

Guidelines for Conversion of Cases

(Last updated 01-19-07, to reflect (1) fee changes effective January 1, 2007, and (2) AO's position that conversion from chapter 12 to chapter 11 or chapter 13 can arguably be seen as provided for by 11 U.S.C. § 1208(e) due to split case law – judges have determined to address any questions which may arise in the context of actual cases. /mGG)

Conversion from/to	At request of debtor (see Note 1 below)	At request of other party
7 to 11: Asset	If no previous conversion: motion, order. <u>See</u> §706(a) and FRBP 1017(f)(2). If there has been a previous conversion: motion, notice of objection deadline, and order. <u>See</u> §706(b) and FRBP 1017(f)(1). \$755 fee due when motion is filed.	Motion, notice of objection deadline, and order. <u>See</u> § 706(b) and FRBP 1017(f)(2). No fee is due.
		Motion, notice of objection deadline, and order <u>with debtor's consent</u> . <u>See</u> § 707(b)(1) and FRBP 1017(f)(1) . No fee is due.
7 to 12: Asset	Same as conversion from 7 to 11 except that no fee is due.	Under §706(c), can only be at request of debtor.
7 to 13: Asset	Same as conversion from 7 to 11 except that no fee is due.	Under §706(c), can only be at request of debtor.
		Motion, notice of objection deadline, and order <u>with debtor's consent</u> . <u>See</u> § 707(b)(1) and FRBP 1017(f)(1). No fee is due.
11 to 7: No Asset	Motion, order <u>if</u> (1) there is no chapter 11 trustee, <u>and</u> (2) the case was originally filed as a voluntary petition, <u>and</u> (3) the case, if <i>converted</i> to chapter 11, was converted <i>at debtor's request</i> . <u>See</u> §1112(a) and FRBP 1017(f). When all three conditions are met, debtor will sometimes file a notice of conversion; we still require a motion and order. <u>If all three conditions are not met</u> : motion, notice of objection deadline, and order. \$15 fee due when motion is filed.	Motion, notice of objection deadline, and order. <u>See</u> §1112(b), (d), and FRBP 1017(f). \$15 fee due when motion is filed.
11 to 12: Asset	Motion, notice of objection deadline, and order. <u>See</u> §1112(d) and FRBP 1017(f). No fee due.	Can only be at request of debtor. <u>See</u> §1112(d).

Conversion from/to	At request of debtor (see Note 1 below)	At request of other party
11 to 13: Asset	Motion, notice of objection deadline, and order. <u>See</u> §1112(d) and FRBP 1017(f). No fee due.	Can only be at request of debtor. <u>See</u> §1112(d).
12 to 7: No Asset	Notice of conversion. <u>See</u> §1208(a) and FRBP 1017(f). <i>Note: If debtor files a motion to convert, treat motion as a notice.</i> \$60 fee due when notice of conversion <u>or</u> motion is filed.	Motion, notice of objection deadline, and order. <u>See</u> §1208(d) and FRBP 1017(f)(1). \$60 fee due when motion is filed.
12 to 11:	<u>See Note 2 below.</u> § 1208 (e)? Accept for filing either a motion to convert or a notice of conversion. (A motion to convert is listed in the AO's 12-07-06 Frequently Asked Questions re 01-01-07 fee schedule; FRBP 1017(f)(3) would seem to suggest that a notice of conversion might be filed by the debtor.) \$800 fee due when notice of conversion <u>or</u> motion is filed.	<u>See Note 2 below.</u> § 1208 (e)? Motion to convert. No fee due.
12 to 13:	<u>See Note 2 below.</u> § 1208 (e)? Accept for filing either a motion to convert or a notice of conversion. (A motion to convert is listed in the AO's 12-07-06 Frequently Asked Questions re 01-01-07 fee schedule; FRBP 1017(f)(3) would seem to suggest that a notice of conversion might be filed by the debtor.) \$35 fee due when notice of conversion <u>or</u> motion is filed.	<u>See Note 2 below.</u> § 1208 (e)? Motion to convert. No fee due.
13 to 7: No Asset	Notice of conversion. <u>See</u> §1307(a) and FRBP 1017(f)(3). <i>Note: If debtor files a motion to convert, treat motion as a notice.</i> \$25 fee due when notice of conversion <u>or</u> motion is filed.	Motion, notice of objection deadline, and order. <u>See</u> §1307(c) and FRBP 1017(f)(1). \$25 due when motion is filed.
13 to 11: Asset	Motion, notice of objection deadline, and order. <u>See</u> §1307(d) and FRBP 1017(f)(1). \$765 due when motion is filed.	Motion, notice of objection deadline, and order. <u>See</u> §1307(d) and FRBP 1017(f)(1). No fee due.
13 to 12: Asset	Motion, notice of objection deadline, and order. <u>See</u> §1307(d) and FRBP 1017(f)(1). No fee due.	Motion, notice of objection deadline, and order. <u>See</u> §1307(d) and FRBP 1017(f)(1). No fee due.

Note 1: Where a motion is required, but a notice of conversion is filed by the debtor, docket motion as a

notice to convert. Add to docket text: *Note: Debtor's motion to convert is treated as a notice of conversion pursuant to 11 U.S.C. sec. 1307(a) [or 1208(a)]. The date of conversion is the filing date of debtor's motion to convert to chapter 7.* Although the rule requires a motion, the judges have determined to treat a notice by the debtor in this manner from a perspective which says that the statute is stronger authority than the rule.

Note 2:

As of 01-19-07, the AO takes the position that conversion from chapter 12 to chapter 11 or chapter 13 can arguably be seen as provided for by 11 U.S.C. § 1208(e) due to split case law. Our judges have determined to address any questions which may arise on this subject in the context of actual cases. The AO has indicated to the clerk that a fee should be charged for a debtor's motion to convert from chapter 12 to chapter 11 in the amount of **\$800** (figured as \$1,000 - \$200), and that a fee should be charged for a debtor's motion to convert from chapter 12 to chapter 13 in the amount of **\$35** (figured as \$235 - \$200). See item #10 in the AO 12-07-06 memo to clerks, "Frequently Asked Questions - Changes to Bankruptcy Fees," which is posted on the court's website (www.nmcourt.fed.us/web/BCDOCS/bcindex.html). Go to General Information and then to Fees.