

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
www.flsb.uscourts.gov

In re:

Administrative Order 2021-01

**Procedures for the Filing, Service, and
Management of Highly Sensitive Documents**

In response to recent disclosures of wide-spread breaches of both private sector and government computer systems, federal courts are immediately adding new security procedures to protect certain highly sensitive documents filed under seal with the courts. The Court finds that good cause exists to require all parties to file certain highly sensitive sealed documents outside of the Court's electronic filing system (CM/ECF). Accordingly, it is

ORDERED that, effective as of the date of this Order and until such time as the Court orders otherwise, the filing, service, and management of certain highly sensitive documents are subject to the procedures and requirements set forth below.

1. ***Documents Subject to this Order.*** The filing procedures set forth below apply to sealed documents that contain highly sensitive information.

(a) *Highly Sensitive Documents.* Highly sensitive documents ("HSDs") include documents: relating to matters of national security, foreign sovereign interests, or cybersecurity; disclosing protected intellectual property or trade secrets; or involving the reputational interests of the United States.

(b) *Documents that are not considered HSDs.* The following types of documents generally are not considered HSDs: bank records, Social Security records, health records, writs, settlement agreements, valuation reports. Sealed filings in most bankruptcy cases and adversary proceedings are not sufficiently sensitive to require HSD treatment and may continue to be sealed in CM/ECF as provided in the local rules of this Court.

(c) *Resolution of Disputes.* Any dispute as to whether a document is an HSD will be resolved by the presiding judge or, when no presiding judge is assigned, the chief judge.

2. ***Filing of Motions to Treat a Document as an HSD.***

(a) *Represented parties.* A represented party must file a motion to treat a document as an HSD and a proposed order electronically via CM/ECF as provided for in Local Rule 5005-1(A)(4), except that a copy of the proposed HSD must not be filed electronically. The motion must explain why the subject document constitutes an HSD under the criteria set out in paragraph 1. (a) above or why it should otherwise be subject to the heightened protection for HSDs.

(b) Unrepresented parties. A party who is not represented by an attorney must file the motion as described above by filing a paper copy of the motion with the Clerk's office or under the filing procedures listed on the Court's website, www.flsb.uscourts.gov. A copy of the proposed HSD must not be filed with the motion.

(c) Delivery of the HSD to the Court. As soon as practicable after the motion is filed, the filing party must deliver to the Clerk's office the proposed HSD sought to be filed in the form of either a paper copy or an electronic copy on a secure electronic device (e.g., USB flash/thumb drive or memory stick). The proposed HSD paper copy or secured electronic device containing a copy of the HSD must be placed in a sealed envelope marked "**HIGHLY SENSITIVE DOCUMENT FILED PURSUANT TO ADMINISTRATIVE ORDER 2021-01.**" The outside of the envelope must be affixed with a copy of the appropriate case caption page (with confidential information redacted). The envelope of the proposed HSD must then be placed in a larger envelope that is addressed to the divisional office where the judge assigned to the matter is chambered. The outermost envelope must **NOT** have any indication that a proposed HSD is enclosed.

(d) Service. The filing party must serve the motion and the proposed HSD on the appropriate parties as provided for in Federal Rules of Bankruptcy Procedure 7004 and 7005 and the local rules of this Court and this Order. The proposed HSD must be delivered to the appropriate service parties in the form of a paper copy or an electronic copy on a secure electronic device as described in paragraph (c) above. The filing party must file a certificate of service in accordance with Local Rules 2002-1(F) and 9073-1(B).

3. Orders.

(a) Entry of order granting the motion. If appropriate, the Court may set the motion for hearing. Otherwise, the Court will issue an order on the motion and, if granted, the order will be entered on the case docket. Also, the clerk's office will make a "text-only" docket entry in CM/ECF indicating that the document designated as an HSD was filed with the Court and that it will be maintained in a secured location. If the order denies the relief requested, the order will direct the Clerk of Court on how to dispose of the proposed HSD (e.g., return to filer, dispose at filer's request, or allow document to be filed under seal electronically pursuant to Local Rule 5005-1(A)(4)).

(b) Service of highly sensitive court orders. If the Court determines that a Court order contains highly sensitive information, the Clerk's office will file and maintain the order in a secure paper filing system and will serve paper copies of the order on the parties via U.S. mail or other courier service.

4. Removal of Existing HSDs or Highly Sensitive Cases from CM/ECF.

(a) Motion to remove HSD or cases from CM/ECF. Upon motion of a party or its own motion, the Court may determine that a document, case, or any portion of it, that has been filed electronically is highly sensitive and direct that the HSD or the case be removed from CM/ECF and maintained by the Clerk's office in a secure paper filing system.

(b) Content of the motion. A party's motion to remove an HSD or highly sensitive case from CM/ECF must explain why the document or case is highly sensitive under the criteria set out in paragraph 1. (a) or why it should otherwise be subject to the heightened protection for HSDs.

5. Questions about HSD Filing Procedures. Any questions about how an HSD should be filed with the Court pursuant to this Administrative Order should be directed to the Clerk's office in Miami (305) 714-1800, Fort Lauderdale (954) 769-5700, West Palm Beach (561) 514-4100, or by email at Webmaster_FLSB@flsb.uscourts.gov.

ORDERED in the Southern District of Florida, this 19 day of January 2021.



Laurel Myerson Isicoff
Chief United States Bankruptcy Judge

c: All SD Bankruptcy Judges
Clerk of Court