) or (e) using preceding fields

UST FORM 11-MOR

Part 3: Assets Sold or Transferred

- Limited to transactions outside ordinary course of business
- Report figures for current month and cumulative
- Line a - Total *gross cash sales price*

UST FORM 11-MOR

Part 4: Income Statement

- Required for all businesses and for individuals engaged in business
- Line j – Reorganization items (income or expenses incurred as a result of bankruptcy)
- Line k – Profit (loss): Reported for current month and cumulative

NOTE: Use profit or loss figure from debtor's books because all income and expense categories are not necessarily reported on MOR

UST FORM 11-MOR

Part 5: Professional Fees and Expenses

- Approved and paid for current month and cumulative
- Section a = Debtor's bankruptcy
- Section b = Debtor's nonbankruptcy
- Section c = All professional fees, i.e., Sections a & b plus committee professionals
- Enter professional's name and use drop-down to indicate role

UST FORM 11-MOR

Part 6: Postpetition Taxes

- Accrued and paid in current month and cumulative

UST FORM 11-MOR

Part 7: Questionnaire

- Answer all questions
- Provide explanations as attachments to MOR if answer is “Yes” to questions regarding (a) payments on pre-petition debt, (b) payments outside ordinary course, or (g) postpetition borrowing
- Answer “Yes” if question pertains to item not required or not yet due

UST FORM 11-MOR

Part 8: Individual Chapter 11 Debtors

- Must be completed by individual debtors
- May duplicate other parts of MOR
- If not an individual, enter zeros in all numerical fields and indicate “No” for line (l) and “N/A” for line (m)



MOR COMMON QUESTIONS

FIRST MOR: HOW TO TREAT PARTIAL PERIOD

First MOR should reflect petition date to last day of calendar month, even if partial period is only one day

For example, if case filed on April 25, first MOR should report April 25 to April 30

Do not include activity for partial calendar month in MOR for following month

WHAT IF DEBTOR HAS NO FINANCIAL ACTIVITY DURING REPORTING PERIOD?

- MOR must be filed even if no activity
- Answer every question - if question does not apply, enter zero ("0") in numerical field

HOW LONG MUST MORS BE FILED?

Continue filing MORs until:

- *Effective* date of plan
- Dismissed or converted

MOR requirement resumes if later reopened

FINAL MOR: EFFECTIVE PLAN

Final MOR filed for first day of calendar month through effective date, even if partial period is only one day

First PCR filed from the effective date to last day of calendar quarter

Example: If plan effective November 25, final MOR for November 1 to November 25 and PCR for November 26 to December 31 must be filed

FINAL MOR: DISMISSED OR CONVERTED

Final MOR filed only for time case remained in chapter 11 (Day 1 to date of dismissal or conversion), even if partial period is only one day

Example: If case dismissed October 3, final MOR must be filed for partial period of October 1 to October 3

Do not include activity for partial month in MOR for preceding month

UST FORM 11-PCR

TIMING OF FILING OF PCR



- Filed quarterly once plan becomes effective
- Filed with court by 21st day after quarter ends*
- Reporting required until court enters final decree or case dismisses or converts

*Unless otherwise provided by local rules

WHO MUST COMPLETE & FILE PCR?

- Reorganized debtor and any other “authorized parties” (post-confirmation entities) charged with administering confirmed plan
- Confirmation order should specify PCR preparation & filing obligations

UST FORM 11-PCR OVERVIEW

Cover Page

Part 1 – Summary of
Post-confirmation Transfers

Part 2 – Preconfirmation
Professional Fees and Expenses

Part 3 – Recoveries of the Holders
of Claims under Confirmed Plan

Part 4 – Questionnaire



COVER PAGE - PCR

UNITED STATES BANKRUPTCY COURT		
_____ DISTRICT OF _____		Clear All Fields
<u><Enter Division name if applicable, else delete this text></u>		
In re:	§	Case No. _____
	§	
	§	Lead Case No.
_____ Debtor(s)	§	<input checked="" type="checkbox"/> Jointly Administered
< select a report type >	▼	Chapter 11
<hr/>		
Post-confirmation Report		
Amended Post-confirmation Report		
< select a report type >		

COVER PAGE — PCR (CONT'D)

Quarter Ending Date: _____

Petition Date: _____

Plan Confirmed Date: _____

Plan Effective Date: _____

This Post-confirmation Report relates to: ☐ Reorganized Debtor

☐ Other Authorized Party or Entity: _____

Name of Authorized Party or Entity

UST FORM 11-PCR

Part 1: Summary of Post-confirmation Transfers

- Report figures for current quarter and cumulative since effective date
- Line a. Total cash disbursements **(include those made by third-parties)**
- Non-cash transfers are not used in the calculation of quarterly fees

UST FORM 11-PCR

Part 2: Preconfirmation Professional Fees and Expenses

- Approved and paid for current quarter and cumulative for *preconfirmation* fees
- Section a = Debtor's bankruptcy
- Section b = Debtor's nonbankruptcy
- Section c = All professional fees, i.e., Sections a & b plus committee professionals
- Enter professional's name and use drop-down to indicate role

UST FORM 11-PCR

Part 3: Recoveries of the Holders of Claims and Interests under Confirmed Plan

- For each class of claims and equity in confirmed plan, enter total anticipated payments, total paid, total cumulative paid since *confirmation* date, and aggregate allowed claims
- Percent (%) Paid of Allowed Claims is automatically calculated and divides allowed claims by cumulative paid

UST FORM 11-PCR

Part 4: Questionnaire

- **Question a.** Answer whether PCR is a final report (order entered closing, dismissing, or converting case)
- Enter date final decree was entered or application is anticipated to be filed (when applicable)
- **Question b.** Answer whether quarterly fees are current
 - Respond “Yes” if not yet due

TIPS FOR FILLING OUT MOR & PCR



Maintain debtor's pre-petition accounting method



Prepare separate PCRs for reorganized debtor & post-confirmation entities



Answer every question



Use most recently filed report as starting point for subsequent report



Must use drop-down calendar



FILING THE FORMS WITH THE COURT

SIGNATURE REQUIREMENTS

- Two signatures required
- Cover page signed by person responsible for filing MOR & PCR
- Last page signed under penalty of perjury by individual authorized under applicable law to certify for filing entity
- Electronically filed and must be signed by entering “/s/” followed by printed name on signature lines

NOTE: Missing signatures will render the forms incomplete and may result in motion to dismiss or convert, or delay entry of final decree in post-confirmation cases

WHO FILES MOR & PCR?

- Counsel typically files MOR & PCR electronically with court using CM/ECF
- Counsel must retain copy with holographic (original) signature(s) for five years*

*Unless otherwise provided by local rules

PRO SE?

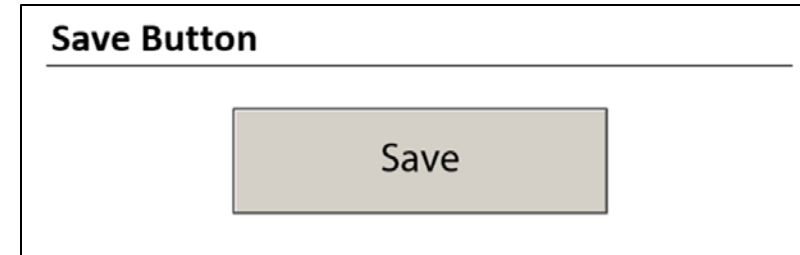
- Consult bankruptcy court to obtain information on how to file MOR & PCR
- Submit a copy of filed MOR or PCR with holographic (original) signature to U.S. Trustee

PII CONCERNS

Filers should comply with Federal Rule of Bankruptcy Procedure 9037 regarding redaction of information

PREPARING MOR & PCR FOR FILING — STEP 1

**The following process is essential to
preserve data-embedded features**



- Select “Save” button to save an editable, working copy until ready for filing
- “Generate PDF for Court Filing and Remove Watermark” will remain until Step 2 is completed
- Data-embedded features will NOT be activated by “Save” button, so do not file this copy with court
- Complete, thoroughly review, and sign with “/s/” by responsible parties
- Select “Save” button to save a final copy

PREPARING MOR & PCR FOR FILING — STEP 2

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Generate PDF for Court Filing
and Remove Watermark

WARNING!

Once this button has been selected it cannot be undone and the MOR cannot be further modified. It is recommended that you save a copy of this MOR before generating the PDF for court filing.

- Select “Generate PDF for Court Filing and Remove Watermark” button to activate data-embedded features and remove watermark
- Address any error messages
- Save data-embedded version when prompted
- Print copy of data-embedded version, affix holographic (original) signature(s), and provide to counsel for retention purposes
- File data-embedded version with court using CM/ECF

WHO SHOULD RECEIVE COPIES?

- U.S. Trustee
- Any official committee appointed under 11 U.S.C. § 1102 (MORs)
- Any governmental unit charged with responsibility for collection or determination of any tax arising out of such operation
- Any requesting party in interest

Consult local rules for additional requirements

HIGHLIGHTS



- Use of new forms is a requirement
- Data elements cannot be altered or omitted
- Applies to all non-small business and non-Subchapter V cases
- Effective date is June 21, 2021

HIGHLIGHTS



- Standardized due date is 21st of month
- No “rolling-up” of partial period
- No “consolidating” MORs allowed
- File any supporting documentation, explanations, or notes as attachments

HIGHLIGHTS



- PCR's begin on effective date
- Activate data-embedded features before filing
- Forms incomplete if missing signatures or required supporting documentation



UST FORM 11-MOR: MONTHLY OPERATING REPORT UST FORM 11-PCR: POST-CONFIRMATION REPORT

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June 9, 2021

CONCLUSION

<https://www.justice.gov/ust/chapter-11-operating-reports>