



Proposed Change to FRBP 3002.1 Regarding Treatment of Payment Change Notices on Home Equity Account

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Judge Wedoff and Members of the Bankruptcy Rules Advisory Committee:

As you may recall, the topic of how to handle the sending of Notices of Payment Change (“NPCs”) under FRBP 3002.1(b) was the topic of some conversation at a Working Group Session on Rule 3002.1 in Portland in October 2012. As a result of our discussion at the Working Group Session, the Rules Committee asked Deb Miller and me to work on a proposed change to Rule 3002.1 regarding the sending of NPCs on home equity loans and lines of credit (collectively “HELOC Accounts”) under Rule 3002.1(b). Deb and I worked with representatives from other servicers on this issue and collectively we came up with a proposed solution to address many of the issues discussed at the Working Session. Our proposal is as follows:

1. In districts served by non-conduit trustees, a claim holder may rely on the current notices available under applicable non-bankruptcy law to provide notice of monthly payment changes to debtors. In such districts, a claim holder shall not be required to send monthly NPCs to the trustee, debtor’s counsel or file NPCs with the court.
2. In districts served by conduit trustees:
  - a) A claim holder may, in lieu of sending monthly NPCs on HELOC Accounts, provide the trustee with a monthly electronic file that provides the following information: (a) debtor name; (b) case number; (c) the amount of the last monthly payment; and (d) the amount of the new monthly payment.
  - b) If the amount of a monthly payment on a HELOC Account increases or decreases by \$25 or less, then a claim holder may rely on the current notices available under applicable non-bankruptcy law to provide notice of the monthly payment change to a debtor. The claim holder

need not send a NPC as required under FRBP 3002.1(b). In such instances, if the claim holder is providing the electronic file to the trustee as discussed in Paragraph 2(a) above, then the claim holder shall include such payment changes on the electronic file.

- c) If the amount of a monthly payment on a HELOC Account increases or decreases by more than \$25, then a claim holder shall send a NPC as required under FRBP 3002.1(b). In such instances, if the claim holder is providing the electronic file to the trustee as discussed in Paragraph 2(a) above, then the claim holder shall include such payment changes on the electronic file.

In addition to the above changes, we would also recommend a small change to the wording used in Part 2 of Form B-10 (Supplement 1). The beginning sentence currently reads as follows:

“Will the debtor’s principal and interest payment change based on an adjustment to the interest rate in the debtor’s variable rate note?”

We are proposing to change this language to read as follows:

“Will the debtor’s principal and interest payment change based on an adjustment to the interest rate **on the debtor’s variable rate account?**”

We are recommending this change because using the generic word “account” more accurately describes both loan accounts (which are evidenced by a note) and line of credit accounts (which are represented by some type of line agreement, but not a note).

We appreciate the Rules Committee’s consideration of this proposal. Thank you.

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