

## U.S. Bankruptcy Administrator for the Middle District of Alabama

### INSTRUCTIONS FOR APPLICATION FOR APPROVAL AS A PROVIDER OF A PERSONAL FINANCIAL MANAGEMENT INSTRUCTIONAL COURSE

**Introduction.** A provider of a personal financial management instructional course (“Provider”) seeking approval by the Bankruptcy Administrator, in accordance with 11 U.S.C. § 111, must submit an application to the Bankruptcy Administrator in the form described below. The Provider must provide all information and documents required by the Bankruptcy Administrator for the for the Middle District of Alabama. Unless otherwise stated, all information and documents must be in writing. All documents either must be an original or conformed copy.

**Mailing Instructions, Information Requests, and Notification.** The application package must include the completed application and all documents and information requested. Once completed, the entire package should be sent to the following address:

Bankruptcy Administrator  
Frank M. Johnson, Jr. Federal Building & US Courthouse  
One Church Street, Suite 103  
Montgomery, AL 36104

Supplemental information requests and notifications will be sent to the principal contact identified in the application. Responses to requests must be submitted to the address stated above unless otherwise instructed.

**Applications should be completed in their entirety, including all appendices and supplemental documents and information that are requested, before submission.** An incomplete application may result in delay or denial of the application. Upon receipt of the application, the Bankruptcy Administrator will, as soon as practical, send an acknowledgment letter which may include a request for additional information. Written inquiries concerning the status of an application must be directed to the above address.

**Application Form and Instructions.** The application form and instructions consist of the following sections:

- Section 1. General Information Concerning the Provider
- Section 2. Provider Names, Background, Certifications, and Management
- Section 3. Experience and Training of Instructors
- Section 4. Learning Materials and Methodologies (Course Curriculum)
- Section 5. Adequate Facilities
- Section 6. Reasonableness of Fees
- Section 7. Disclosures, Tax Returns, and Tax Information Authorization
- Section 8. Acknowledgments, Agreements, and Declarations
- Section 9. Certification and Signature

Appendix A. Matrix of Instructor Experience

- Appendix B. Provider Checklist for Adequacy of Facilities
- Appendix C. Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Provider of a Personal Financial Management Instructional Course

**Duty to Notify the Bankruptcy Administrator of Material Changes.** The Provider has a continuing duty to promptly notify the Bankruptcy Administrator of any circumstances that would materially alter or change a response to any section of the application regardless of whether they occur while an application to become an approved Provider is pending before the Bankruptcy Administrator or after the Provider has been approved. Notification to the Bankruptcy Administrator must be in writing, signed by an authorized official, and include all pages of the application and/or appendices that are affected by the change. Notification of a material change must be transmitted in the same manner as the application.

In addition, the Provider must immediately notify the Bankruptcy Administrator in writing of any failure by the Provider to comply with any standard or requirement specified in 11 U.S.C. §111, or the terms under which the Bankruptcy Administrator approved it to act as an approved provider. The Provider must also immediately notify the Bankruptcy Administrator in writing of any of the following events:

- (1) Cessation of business by the Provider or by any office of the Provider, or withdrawal from any federal judicial district(s) where the Provider is approved;
- (2) Any investigation of or any administrative or judicial action brought against the Provider by any governmental unit;
- (3) Any action by a governmental unit or a court to suspend or revoke the Provider's articles of incorporation, or any license held by the Provider, or any authorization necessary to engage in business; or
- (4) A suspension or act to suspend any accreditation held by the Provider, or any withdrawal by the Provider of any application for accreditation, or any denial of any application of the Provider for accreditation.

**Approval Period and Deadline for Submission of Application for Renewal.** Any provider that does not appear on the approved list immediately before submitting an application must complete a probationary period not to exceed six months. Therefore, unless terminated earlier, a Provider approved to provide courses in personal financial management for the first time will be approved for a probationary period not to exceed six months. At the end of the probationary period, the Bankruptcy Administrator may approve the Provider for an additional one-year period if the Bankruptcy Administrator finds that the Provider has met the standards for approval during the probationary period and can satisfy those standards in the future. 11 U.S.C. § 111(b)(4). Providers on probation must submit their applications for renewal no earlier than 60 days and no later than 45 days before their probationary period expires.

If the Bankruptcy Administrator approves the Provider for a one-year period following the expiration of the probationary period, the Provider must submit an application for renewal each year thereafter. Each approval period thereafter will be for a period of one year. The Provider must submit its application for renewal no earlier than 60 days and no later than 45 days before the

expiration of its existing approval period. The Provider is responsible for monitoring the expiration date, and for timely submitting an application. The Bankruptcy Administrator will not send application deadline reminders to the Provider.

So long as the Provider has submitted a complete and timely application for renewal, it may continue to provide an instructional course while its application for renewal is under review by the Bankruptcy Administrator. If the renewal application is approved for an additional one-year period, that renewal period will begin on a) the date its current application expires, or b) the date the Bankruptcy Administrator approves the application, whichever is later.

If the Provider does not submit an application for renewal before the expiration of its current renewal period, the approval will automatically expire, the Provider will no longer be authorized to act as an approved provider, and the Provider must apply for a new six-month probationary period before providing an instructional course to debtors pursuant to 11 U.S.C. § 111.

**Limitations on Advertising.** Approved providers may not contact any debtor by U.S. Mail, other mail carrier, or electronic mail for the purpose of soliciting debtors to use the provider's instructional course, unless:

- (1) Any such solicitations include the phrase "This is an advertisement for services" or "This is a solicitation" prominently displayed at the beginning of each page of the solicitation in a font size larger than or equal to the largest font size otherwise used in the solicitation; and
- (2) Any such solicitations include only logos, seals, or similar marks that are substantially dissimilar to the logo, seal, or similar mark of any agency or court of the United States government, including but not limited to the Bankruptcy Administrator program.

**Privacy Act Statement.** Section 111 of title 11, United States Code, authorizes the collection of the information requested in the application. The primary use of this information is by the Bankruptcy Administrator to approve providers of personal financial management instructional courses. Disclosure of this information may be provided to a bankruptcy trustee when the information is needed to perform the trustee's duties, to the appropriate federal, state, local, regulatory, tribal, or foreign law enforcement agency when the information indicates a violation or potential violation of law, or to a complainant or victim when such information is necessary to provide an explanation concerning the results of an investigation of which they complained or were a victim. Additional disclosure of the information may be to the Bankruptcy Administrator in other federal districts or to the Executive Office of the United States Trustee. The information will not be shared with any other agencies unless allowed by law.

## **APPLICATION AND INSTRUCTIONS**

### **Section 1. General Information Concerning the Organization**

**Item 1.3—Name of Provider.** List the Provider's legal name as designated by the state of incorporation or organization, and list any and all names under which the Provider will conduct

business, including any d/b/a, alias, or fictitious name. Also, list any and all names used by the Provider during the previous three years.

Item 1.6—Federal Tax ID No. or Social Security No. A Provider should furnish its social security or tax identification number with its application. Furnishing the Social Security number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application.

## **Section 2. Provider Background, Certifications, and Management**

Items 2.1 and 2.3—Business Experience. The Provider must have adequate experience and background in providing an instructional course. To meet this requirement, the Provider must have experience providing an instructional course for the last two years. If the Provider has not provided an instructional course for the last two years, then it must employ in each office location that provides an instructional course at least one supervisor with experience and background in providing an instructional course for no fewer than two of the last five years.

Item 2.5—Current and Former Owners, Officers, Directors, Partners, or Trustees. Provide the requested information about individuals currently serving as owners, officers, directors, partners, or trustees, and individuals who have served in those capacities within the last three years. “Compensation” includes both direct compensation, such as wages and salaries, and indirect compensation, such as bonuses, deferred compensation, and noncash compensation.

Items 2.6 and 2.7—Referrals. A Provider may not pay or receive fees or other consideration for the referral of clients to the Agency. The Provider must provide information about individuals or entities who provide referrals to the Provider. The Provider must disclose any oral as well as written referral agreements and arrangements.

Item 2.8—Transactions with Interested Parties. Disclose all contracts and other transactions between the Provider and any owner, officer, director, shareholder, affiliate, subsidiary, or related individual or entity within the last year. A “related entity” includes a business in which an officer, director, or employee of the Provider, or a relative of an officer, director, or employee of the Provider, holds, directly or by nominee, any ownership or financial interest except for ownership of stock or shares in a publicly traded entity.

Item 2.9—Independent Contractors. Provide information about any independent contractor that performs instructional course services on behalf of the Provider, or that provides goods and services to the Provider. The term “independent contractor” means a person or entity that provides any goods or services to the Agency other than as an employee and as to whom the Agency does not:

- (1) direct or control the means or methods of delivery of the goods or services being provided;
- (2) make financial decisions concerning the business aspects of the goods or services being provided; and

- (3) have any common employees.

The term “independent contractor” does not include an employee of the Provider.

Items 2.15 and 2.16—Compliance with Laws and Regulations; Legal, Disciplinary, and Enforcement Actions. The Provider must be in compliance with all applicable laws and regulations of the United States and each state of the United States in which the Provider conducts courses. Nothing contained in these instructions, application, or appendices, is intended to preempt any applicable law or regulation governing the conduct or operations of the Provider. The Provider must list all legal actions, proceedings, investigations, arbitrations, mediations, audits by federal or state agencies, and potential bond or other claims in which the Provider, an affiliate, or an officer, director, trustee, employee, or agent of the Provider is a party or has been a party within the last three years, and the disposition of those actions. The Provider must provide the same information with respect to disciplinary and enforcement actions.

Attachments. The Provider should attach a copy of all documentation requested in Section 2, including the resume of any experienced supervisor if the Provider has operated for less than two years and a copy of any written referral contracts, contracts with interested parties, and contracts with independent contractors.

### **Section 3. Experience and Training of Instructors**

#### **Guidelines**

General Requirements Regarding Instructor Experience and Training. The Provider must employ instructors with adequate experience and training in providing effective instruction and services. The Provider must complete and attach Appendix A, the Matrix of Instructor Experience, for each location that will be staffed by instructors providing courses to debtor students through any method of delivery.

General Requirements Regarding Instructor Qualifications. The Provider must employ, at a minimum, an individual who holds at least one of the following current certifications, or who has equivalent training or experience, to supervise instructors:

- (1) A state teacher’s certificate in any subject;
- (2) Certified Financial Planner (CFP);
- (3) Certification as a credit counselor by the National Foundation for Credit Counseling;
- (4) Certification as a credit counselor by the Association of Independent Credit Counseling Agencies;

- (5) Accredited Financial Counselor (AFC);
- (6) Certification by the American Association of Family and Consumer Sciences;
- (7) Registered Financial Consultant (RFC); or
- (8) Certified Public Accountant (CPA).

### **Specific Instructions**

Attachments. In addition to Appendix A, the Provider must attach a copy of any written standards, procedures, or guidelines provided to instructors.

## **Section 4. Learning Materials and Methodologies (Course Curriculum)**

### **Guidelines**

General Requirements. The Provider's learning materials and methodologies must be designed to assist debtor students in understanding personal financial management and must be consistent with stated objectives directly related to the goals of such instructional course.

Course Goals and Objectives. The Provider must ensure that the course provides, at a minimum, written information and instruction on all of the following topics.

- (1) Budget Development
  - Setting short-term and long-term financial goals, as well as developing skills to assist in achieving these goals.
  - Calculating gross monthly income and net monthly income.
  - Identifying and classifying monthly expenses as fixed, variable, or periodic.
- (2) Money Management
  - Keeping adequate financial records.
  - Developing decision-making skills required to distinguish between wants and needs, and to comparison shop for goods and services.
  - Maintaining appropriate levels of insurance coverage, taking into account the types and costs of insurance.
  - Saving for emergencies, for periodic payments, and for financial goals.
- (3) Wise Use of Credit
  - The types, sources, and costs of credit and loans.
  - Identifying debt warning signs.

- Appropriate use of credit and alternatives to credit use.
  - Checking a credit rating.
- (4) Consumer Information
- Public and non-profit resources for consumer assistance.
  - Applicable consumer protection laws and regulations, such as those governing correction of a credit record and protection against consumer fraud.

Course Procedures. The Provider must ensure that the following procedures are followed.

(1) Generally

- The Provider must provide to each debtor student the disclosures described in Section 7 below.
- The Provider must require each debtor student to provide proof of identification, to provide his/her bankruptcy case number, and to sign in and sign out of the course.
- The course must be a minimum of two hours in length. Courses offered via the Internet or telephone should be designed for average completion within a minimum of two hours.
- At the end of the course, the Provider must provide each debtor student with the opportunity to complete a course evaluation. The evaluation must be in a form acceptable to the Bankruptcy Administrator and may not be signed by the debtor student. The Provider may not withhold a debtor student's certificate for failure to complete the course evaluation.

(2) Classroom Instruction (*for Providers offering courses through classroom instruction*)

- A teacher must be present for purposes of instruction and interaction with debtor students.
- Class size must be reasonably limited to ensure an effective presentation of the course materials.

(3) Telephonic Instruction (*for Providers offering courses through telephonic instruction*)

- The Provider must use a toll-free telephone number.
- The Provider must comply with the Americans with Disabilities Act ("ADA") and also include a toll-free telephone number for deaf or hearing-impaired debtor students, e.g., TTY, TDD, or Text Telephone.
- The Provider must employ adequate procedures to ensure that the debtor student is the individual who completed the course.

- A teacher must be present telephonically for purposes of instruction and interaction with debtor students.
  - Written copy of the learning materials must be provided to debtor students, before the telephonic instruction session.
- (4) Internet Instruction (*for Providers offering courses through Internet instruction*)
- The Provider must comply with the ADA and its application to the Internet.
  - The Provider must employ adequate procedures to ensure that the debtor student is the individual who completed the course.
  - A teacher must respond within 24 hours to a debtor student's questions or comments.

Telephonic or Internet Courses. In addition to meeting all other requirements, any Provider who conducts telephonic or Internet courses must demonstrate sufficient experience and proficiency in designing and providing services over the telephone or the Internet.

### **Specific Instructions**

Item 4.9—Web Address and Test Access Information. The Provider must provide the web address for any Internet instructional course, a test username and password for accessing the course materials online, and any necessary instructions for accessing the course materials online.

Item 4.10—Protection of Personal Identifiable Information (“PII”). The Provider must attach a copy of written procedures and policies implemented by the agency to maintain the confidentiality of PII collected from debtor students, including the Provider's incident response plan in the event that this information is compromised. List the name(s) and contact information for agency personnel responsible for maintenance of confidentiality of PII collected from clients.

Attachments. The Provider must attach a copy of course materials used for planning purposes and instructional materials which will be regularly provided to student debtors whether the course is taught in a classroom, by telephone, or over the Internet.

## **Section 5. Adequate Facilities**

### **Guidelines**

Generally. The Provider must ensure that any facility used by debtor students complies with all applicable laws and regulations, including, but not limited to, the ADA, and all federal, state, and local fire, health, safety, and occupancy laws, codes, rules, or regulations.

### **Specific Instructions**

Attachments. The Provider must complete and attach Appendix B, the Provider Checklist for Adequacy of Facilities, for each classroom location.



## **Section 6. Reasonableness of Fees**

### **Guidelines**

Generally. Fees, contributions, or payments received from debtor students for courses must be reasonable. The Provider must provide services without regard to a debtor student's ability to pay and may not withhold services because of an inability to pay. The Provider may not unilaterally increase its fee without prior approval from the Bankruptcy Administrator.

### **Specific Instructions**

Attachments. The Provider must attach a copy of the Provider's fee schedule or suggested contribution schedule, and a copy of the Provider's fee waiver policy.

## **Section 7. Disclosures and Tax Returns**

### **Guidelines**

Agreement to Disclose Information to Debtor Students. The Provider must disclose the following information to each debtor student before the debtor student pays for a course:

- The Provider's fee schedule, including any cost to the debtor student in addition to the course fee.
- A statement that the course is offered to debtor students without regard to the debtor student's ability to pay.
- The qualifications, including educational and training background, of the Provider's instructors.
- A schedule of course dates, times, and locations, if applicable.
- A statement that the provider does not pay or receive fees or other consideration for the referral of debtor students to the Provider.
- A statement that, upon completion of the course, the Provider will provide a certification of course completions to the debtor student.

### **Specific Instructions**

Attachments. The Provider must attach Income Tax Returns for the two years immediately preceding the filing of the application, and a copy of the disclosure forms provided to debtor students.

## **Section 8. Acknowledgments, Agreements, and Declarations**

**The Provider must complete and attach Appendix C, the Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Provider of a Personal Financial Management Instructional Course.** By executing and submitting the Application for

Approval as a Provider of a Personal Financial Management Instructional Course, the Provider acknowledges the prohibitions, limitations, and obligations set forth in Appendix C and acknowledges that failure to comply with such prohibitions, limitations, and obligations may result in denial of the application and the Provider's removal from the list of approved providers.

### **Section 9. Certification and Signature**

The Provider's owner, president, chairman, trustee, or other authorized official is required to declare, by signing the application, that he or she is authorized to complete the application on behalf of the Provider; that he or she has read and knows the contents of the application and all enclosures and attachments submitted; and affirms under penalty of perjury that all of the representations and statements contained in the documents are true and correct to the best of his or her knowledge, information, and belief.