BANKRUPTCY BY THE NUMBERS

Stability and Change in Chapter 13 Activity, 1990-1999[1/]

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In this article we show that some features of the disbursements to chapter 13 creditors, aggregated at the national level, remained remarkably stable during the years 1990-1999. Even while filings grew from fewer than 200,000 in 1990 to more than 350,000 in 1999, and disbursements by chapter 13 trustees more than tripled in the same period,[2/] the proportions of disbursements to the major creditor types remained constant within a few percentage points. We also discuss the two main factors controlling the amounts disbursed every year. Changes in total disbursements from year to year can arise from changes in the case load or changes in the average disbursements for cases terminating in each year.

Table 1 summarizes some of the information reported annually to the Executive Office for United States Trustees by the chapter 13 trustees. In these annual reports, total disbursements comprise payments to secured, priority, and unsecured creditors; clerks' fees; §503(b) awards; payments in plans to debtors' attorneys; fees transferred to the trustees' expense funds for various purposes; and payments of ongoing mortgages and child support for which no trustee fee was assessed. The table shows dollars amounts for each creditor type and for remaining disbursement types, and the percentage of the total disbursement contained in each of these categories.

[1/]All views expressed in this article are those of the authors, and do not necessarily represent the views of the Executive Office for United States Trusteees. We thank Sandra Forbes, Martha Hallowell, and their colleagues in the Office of Review and Oversight, Executive Office for U.S. Trustees, for these data and their help.

[2/] References to filings and disbursements at the national level do not include Alabama and North Carolina, which are not administered by the United States Trustee Program.

TABLE 1
DISBURSEMENTS BY CHAPTER 13 TRUSTEES, FY 1990-1999
(all numbers in millions)

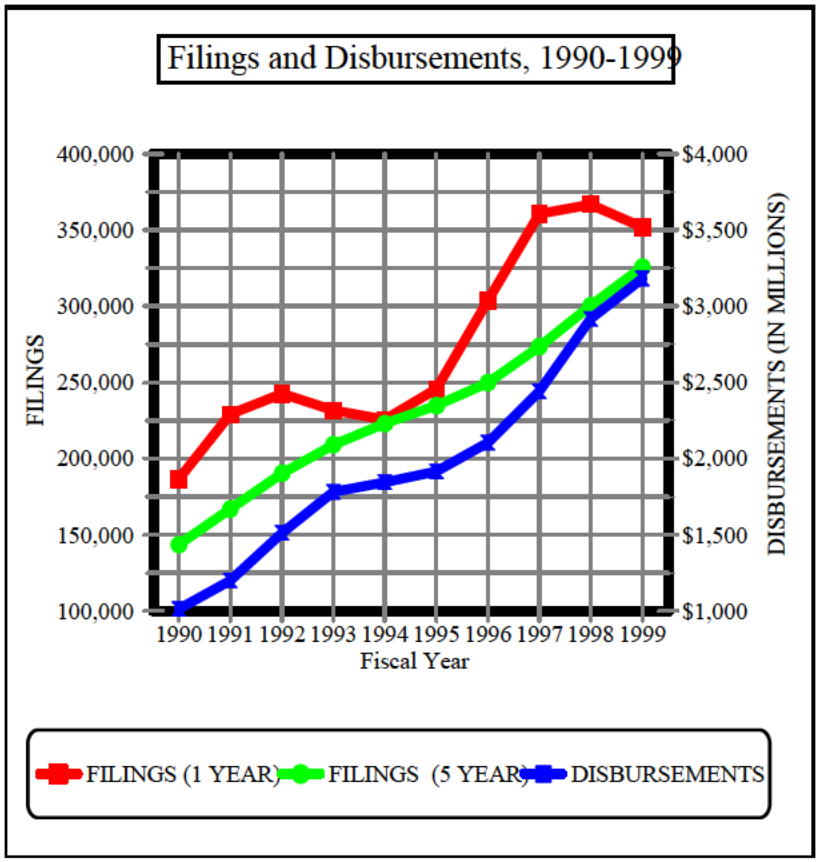
Year	Total	Secured (%)	Priority (%)	Unsecured (%)	Other (%)
1990	$1,015	$559 (55%)	$113 (11%)	$197 (19%)	$147 (14%)
1991	$1,202	$676 (56%)	$130 (11%)	$222 (19%)	$174 (14%)
1992	$1,514	$829 (55%)	$165 (11%)	$286 (19%)	$234 (15%)
1993	$1,782	$985 (55%)	$200 (11%)	$351 (20%)	$247 (14%)
1994	$1,845	$1,019 (55%)	$224 (12%)	$411 (22%)	$191 (10%)
1995	$1,917	$1,012 (53%)	$230 (12%)	$428 (22%)	$247 (13%)
1996	$2,105	$1,118 (53%)	$258 (12%)	$440 (21%)	$289 (14%)
1997	$2,443	$1,338 (55%)	$289 (12%)	$466 (19%)	$351 (14%)
1998	$2,917	$1,636 (56%)	$328 (11%)	$536 (18%)	$418 (14%)
1999	$3,181	$1,818 (57%)	$291 (9%)	$630 (20%)	$442 (14%)

During the decade, total disbursements tripled from $1.0 billion to $3.2 billion. During each year of this period of great growth, however, secured creditors received between 53% and 57%, priority creditors between 9% and 12%, and general unsecured creditors between 18% and 22% of the total. This shows that, at the national level, the structure of the debt repaid by chapter 13 debtors is quite independent of the amount of money flowing through the system.

Two factors, which are logically independent of each other, can contribute to the growth of disbursements: 1) an increase in the numbers of chapter 13 filings, and 2) an increase in the amount of debt repaid in the average case.

Growth of filings. Figure 1 shows two measures of filings growth during the decade. One is the annual filing number (for years ending September 30), and the other is the average of filings for the given year and four preceding years, i.e., a rolling five-year average of filings. The third line in the graph shows the growth of total disbursements (expressed in millions). The rolling average is a more meaningful measure of case load for chapter 13 because the cases can have lifetimes of up to five years (though of course many do not). The smoothing effect of averaging allows us to see an orderly relationship between the numbers of cases in the system and the money flowing through it to creditors. The two lines remain roughly parallel over the 10-year period. Where they diverge in their slopes, we might look for an explanation in the other contributing factor, i.e. the amount of debt repaid by the average filer.

FIGURE 1



Payments per case (average disbursement). The definition of average disbursement, which is the same as payment per case *over its lifetime*, is the annual disbursement divided by the appropriate five-year filing average. The value can be calculated for total disbursements or for the portion going to one or more classes of creditors. It can be calculated for the nation or for any circuit, USTP region, state, district, or trustee. In an earlier article we presented data showing great variability among states for per case payments to unsecured creditors during Fiscal Year 1998.[3/] A full explanation of the definition is now available on the U.S. Trustee web site: www.usdoj.gov/ust. What we show here, in Table 2, is how the national average total disbursement varied during the decade.

[3/] Gordon Bermant & Ed Flynn, Measuring Performance in Chapter 13: Comparisons Across States. ABIJ, August 2000.

TABLE 2
TOTAL DISBURSEMENTS PER CASE, 1990-1999

YEAR	DISBURSEMENT	YEAR	DISBURSEMENT
1990	**$7,066**	**1995**	**$8,159**
1991	**$7,201**	**1996**	**$8,424**
1992	**$7,953**	**1997**	**$8,934**
1993	**$8,519**	**1998**	**$9,710**
1994	**$8,269**	**1999**	**$9,768**

These values represent the average disbursements over the lifetimes of cases that terminated in the year shown. Cases terminating in 1993, for example, had disbursed from them $8,519, on average, from first payment to last.

Note that you can calculate the percentage of these disbursements going to each creditor type by multiplying the value in the table by the appropriate percentage shown in table 1. For example: 20% of $8,519, which is $1,704, went to unsecured creditors from the average case terminating in 1993.

When the disbursement curve in figure 1 moves closer to or farther from the five-year average filing curve, those changes are reflected in (and are in fact the same thing as) increases or decreases in the percentage change, year to year, of average disbursements. From 1996 to 1998, for example, figure 1 shows that disbursements grew rapidly relative to filings, and then stayed even from1998 to1999. This is reflected in the year to year percentage growth changes in average disbursements shown in table 2, as follows: 96/95=3.25%, 97/96=6.05%, 98/97=8.69%, 99/98=0.60%.

Conclusions

We believe that placing year-by-year changes in the context of a decade of activity can guard against over-interpretation of chapter 13 data. Consider, for example, that disbursements to unsecured creditors in 1999 increased by 17.5% over 1998 while total disbursements grew less than 10% (see table 1). Without the benefit of the longer view provided in table 1, this kind of change might be cause for an interpretation or advocacy related to some pressing legislative or policy point. In context, however, the virtue of restraint in moving to judgment is quite clear.

The consistent proportions of disbursement shown in table 1 represent a degree of stability in chapter 13 that strikes us as interesting and somewhat surprising. We do not know yet whether the national numbers reflect similarly stable proportions in many states or are instead a relatively artificial composite of much state-by-state variability. We will report in a subsequent article on the stability of the proportions across states and districts over time.