

§ 2175. Role and capacity of Oversight Board

(a) Actions of Oversight Board

For the purposes of this subchapter, the Oversight Board may take any action necessary on behalf of the debtor to prosecute the case of the debtor, including—

- (1) filing a petition under section 2164 of this title;
- (2) submitting or modifying a plan of adjustment under sections 2172 and 2173 of this title; or
- (3) otherwise generally submitting filings in relation to the case with the court.

(b) Representative of debtor

The Oversight Board in a case under this subchapter is the representative of the debtor.

(Pub. L. 114-187, title III, §315, June 30, 2016, 130 Stat. 584.)

§ 2176. Compensation of professionals

(a) Compensation for services rendered and reimbursement for expenses

After notice to the parties in interest and the United States Trustee and a hearing, the court may award to a professional person employed by the debtor (in the debtor's sole discretion), the Oversight Board (in the Oversight Board's sole discretion), a committee under section 1103 of title 11, or a trustee appointed by the court under section 926 of title 11—

- (1) reasonable compensation for actual, necessary services rendered by the professional person, or attorney and by any paraprofessional person employed by any such person; and
- (2) reimbursement for actual, necessary expenses.

(b) Award of compensation less than amount requested

The court may, on its own motion or on the motion of the United States Trustee or any other party in interest, award compensation that is less than the amount of compensation that is requested.

(c) Factors considered

In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (1) the time spent on such services;
- (2) the rates charged for such services;
- (3) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this chapter;¹
- (4) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (5) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the restructuring field; and

(6) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this subchapter or title 11.

(d) Services ineligible for compensation

The court shall not allow compensation for—

- (1) unnecessary duplication of services; or
- (2) services that were not—
 - (A) reasonably likely to benefit the debtor; or
 - (B) necessary to the administration of the case.

(e) Offset for interim compensation under section 2177 of this title

The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section 2177 of this title, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the debtor.

(f) Compensation for preparation of fee application

Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.

(Pub. L. 114-187, title III, §316, June 30, 2016, 130 Stat. 584.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3), was so in the original, but probably should have been a reference to “this title”, meaning title III of Pub. L. 114-187, June 30, 2016, 130 Stat. 577, which is classified generally to this subchapter. Pub. L. 114-187 does not contain chapters.

§ 2177. Interim compensation

A debtor's attorney, or any professional person employed by the debtor (in the debtor's sole discretion), the Oversight Board (in the Oversight Board's sole discretion), a committee under section 1103 of title 11, or a trustee appointed by the court under section 926 of title 11, may apply to the court not more than once every 120 days after an order for relief in a case under this subchapter, or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under section 2176 of this title.

(Pub. L. 114-187, title III, §317, June 30, 2016, 130 Stat. 585.)

§ 2178. Disclosure by professional persons seeking approval of compensation under section 2176 or 2177 of this title

(a) Definitions

In this section:

(1) List of Material Interested Parties

The term “List of Material Interested Parties” means the List of Material Interested Parties established under subsection (c)(1).

¹ See References in Text note below.

(2) Oversight Board

The term “Oversight Board” has the meaning given the term in section 2104 of this title.

(b) Required disclosure**(1) In general**

In a case commenced under section 2164 of this title, no attorney, accountant, appraiser, auctioneer, agent, or other professional person may be compensated under section 2176 or 2177 of this title unless prior to making a request for compensation, the professional person has filed with the court a verified statement conforming to the disclosure requirements of rule 2014(a) of the Federal Rules of Bankruptcy Procedure setting forth the connection of the professional person with any entity or person on the List of Material Interested Parties.

(2) Supplement

A professional person that submits a statement under paragraph (1) shall promptly supplement the statement with any additional relevant information that becomes known to the person.

(3) Disclosure

Subject to any other applicable law, rule, or regulation, a professional person that fails to file or update a statement required under paragraph (1) or files a statement that the court determines does not represent a good faith effort to comply with this section shall disclose such failure in any filing required to conform to the disclosure requirements under rule 2014(a) of the Federal Rules of Bankruptcy Procedure.

(c) List of Material Interested Parties**(1) Preparation**

Not later than 30 days after January 20, 2022, the Oversight Board shall establish a List of Material Interested Parties subject to—

- (A) the approval of the court; and
- (B) the right of the United States trustee or any party in interest to be heard on the approval.

(2) Inclusions

Except as provided in paragraph (3), the List of Material Interested Parties shall include—

- (A) the debtor;
- (B) any creditor;
- (C) any other party in interest;
- (D) any attorney or accountant of—
 - (i) the debtor;
 - (ii) any creditor; or
 - (iii) any other party in interest;

(E) the United States trustee and any person employed in the office of the United States trustee; and

(F) the Oversight Board, including the members, the Executive Director, and the employees of the Oversight Board.

(3) Exclusions

The List of Material Interested Parties may not include any person with a claim, the amount of which is below a threshold dollar amount established by the court that is consistent with the purpose of this section.

(d) Review**(1) In general**

The United States trustee shall review each verified statement submitted pursuant to subsection (b) and may file with the court comments on such verified statements before the professionals filing such statements seek compensation under section 2176 or 2177 of this title.

(2) Objection

The United States trustee may object to applications filed under section 2176 or 2177 of this title that fail to satisfy the requirements of subsection (b).

(e) Limitation on compensation

In a case commenced under section 2164 of this title, in connection with the review and approval of professional compensation under section 2176 or 2177 of this title filed after January 20, 2022, the court may deny allowance of compensation or reimbursement of expenses if—

(1) the professional person has failed to file the verified disclosure statements required under subsection (b)(1) or has filed inadequate disclosure statements under that subsection; or

(2) during the professional person’s employment in connection with the case, the professional person—

(A) is not a disinterested person (as defined in section 101 of title 11) relative to any entity or person on the List of Material Interested Parties; or

(B) represents or holds an adverse interest in connection with the case.

(Pub. L. 117–82, §2, Jan. 20, 2022, 136 Stat. 3.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Bankruptcy Procedure, referred to in subsec. (b)(1), (3), are set out in the Appendix to Title 11, Bankruptcy.

This section, referred to in subsec. (c)(3), was in the original “this Act”, meaning Pub. L. 117–82, Jan. 20, 2022, 136 Stat. 3, known as the Puerto Rico Recovery Accuracy in Disclosures Act of 2021 and also as PRRADA, which enacted this section and provisions set out as a note under section 2101 of this title.

CODIFICATION

Section was enacted as part of the Puerto Rico Recovery Accuracy in Disclosures Act of 2021, also known as PRRADA, and not as part of the Puerto Rico Oversight, Management, and Economic Stability Act, also known as PROMESA, which comprises this chapter.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§ 2191. Rules of construction

Nothing in this chapter is intended, or may be construed—

(1) to limit the authority of Congress to exercise legislative authority over the territories pursuant to Article IV, section 3 of the Constitution of the United States;

(2) to authorize the application of section 2124(f) of this title (relating to issuance of subpoenas) to judicial officers or employees of territory courts;