

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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TO: Honorable Lee H. Rosenthal, Chair
Standing Committee on Rules of Practice and Procedure

FROM: Honorable Laura Taylor Swain, Chair
Advisory Committee on Bankruptcy Rules

DATE: May 11, 2009

RE: Report of the Advisory Committee on Bankruptcy Rules

I. Introduction

The Advisory Committee on Bankruptcy Rules met on March 26 and 27, 2009, in San Diego, California. The draft minutes of that meeting are attached as Appendix A. Among the matters before the Committee were the proposed amendments and new rules that were published for public comment in August 2008. Six written comments were submitted in response to the publication, and the Advisory Committee carefully considered them. Because no one requested to appear at the public hearings scheduled for January 23 and February 6, 2009, the hearings were canceled. The Advisory Committee also studied a number of new proposals for amendments to the Bankruptcy Rules and Forms.

After careful consideration and discussion, the Committee took action on the following matters, which it presents to the Standing Committee with the indicated recommendations:

- (a) approval for transmission to the Judicial Conference of published amendments to Rules 1007, 1014, 1015, 1018, 1019, 4004, 5009, 7001, 9001, and new Rule 5012;
- (b) approval for transmission to the Judicial Conference without publication of amendments to Rule 4001 and Official Form 23;
- (c) approval for publication for comment of amendments to Rules 2003, 2019, 3001, 4004(b), new Rule 3002.1, and Official Forms 22A, 22B, and 22C; and

(d) approval for republication of new Rule 1004.2, which has been revised in response to comments received following publication in August 2008.

After a discussion of the action items listed above, this report presents information on the following topics: a special open subcommittee meeting held on March 25, 2009, concerning the possible revision of the bankruptcy appellate rules; the status of the Forms Modernization project; and the Committee's recommendation to the Civil Rules Committee that discharge in bankruptcy be eliminated as an affirmative defense under Civil Rule 8(c).

II. Action Items

A. Items for Final Approval

1. *Amendments and New Rule 5012 Published for Comment in August 2008.* **The Advisory Committee recommends that the proposed amendments and new rule that are summarized below be approved and forwarded to the Judicial Conference.** With the exception of Rules 4004 and 7001, it is recommended that the rules be approved as published. The Advisory Committee recommends that Rules 4004 and 7001 be approved as revised subsequent to publication. The texts of the amended rules and new rule are set out in Appendix B.

Rule 1007 is amended in subdivision (a) to shorten the time from 15 to seven days for the debtor to file a list of creditors after the entry of an order for relief in an involuntary case. Subdivision (c) of the rule is amended to extend from 45 to 60 days the time for individual debtors in chapter 7 to file the statement of completion of a course in personal financial management. The latter amendment is proposed in conjunction with the proposed amendment to Rule 5009.

No comment was submitted on the proposed amendments, and no change was made after publication.

Rule 1014 is amended to include chapter 15 cases among those subject to the rule that authorizes the court to determine where cases should proceed when multiple petitions involving the same debtor are pending.

No comment was submitted on the proposed amendment, and no change was made after publication.

Rule 1015 is amended to include chapter 15 cases among those subject to the rule that authorizes the court to order the consolidation or joint administration of cases.

No comment was submitted on the proposed amendment, and no change was made after publication.

Rule 1018 is amended to reflect the enactment of chapter 15 of the Bankruptcy Code in 2005. The rule is also amended to clarify that, in specifying the applicability of certain Part VII rules, it applies to contests over involuntary petitions, but it does not apply to matters that are merely related to a contested involuntary petition.

No comment was submitted on the proposed amendments, and no change was made after publication.

Rule 1019 is amended by redesignating subdivision (2) as subdivision (2)(A) and adding a new subdivision (2)(B). Subdivision (2)(B) provides that a new time period to object to a claim of exemption arises when a case is converted to chapter 7 from chapter 11, 12, or 13. The new time period does not arise, however, if the conversion occurs more than one year after the first order confirming a plan, or if the case was previously pending under chapter 7 and the objection period had expired in the original chapter 7 case.

One comment was submitted on this amendment, **Comment 08-BK-005**. It expressed support for allowing a new objection period after a case is converted to chapter 7, but disagreed with creating an exception for cases converted more than a year after the plan in chapter 11, 12, or 13 was confirmed.

No change was made after publication. The Committee supported the one-year exception because a debtor in that situation may have made substantial payments to creditors under a plan and may also have made improvements on property or otherwise relied on its exempt status prior to conversion of the case.

Rule 4004 is amended to include a deadline in subdivision (a) for the filing of motions (rather than complaints) objecting to discharge under §§ 727(a)(8), (a)(9), and § 1328(f) of the Bankruptcy Code. Subdivision (c)(1) is amended to take account of the authority under subdivision (d) to raise objections to discharge under § 727(a)(8) and (a)(9) by motion. Subdivision (c)(4) is added to the rule. It directs the court in chapter 11 and 13 cases to withhold the entry of the discharge if the debtor has not filed with the court a statement of completion of a course concerning personal financial management as required by Rule 1007(b)(7). Finally, subdivision (d) is amended to provide that objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) are commenced by motion and are treated as contested matters rather than adversary proceedings.

Two comments were submitted on the originally proposed amendments to this rule and to Rule 7001, **Comments 08-BK-001 and 08-BK-003**. Both comments suggested that the authorization for raising objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) by motion should be located in Rule 4004, rather than in the proposed new subdivision (b) of Rule 7001. The Part VII rules address adversary proceedings, and the new motions will initiate contested matters. One of the comments also expressed concern that the treatment of only three of the grounds for objecting to discharge as contested matters, rather than as adversary proceedings, will create confusion.

Following publication, the Committee moved the content of Rule 7001(b) to Rule 4004(d). Rule 4004(a) and (c)(1) were also revised to change references to “motion under Rule 7001(b)” to “motion under § 727(a)(8) or (a)(9) of the Code.” The Committee concluded that, by clarifying when an objection to discharge is raised by motion and when by complaint, the amendment should contribute to the uniformity of practice nationwide and reduce, not increase, confusion in individual courts.

Rule 5009 is amended to redesignate the former rule as new subdivision (a) and to add new subdivisions (b) and (c) to the rule. Subdivision (b) requires the clerk to provide notice to

individual debtors in chapter 7 and chapter 13 cases that their case may be closed without the entry of a discharge if they fail to file a timely statement that they have completed a personal financial management course. Subdivision (c) requires a foreign representative in a chapter 15 case to file and give notice of the filing of a final report in the case.

Two comments were submitted on this amendment, **Comments 08-BK-003 and 08-BK-006**. One comment expressed concern that the requirement in new subdivision (b) places an unnecessary burden on the clerk's office and that it might appear to be overly solicitous of debtors. The other commented that the service list under subdivision (c) should be expanded to include all secured and major unsecured creditors both in the United States and abroad.

No change was made after publication. A survey of clerks revealed that many bankruptcy courts are already providing a notice of the type required by subdivision (b) and that a majority of the respondents did not believe that the requirement would impose an unreasonable burden on the clerk's office. The service list under subdivision (c) is consistent with the list of those who receive notice of the hearing on the chapter 15 petition under Rule 2002(q). Should the foreign representative commence a case under another chapter, notice would be given to all creditors.

Rule 5012 is new. It establishes the procedure in chapter 15 cases for obtaining court approval of an agreement or protocol regarding communications and the coordination of proceedings with cases involving the debtor pending in other countries.

The same suggestion regarding expansion of the service list that was made regarding Rule 5009(c) was made with respect to this rule (**Comment 08-BK-006**).

No change was made after publication.

Rule 7001 is amended in paragraph (4) to except from the listing of adversary proceedings objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f).

As discussed above, two comments were submitted on the originally proposed amendments to this rule and to Rule 4004, **Comments 08-BK-001 and 08-BK-003**.

After publication, the Advisory Committee deleted proposed subdivision (b) and moved its content to Rule 4004(d). The redesignation of the existing rule as subdivision (a) was also deleted, and the exception in paragraph (4) of the rule was changed to refer to objections under §§ 727(a)(8), (a)(9), and 1328(f) of the Code.

Rule 9001 is amended to add § 1502 to the list of definitional provisions in the Bankruptcy Code that are applicable to the Bankruptcy Rules.

No comment was submitted on the proposed amendment, and no change was made after publication.

2. *Amendments for Which Final Approval is Sought Without Publication.* **The Advisory Committee recommends that the proposed amendments that are summarized below be approved and forwarded to the Judicial Conference.** Because the proposed

amendments are conforming in nature, the Committee concluded that publication for comment is not required. The texts of the amended rule and form are set out in Appendix B.

Rule 4001 is amended to change two time periods that were inadvertently omitted from the time computation amendments package. Subdivision (d)(2) is amended to change the time period for filing objections to certain motions from 15 to 14 days of the mailing of notice. Subdivision (d)(3) is amended to change the length of notice required for certain hearings from five to seven days.

Official Form 23 is amended to conform to the amendment to Rule 1007(c), which is discussed above and for which final approval is also sought. The rule amendment changes the deadline for a chapter 7 debtor to file a statement of completion of a personal financial management course from 45 to 60 days after the first date set for the meeting of creditors. The form's statement of that deadline is amended to reflect the change. The Committee recommends that the effective date of the amendment of Form 23 be the same as the effective date of the amendment to Rule 1007(c) – December 1, 2010.

B. Items for Publication in August 2009

The Advisory Committee recommends that the proposed amendments and new rules that are summarized below be published for public comment. The texts of the amended rules, official forms, and new rules are set out in Appendix C.

Rule 1004.2 is new. Subdivision (a) requires that the entity filing a chapter 15 petition state on the petition the country of the debtor's center of its main interests ("COMI"). It also requires that the filer list each country in which a case involving the debtor is pending. Subdivision (b) sets a deadline for challenging the statement in the petition of the debtor's COMI.

This proposed rule was published for comment in August 2008. Three comments were submitted in response: **Comments 08-BK-002, 08-BK-004, and 08-BK-006.** The first two comments raised concerns that the time period in subdivision (b) for filing a motion challenging the COMI designation in the petition was too long since it extended beyond the notice period for the hearing on the chapter 15 petition. One comment pointed out that § 1517(c) of the Bankruptcy Code requires the petition to be decided upon at the earliest possible time and that, if there is a dispute over the location of the debtor's COMI, that issue needs to be resolved at the hearing on the petition. The third comment recommended expansion of the service list for a motion under subdivision (b).

The Committee determined that the concerns raised about the timing of a motion challenging the COMI designation were well taken and that the rule should be revised. It therefore proposes that the deadline in subdivision (b) for filing a motion challenging the COMI designation be changed from "60 days after the notice of the petition has been given" to "no later than 7 days before the date set for the hearing on the petition for recognition." The rest of the rule as published in 2008 remains unchanged. The Committee believes that the change to subdivision (b) is of sufficient significance to warrant republication of the rule as revised.

Rule 2003 is amended to require that written notice be given of the adjournment of a meeting of creditors and that the statement specify the date and time to which the meeting is adjourned. Section 1308(b)(1) allows a meeting of creditors to be held open in order to allow a chapter 13 debtor additional time to file tax returns with taxing authorities. The provision of written notice of adjournment will discourage premature motions to dismiss or convert a case under § 1307(e) for failure to make a timely filing of the tax returns.

Rule 2019 is amended to expand the scope of the rule's coverage and the content of its disclosure requirements. As amended, the rule requires disclosures in chapter 9 and chapter 11 cases by all committees or groups that consist of more than one creditor or equity security holder, as well as by entities or committees that represent more than one creditor or equity security holder. It also authorizes the court to require disclosures by an individual party in interest who seeks or opposes the granting of relief when knowledge of that party's economic stake in the debtor will assist the court in evaluating the party's arguments.

The type of financial information that must be disclosed is expanded to extend to all "disclosable economic interests," a term that is broadly defined in subsection (a) to include, not just claims or interests, but all economic rights and interests that could affect the legal and strategic positions that a stakeholder takes in a case. The rule is amended to require the disclosure of the amounts paid for such economic interests only when directed by the court.

Stylistic and organizational changes are made throughout the rule, resulting in new subsections (c), (d), and (e).

Rule 3001 is amended to prescribe in greater detail the supporting information required to accompany certain proofs of claim and, in cases in which the debtor is an individual, the consequences of failing to provide the required information. Existing subdivision (c) is redesignated as (c)(1) and requires that when a claim is based on an open-end or revolving consumer credit agreement, the proof of claim be accompanied by the last account statement sent to the debtor prior to the filing of the bankruptcy petition.

New subdivision (c)(2) requires additional information to be filed with a proof of claim in a case in which the debtor is an individual. This additional information includes an itemization of interest, fees, expenses, and other charges incurred prior to the petition and included in a claim; a statement of the amount necessary to cure any prepetition default on a claim secured by property of the debtor; and, for a claim secured by the debtor's principal residence, an escrow account statement as of the petition date if an escrow account has been established. Subdivision (c)(2) also provides sanctions for the failure of a creditor to provide the information required by this subdivision.

Rule 3002.1 is new. It assists in the implementation of § 1322(b)(5) of the Bankruptcy Code, which permits a chapter 13 debtor to cure a default and maintain payments of a home mortgage over the course of the debtor's plan. Subdivision (a) requires the holder of a claim secured by the debtor's principal residence to provide at least 30 days' notice to the debtor, debtor's counsel, and the trustee of any postpetition changes in the mortgage payment amount. Subdivision (b) prescribes the procedure for giving that notice. Subdivision (c) requires the holder of a home mortgage claim to give an itemized notice of any postpetition fees, expenses, or charges within 180 days after they are incurred, and it allows the debtor or trustee to challenge those additional charges within a year after notice is given.

Subdivisions (d)-(f) establish a procedure for determining whether the debtor has cured any default and is otherwise current on the debtor's mortgage payments at the close of a chapter 13 case. Subdivision (g) specifies sanctions that may be imposed if the holder of a claim secured by the debtor's principal residence fails to provide any of the information required by this rule.

Rule 4004 is amended to permit a party under limited circumstances to seek an extension of time to object to a debtor's discharge after the time for objecting has expired. In some cases the discharge is not entered immediately upon expiration of the objection period specified in subdivision (a) of this rule. That situation gives rise to the possibility during that gap period that a party may discover information that would have provided a basis for objecting to discharge, had it been known before the objection period expired, and would have provided a basis for revocation of the discharge, had it been learned after the discharge was entered. Subdivision (b) is amended to allow a party in that circumstance to file a motion for extension of time to object to the debtor's discharge even though the objection period has already expired..

Official Forms 22A, 22B, and 22C. Form 22A is amended in three respects. The other two forms are amended in similar respects as indicated below.

(1) Form 22A is amended on lines 19A, 19B, 20A, and 20B to delete references to "household" and "household size" and to replace them with "number of persons" or "family size." These amendments implement more accurately the provisions of § 707(b)(2)(A)(ii)(I) of the Bankruptcy Code that allow means test deductions to be taken from current monthly income based on IRS National and Local Standards.

Allowing the specified deductions to be based on household size leads to results that are both over-inclusive and under-inclusive. If a debtor has dependents who are not members of the debtor's household, an instruction that the debtor's deduction take into account only household members results in a smaller deduction than IRS standards allow. On the other hand, if a debtor lives in a household with persons the debtor does not support, allowing deductions to be based on household size results in a greater deduction than the IRS standards permit.

The amended form instructs debtors to base the deduction on the number of persons allowed as exemptions on their federal income tax returns, plus additional dependents they support. This instruction takes into account the IRS practice of including certain additional dependents, such as foster children and children for whom adoption is pending, in the number of persons taken into account for purposes of the National and Local Standards. Form 22C is amended in a similar fashion on lines 24A, 24B, 25A, and 25B.

(2) Form 22A is amended to add an instruction to line 8 to clarify that only one joint filer should report regular payments by another person for household expenses. Reporting of this figure by both spouses results in an erroneous double-counting of this source of income. Forms 22 B and 22C are similarly amended on line 7 of each form.

(3) The introductory instruction to Part I of Form 22A is amended to reflect the Bankruptcy Code's ambiguities regarding application of means test exemptions in joint cases in which only one debtor is exempt. The amended instructions give debtors the choice of filing separate forms if they believe this is required by § 707(b)(2)(C) of the Bankruptcy Code. The amendment therefore follows the Committee's general policy regarding the means test forms – allowing courts to resolve ambiguities rather than determining the outcome in forms.

III. Information Items

A. Special Open Subcommittee Meeting on Bankruptcy Appellate Rules

The Advisory Committee's Subcommittee on Privacy, Public Access and Appeals held a special open meeting in San Diego on March 25, 2009, to discuss and receive input about whether a major revision of the bankruptcy appellate rules (Part VIII of the Bankruptcy Rules) should be undertaken. In addition to Advisory Committee members, those in attendance included judges from the Sixth, Ninth, and Tenth Circuits Bankruptcy Appellate Panels, clerks of court and other court personnel, bankruptcy practitioners and academics, and local bar members. Participants presented their views about the effectiveness of the existing appellate rules and areas in which improvements are needed. They also provided specific feedback on a working draft of a revision of the Part VIII rules that was prepared by former Advisory Committee member Eric Brunstad, Esq. The draft attempts to make the bankruptcy appellate rules more comprehensive, easier to read, and more closely aligned with the Federal Rules of Appellate Procedure.

There was significant support for the view that the Part VIII rules are in need of revision and that the use of electronic filing should be taken into account in proposing changes. It was also suggested that coordination with other rules advisory committees, particularly the Appellate Rules Committee, would be desirable. The Chairs and Reporters of the Bankruptcy and Appellate Rules Committees have initiated consultations on this issue. The Reporter to the Appellate Rules Committee will review revisions to the initial draft and will attend the second open subcommittee meeting on the bankruptcy appellate rules, which will be held at Harvard Law School prior to the Bankruptcy Rules Advisory Committee's fall meeting.

B. Forms Modernization Project

The Forms Subcommittee's Forms Modernization Project has retained Carolyn Bagin, a forms expert, to help it streamline its evaluation of the existing bankruptcy forms, develop recommendations for making the forms more user-friendly and less error-prone, and take advantage of modern technology. The Project's technology subgroup became convinced that a forms revision expert would be very helpful after meeting last fall with representatives of the IRS and the U.S. Census Bureau who have utilized such experts. The Administrative Office solicited bids from three forms experts on behalf of the Project, and Ms. Bagin was selected. She will participate in the Project's next group meeting at the end of June in Washington D.C.

The Project's analytical subgroup continues to move forward with its evaluation of the data requested by the current official forms. The subgroup has broken down Official Bankruptcy Form 1 (the petition), Official Form 6 (the schedules), Official Form 7 (the statement of financial affairs), and Official Forms 22A-C (the means test), into their constituent elements, classified each element into certain categories (i.e., income, expenses, assets, etc.), and put the elements in a large spreadsheet so that they can be sorted by category. This process will make it easier to identify information duplication or overlap and to aid in eventual restructuring of the forms so that information is requested in a more structured and understandable fashion.

The Project is working in coordination with the CM/ECF NextGen Working Group, which has begun the process of developing a new CM/ECF system for the bankruptcy courts.

The chair of the Forms Modernization Project, Bankruptcy Judge Elizabeth Perris, serves on the steering committee of the NextGen Working Group.

C. Discharge in Bankruptcy as an Affirmative Defense

The Committee received a request from the Advisory Committee on Civil Rules for a recommendation on whether discharge in bankruptcy should be removed from the list of affirmative defenses under Civil Rule 8(c). In response to this request, the Committee engaged in a thorough discussion of the issue at its March 2009 meeting. The Committee was aided in its discussions by substantial memoranda prepared by Christopher Kohn, Esq., on behalf of the Department of Justice, opposing the change, and Bankruptcy Judge Eugene Wedoff (N.D. Ill.), the Committee liaison to the Civil Rules Committee, supporting the change. At the conclusion of the discussion, the Committee voted to recommend that discharge in bankruptcy be eliminated as an affirmative defense under Rule 8(c), and it communicated that recommendation to the Civil Rules Committee by memorandum dated March 27, 2009.

The Committee's position is based on the view that treating discharge as an affirmative defense that is subject to waiver if not raised in a timely manner by a debtor/defendant is inconsistent with the statutory command of § 524(a) of the Bankruptcy Code. That provision voids a judgment "at any time obtained" that is based on a discharged debt, "whether or not discharge of such debt is waived." Continuing to include discharge in the list of affirmative defenses, despite § 524's voiding of judgments and prohibition of waivers, has misled some courts into finding that debtors have waived their defense of discharge by failing to plead it affirmatively in post-bankruptcy collection actions. The effect of the proposed rule change would be to eliminate the inconsistency between Rule 8(c) and § 524 of the Bankruptcy Code and to prevent a debtor from losing the benefit of a discharge because of failure to plead it affirmatively.

Appendix A - Proposed Amendments to Bankruptcy Rules 1007, 1014, 1015, 1018, 1019, 4001, 4004, 5009, 7001, and 9001, New Rule 5012, and Official Form 23 for transmission to Judicial Conference.

Appendix B - Proposed Amendments to Bankruptcy Rules 2003, 2019, 3001, 4004, New Rules 1004.2 and 3002.1, and Official Forms 22A, 22B, and 22C.

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE***

**Rule 1007 Lists, Schedules, Statements, and Other
Documents; Time Limits****

1 (a) CORPORATE OWNERSHIP STATEMENT, LIST
2 OF CREDITORS AND EQUITY SECURITY HOLDERS,
3 AND OTHER LISTS.

4 * * * * *

5 (2) *Involuntary Case*. In an involuntary case, the
6 debtor shall file, within ~~14~~ seven days after entry of the order
7 for relief, a list containing the name and address of each
8 entity included or to be included on Schedules D, E, F, G, and
9 H as prescribed by the Official Forms.

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* New material is underlined; matter to be omitted is lined through.

** Incorporates amendments approved by the Supreme Court and scheduled to take effect on December 1, 2009, if Congress takes no action to the contrary.

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11 (c) TIME LIMITS. In an involuntary case, the
12 schedules, statements, and other documents required by
13 subdivision (b)(1), (4), (5), and (6) shall be filed with the
14 petition or within 14 days thereafter, except as otherwise
15 provided in subdivisions (d), (e), (f), and (h) of this rule. In
16 an involuntary case, the list in subdivision (a)(2), and the
17 schedules, statements, and other documents required by
18 subdivision (b)(1) shall be filed by the debtor within 14 days
19 of the entry of the order for relief. In a voluntary case, the
20 documents required by paragraphs (A), (C), and (D) of
21 subdivision (b)(3) shall be filed with the petition. Unless the
22 court orders otherwise, a debtor who has filed a statement
23 under subdivision (b)(3)(B), shall file the documents required
24 by subdivision (b)(3)(A) within 14 days of the order for
25 relief. In a chapter 7 case, the debtor shall file the statement
26 required by subdivision (b)(7) within ~~45~~ 60 days after the
27 first date set for the meeting of creditors under §341 of the

28 Code, and in a chapter 11 or 13 case no later than the date
29 when the last payment was made by the debtor as required by
30 the plan or the filing of a motion for a discharge under
31 § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at
32 any time and in its discretion, enlarge the time to file the
33 statement required by subdivision (b)(7). The debtor shall
34 file the statement required by subdivision (b)(8) no earlier
35 than the date of the last payment made under the plan or the
36 date of the filing of a motion for discharge under
37 §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists,
38 schedules, statements, and other documents filed prior to the
39 conversion of a case to another chapter shall be deemed filed
40 in the converted case unless the court directs otherwise.
41 Except as provided in § 1116(3), any extension of time to file
42 schedules, statements, and other documents required under
43 this rule may be granted only on motion for cause shown and
44 on notice to the United States trustee, any committee elected

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45 under § 705 or appointed under § 1102 of the Code, trustee,
46 examiner, or other party as the court may direct. Notice of an
47 extension shall be given to the United States trustee and to
48 any committee, trustee, or other party as the court may direct.

49 * * * * *

COMMITTEE NOTE

Subdivision (a)(2). Subdivision (a)(2) is amended to shorten the time for a debtor to file a list of the creditors included on the various schedules filed or to be filed in the case. This list provides the information necessary for the clerk to provide notice of the § 341 meeting of creditors in a timely manner.

Subdivision (c). Subdivision (c) is amended to provide additional time for individual debtors in chapter 7 to file the statement of completion of a course in personal financial management. This change is made in conjunction with an amendment to Rule 5009 requiring the clerk to provide notice to debtors of the consequences of not filing the statement in a timely manner.

Public Comment on Proposed Amendments to Rule 1007:

No comments were received on these proposed amendments.

Changes Made After Publication:

No changes since publication.

Rule 1014. Dismissal and Change of Venue

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(b) PROCEDURE WHEN PETITIONS INVOLVING THE SAME DEBTOR OR RELATED DEBTORS ARE FILED IN DIFFERENT COURTS. If petitions commencing cases under the Code or seeking recognition under chapter 15 are filed in different districts by, regarding, or against (1) the same debtor, ~~or~~ (2) a partnership and one or more of its general partners, ~~or~~ (3) two or more general partners, or (4) a debtor and an affiliate, on motion filed in the district in which the petition filed first is pending and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, the court may determine, in the interest of justice or for the convenience of the parties, the

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14 district or districts in which the case or cases should proceed.
15 Except as otherwise ordered by the court in the district in
16 which the petition filed first is pending, the proceedings on
17 the other petitions shall be stayed by the courts in which they
18 have been filed until the determination is made.

COMMITTEE NOTE

Subdivision (b). Subdivision (b) of the rule is amended to provide that petitions for recognition of a foreign proceeding are included among those that are governed by the procedure for determining where cases should go forward when multiple petitions involving the same debtor are filed. The amendment adds a specific reference to chapter 15 petitions and also provides that the rule governs proceedings regarding a debtor as well as those that are filed by or against a debtor.

Other changes are stylistic.

Public Comment on Proposed Amendments to Rule 1014:

No comments were received on these proposed amendments.

Changes Made After Publication:

No changes since publication.

Rule 1015. Consolidation or Joint Administration of Cases Pending in Same Court

1 (a) CASES INVOLVING SAME DEBTOR. If two or
2 more petitions by, regarding, or against the same debtor are
3 pending in the same court ~~by or against the same debtor~~, the
4 court may order consolidation of the cases.

5 * * * * *

COMMITTEE NOTE

Subdivision (a). By amending subdivision (a) to include cases regarding the same debtor, the rule explicitly recognizes that the court's authority to consolidate cases when more than one petition is filed includes the authority to consolidate cases when one or more of the petitions is filed under chapter 15. This amendment is made in conjunction with the amendment to Rule 1014(b), which also governs petitions filed under chapter 15 regarding the same debtor as well as those filed by or against the debtor.

Public Comment on Proposed Amendments to Rule 1015:

No comments were received on these proposed amendments.

Changes Made After Publication:

No changes since publication.

Rule 1018. Contested Involuntary Petitions; Contested Petitions Commencing Ancillary Chapter 15 Cases; Proceedings to Vacate Order for Relief; Applicability of Rules in Part VII Governing Adversary Proceedings

1 Unless the court otherwise directs and except as
2 otherwise prescribed in Part I of these rules, the ~~The~~
3 following rules in Part VII apply to all proceedings ~~relating~~
4 ~~to a contested~~ contesting an involuntary petition, ~~to~~
5 ~~proceedings relating to a contested~~ petition or a chapter 15
6 petition for recognition ~~commencing a case ancillary to a~~
7 ~~foreign proceeding~~, and to all proceedings to vacate an order
8 for relief: Rules 7005, 7008-7010, 7015, 7016, 7024-7026,
9 7028-7037, 7052, 7054, 7056, and 7062, ~~except as otherwise~~
10 ~~provided in Part I of these rules and unless the court~~

11 ~~otherwise directs.~~ The court may direct that other rules in
 12 Part VII shall also apply. For the purposes of this rule a
 13 reference in the Part VII rules to adversary proceedings shall
 14 be read as a reference to proceedings ~~relating to a contested~~
 15 contesting an involuntary petition, or contested ancillary
 16 petition or a chapter 15 petition for recognition, or
 17 proceedings to vacate an order for relief. Reference in the
 18 Federal Rules of Civil Procedure to the complaint shall be
 19 read as a reference to the petition.

COMMITTEE NOTE

The rule is amended to reflect the enactment of chapter 15 of the Code in 2005. As to chapter 15 cases, the rule applies to contests over the petition for recognition and not to all matters that arise in the case. Thus, proceedings governed by § 1519(e) and § 1521(e) of the Code must comply with Rules 7001(7) and 7065, which provide that actions for injunctive relief are adversary proceedings governed by Part VII of the rules. The rule is also amended to clarify that it applies to contests over an involuntary petition, and not to matters merely “relating to” a contested involuntary petition. Matters that may arise in a chapter 15 case or an involuntary case, other than contests over the petition itself, are governed by the otherwise applicable rules.

Other changes are stylistic.

Public Comment on Proposed Amendments to Rule 1018:

No comments were received on these proposed amendments.

Changes Made After Publication:

No changes since publication.

Rule 1019. Conversion of Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case

1 When a chapter 11, chapter 12, or chapter 13 case has
2 been converted or reconverted to a chapter 7 case:

3 * * * * *

4 (2) *New filing periods.*

5 (A) A new time period for filing a motion under §
6 707(b) or (c), a claim, a complaint objecting to discharge, or
7 a complaint to obtain a determination of dischargeability of
8 any debt shall commence under Rules 1017, 3002, 4004, or

9 4007, but a new time period shall not commence if a chapter
10 7 case had been converted to a chapter 11, 12, or 13 case and
11 thereafter reconverted to a chapter 7 case and the time for
12 filing a motion under § 707(b) or (c), a claim, a complaint
13 objecting to discharge, or a complaint to obtain a
14 determination of the dischargeability of any debt, or any
15 extension thereof, expired in the original chapter 7 case.

16 (B) A new time period for filing an objection to a
17 claim of exemptions shall commence under Rule 4003(b)
18 after conversion of a case to chapter 7 unless:

19 (i) the case was converted to chapter 7 more
20 than one year after the entry of the first order confirming a
21 plan under chapter 11, 12, or 13; or

22 (ii) the case was previously pending in
23 chapter 7 and the time to object to a claimed exemption had
24 expired in the original chapter 7 case.

25 * * * * *

COMMITTEE NOTE

Subdivision (2). Subdivision (2) is redesignated as subdivision (2)(A), and a new subdivision (2)(B) is added to the rule. Subdivision (2)(B) provides that a new time period to object to a claim of exemption arises when a case is converted to chapter 7 from chapter 11, 12, or 13. The new time period does not arise, however, if the conversion occurs more than one year after the first order confirming a plan, even if the plan was subsequently modified. A new objection period also does not arise if the case was previously pending under chapter 7 and the objection period had expired in the prior chapter 7 case.

Public Comment on Proposed Amendments to Rule 1019:

Comment 08-BK-005 Mr. Martin P. Sheehan (on behalf of himself and the National Association of Bankruptcy Trustees).

Mr. Sheehan expressed support for allowing a new objection period after a case is converted to chapter 7, but he opposed providing an exception for cases converted more than a year after the plan in chapter 11, 12, or 13 was confirmed.

Changes Made After Publication:

No changes since publication.

Rule 4001. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements

* * * * *

1 (d) AGREEMENT RELATING TO RELIEF FROM
2 THE AUTOMATIC STAY, PROHIBITING OR
3 CONDITIONING THE USE, SALE, OR LEASE OF
4 PROPERTY, PROVIDING ADEQUATE PROTECTION,
5 USE OF CASH COLLATERAL, AND OBTAINING
6 CREDIT.

7 * * * * *

8 (2) *Objection.* Notice of the motion and the time
9 within which objections may be filed and served on the
10 debtor in possession or trustee shall be mailed to the parties
11 on whom service is required by paragraph (1) of this
12 subdivision and to such other entities as the court may direct.
13 Unless the court fixes a different time, objections may be
14 filed within ~~15~~ 14 days of the mailing of the notice.

15 (3) *Disposition; hearing.* If no objection is filed,
16 the court may enter an order approving or disapproving the
17 agreement without conducting a hearing. If an objection is

14 FEDERAL RULES OF BANKRUPTCY PROCEDURE

18 filed or if the court determines a hearing is appropriate, the
19 court shall hold a hearing on no less than ~~five~~ seven days'
20 notice to the objector, the movant, the parties on whom
21 service is required by paragraph (1) of this subdivision and
22 such other entities as the court may direct.

23 * * * * *

COMMITTEE NOTE

Subdivision (d) is amended to implement changes in connection with the 2009 amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in subdivision (d)(2) and (d)(3) are amended to substitute deadlines that are multiples of seven days. Throughout the rules, deadlines have been amended in the following manner:

- 5 day periods become 7 day periods
- 10 day periods become 14 day periods
- 15 day periods become 14 day periods
- 20 day periods become 21 day periods
- 25 day periods become 28 day periods

Final approval of the amendments to this rule is sought without publication.

Rule 4004. Grant or Denial of Discharge^{*}**

1 (a) TIME FOR ~~FILING COMPLAINT~~ OBJECTING
2 TO DISCHARGE; NOTICE OF TIME FIXED. In a chapter
3 ~~7 liquidation~~ case, a complaint, or a motion under § 727(a)(8)
4 or (a)(9) of the Code, objecting to the debtor's discharge
5 ~~under § 727 of the Code~~ shall be filed no later than 60 days
6 after the first date set for the meeting of creditors under §
7 341(a). In a chapter 11 ~~reorganization~~ case, the complaint
8 shall be filed no later than the first date set for the hearing on
9 confirmation. In a chapter 13 case, a motion objecting to the
10 debtor's discharge under § 1328(f) shall be filed no later than
11 60 days after the first date set for the meeting of creditors
12 under § 341(a). At least 28 days' notice of the time so fixed
13 shall be given to the United States trustee and all creditors as

^{***} Incorporates amendments approved by the Supreme Court and scheduled to take effect on December 1, 2009, if Congress takes no action to the contrary.

16 FEDERAL RULES OF BANKRUPTCY PROCEDURE

14 provided in Rule 2002(f) and (k), and to the trustee and the
15 trustee's attorney.

16 * * * * *

17 (c) GRANT OF DISCHARGE.

18 (1) In a chapter 7 case, on expiration of the ~~time~~
19 times fixed for ~~filing a complaint~~ objecting to discharge and
20 ~~the times fixed~~ for filing a motion to dismiss the case under
21 Rule 1017(e), the court shall forthwith grant the discharge
22 unless:

23 (A) the debtor is not an individual;

24 (B) a complaint, or a motion under §
25 727(a)(8) or (a)(9), objecting to the discharge has been filed
26 and not decided in the debtor's favor;

27 * * * * *

28 (4) In a chapter 11 case in which the debtor is an
29 individual, or a chapter 13 case, the court shall not grant a

30 discharge if the debtor has not filed any statement required by
31 Rule 1007(b)(7).

32 (d) APPLICABILITY OF RULES IN PART VII AND
33 RULE 9014. An objection to discharge ~~A proceeding~~
34 ~~commenced by a complaint objecting to discharge~~ is
35 governed by Part VII of these rules, except that an objection
36 to discharge under §§ 727(a)(8), (a)(9), or 1328(f) is
37 commenced by motion and governed by Rule 9014.

* * * * *

COMMITTEE NOTE

Subdivision (a). Subdivision (a) is amended to include a deadline for filing a motion objecting to a debtor's discharge under §§ 727(a)(8), (a)(9), or 1328(f) of the Code. These sections establish time limits on the issuance of discharges in successive bankruptcy cases by the same debtor.

Subdivision (c). Subdivision (c)(1) is amended because a corresponding amendment to subdivision (d) directs certain objections to discharge to be brought by motion rather than by complaint. Subparagraph (c)(1)(B) directs the court not to grant a discharge if a motion or complaint objecting to discharge has been filed unless the objection has been decided in the debtor's favor.

Subdivision (c)(4) is new. It directs the court in chapter 11 and 13 cases to withhold the entry of the discharge if an individual debtor has not filed a statement of completion of a course concerning personal financial management as required by Rule 1007(b)(7).

Subdivision (d). Subdivision (d) is amended to direct that objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) be commenced by motion rather than by complaint. Objections under the specified provisions are contested matters governed by Rule 9014. The title of the subdivision is also amended to reflect this change.

Public Comment on Proposed Amendments to Rule 4004:

Comment 08-BK-001 Bankruptcy Judge Robert Kressel (D. Minn.). Judge Kressel suggested that the authorization for raising objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) by motion should be located in this rule rather than in Rule 7001. He noted that the latter rule addresses adversary proceedings and that contested matters, such as objections to discharge raised by motion, are better addressed elsewhere.

Comment 08-BK-003 Bankruptcy Judge Robert Grant (N.D. Ind.). Judge Grant concurred in the point raised by Judge Kressel and also expressed concern that treating only three of the grounds for objecting to discharge as contested matters, rather than as adversary proceedings, will create confusion among creditors and their lawyers.

Changes Made After Publication:

Subdivision (d) was amended to provide that objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) are commenced

by motion rather than by complaint and are governed by Rule 9014. Because of the relocation of this provision from the previously proposed Rule 7001(b), subdivisions (a) and (c)(1) of this rule were revised to change references to “motion under Rule 7001(b)” to “motion under § 727(a)(8) or (a)(9).” Other stylistic changes were made to the rule, and the Committee Note was revised to reflect these changes.

Rule 5009. Closing Chapter 7 Liquidation, Chapter 12 Family Farmer’s Debt Adjustment, and Chapter 13 Individual’s Debt Adjustment, and Chapter 15 Ancillary and Cross-Border Cases

1 (a) CASES UNDER CHAPTERS 7, 12, AND 13. If
2 in a chapter 7, chapter 12, or chapter 13 case the trustee has
3 filed a final report and final account and has certified that the
4 estate has been fully administered, and if within 30 days no
5 objection has been filed by the United States trustee or a party
6 in interest, there shall be a presumption that the estate has
7 been fully administered.

8 (b) NOTICE OF FAILURE TO FILE RULE 1007(b)(7)
9 STATEMENT. If an individual debtor in a chapter 7 or 13

20 FEDERAL RULES OF BANKRUPTCY PROCEDURE

10 case has not filed the statement required by Rule 1007(b)(7)
11 within 45 days after the first date set for the meeting of
12 creditors under § 341(a) of the Code, the clerk shall promptly
13 notify the debtor that the case will be closed without entry of
14 a discharge unless the statement is filed within the applicable
15 time limit under Rule 1007(c).

16 (c) CASES UNDER CHAPTER 15. A foreign
17 representative in a proceeding recognized under § 1517 of the
18 Code shall file a final report when the purpose of the
19 representative's appearance in the court is completed. The
20 report shall describe the nature and results of the
21 representative's activities in the court. The foreign
22 representative shall transmit the report to the United States
23 trustee, and give notice of its filing to the debtor, all persons
24 or bodies authorized to administer foreign proceedings of the
25 debtor, all parties to litigation pending in the United States in
26 which the debtor was a party at the time of the filing of the

27 petition, and such other entities as the court may direct. The
28 foreign representative shall file a certificate with the court
29 that notice has been given. If no objection has been filed by
30 the United States trustee or a party in interest within 30 days
31 after the certificate is filed, there shall be a presumption that
32 the case has been fully administered.

COMMITTEE NOTE

Subdivisions (a) and (b). The rule is amended to redesignate the former rule as subdivision (a) and to add new subdivisions (b) and (c) to the rule. Subdivision (b) requires the clerk to provide notice to an individual debtor in a chapter 7 or 13 case that the case may be closed without the entry of a discharge due to the failure of the debtor to file a timely statement of completion of a personal financial management course. The purpose of the notice is to provide the debtor with an opportunity to complete the course and file the appropriate document prior to the filing deadline. Timely filing of the document avoids the need for a motion to extend the time retroactively. It also avoids the potential for closing the case without discharge, and the possible need to pay an additional fee in connection with reopening. Timely filing also benefits the clerk's office by reducing the number of instances in which cases must be reopened.

Subdivision (c). Subdivision (c) requires a foreign representative in a chapter 15 case to file a final report setting out the foreign representative's actions and results obtained in the United States court. It also requires the foreign representative to give notice

of the filing of the report, and provides interested parties with 30 days to object to the report after the foreign representative has certified that notice has been given. In the absence of a timely objection, a presumption arises that the case is fully administered, and the case may be closed.

Public Comment on Proposed Amendments to Rule 5009:

Comment 08-BK-003 Bankruptcy Judge Robert Grant (N.D. Ind.). Judge Grant expressed concern that the notification requirement in new subdivision (b) places an unnecessary burden on the clerk's office and might appear to be overly solicitous of debtors. He suggested that the reminder of the deadline be included in the notice of the meeting of creditors.

Comment 08-BK-006 Bankruptcy Judge Samuel Bufford (C.D. Cal.). Judge Bufford suggested that the service list under subdivision (c) be expanded to include all secured and major unsecured creditors in the United States and abroad.

Changes Made After Publication:

No changes since publication.

Rule 5012. Agreements Concerning Coordination of Proceedings in Chapter 15 Cases

- 1 Approval of an agreement under § 1527(4) of the Code
- 2 shall be sought by motion. The movant shall attach to the
- 3 motion a copy of the proposed agreement or protocol and,

4 unless the court directs otherwise, give at least 30 days'
5 notice of any hearing on the motion by transmitting the
6 motion to the United States trustee, and serving it on the
7 debtor, all persons or bodies authorized to administer foreign
8 proceedings of the debtor, all entities against whom
9 provisional relief is being sought under § 1519, all parties to
10 litigation pending in the United States in which the debtor
11 was a party at the time of the filing of the petition, and such
12 other entities as the court may direct.

COMMITTEE NOTE

This rule is new. In chapter 15 cases, any party in interest may seek approval of an agreement, frequently referred to as a “protocol,” that will assist with the conduct of the case. Because the needs of the courts and the parties may vary greatly from case to case, the rule does not attempt to limit the form or scope of a protocol. Rather, the rule simply requires that approval of a particular protocol be sought by motion, and designates the persons entitled to notice of the hearing on the motion. These agreements, or protocols, drafted entirely by parties in interest in the case, are intended to provide valuable assistance to the court in the management of the case. Interested parties may find guidelines published by organizations, such as the American Law Institute and the International Insolvency Institute, helpful in crafting agreements or protocols to apply in a particular case.

COMMITTEE NOTE

Paragraph (4) of the rule is amended to create an exception for objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) of the Code. Because objections to discharge on these grounds typically present issues more easily resolved than other objections to discharge, the more formal procedures applicable to adversary proceedings, such as commencement by a complaint, are not required. Instead, objections on these three grounds are governed by Rule 4004(d). In an appropriate case, however, Rule 9014(c), allows the court to order that additional provisions of Part VII of the rules apply to these matters.

Public Comment on Proposed Amendments to Rule 7001:

Comment 08-BK-001 Bankruptcy Judge Robert Kressel (D. Minn.). Judge Kressel suggested that the authorization for raising objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) by motion should be located in Rule 4004 rather than in Rule 7001. He noted that the latter rule addresses adversary proceedings and that contested matters, such as objections to discharge raised by motion, are better addressed elsewhere.

Comment 08-BK-003 Bankruptcy Judge Robert Grant (N.D. Ind.). Judge Grant concurred in the point raised by Judge Kressel and also expressed concern that treating only three of the grounds for objecting to discharge as contested matters, rather than as adversary proceedings, will create confusion among creditors and their lawyers.

Changes Made After Publication:

The proposed addition of subsection (b) was deleted, and the content of that provision was moved to Rule 4004(d). The exception in paragraph (4) of the rule was revised to refer to objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) of the Code. The redesignation of the existing rule as subdivision (a) was also deleted. The Committee Note was revised to reflect these changes.

Rule 9001. General Definitions

1 The definitions of words and phrases in §§ 101, § 902,
2 and ~~§ 1101, and 1502 of the Code,~~ and the rules of
3 construction in § 102, ~~of the Code~~ govern their use in these
4 rules. In addition, the following words and phrases used in
5 these rules have the meanings indicated:

6 * * * * *

COMMITTEE NOTE

The rule is amended to add § 1502 of the Code to the list of definitional provisions that are applicable to the Rules. That section was added to the Code by the 2005 amendments.



Public Comment on Proposed Amendments to Rule 9001:

No comments were received on these proposed amendments.

Changes Made After Publication:

No changes since publication.

**Official Form 23. Debtor's Certification of Completion of
Postpetition Instructional Course Concerning Personal
Financial Management**

The form, which follows on the next page, is amended as indicated to conform to the amendment of the filing deadline under Rule 1007(c). Final approval is sought without publication. The amendment to the form is to become effective upon the effective date of the amendment to Rule 1007(c) – December 1, 2010.

UNITED STATES BANKRUPTCY COURT

_____ District Of _____

In re _____,
Debtor

Case No. _____

Chapter _____

DEBTOR'S CERTIFICATION OF COMPLETION OF POSTPETITION INSTRUCTIONAL COURSE CONCERNING PERSONAL FINANCIAL MANAGEMENT

Every individual debtor in a chapter 7, chapter 11 in which § 1141(d)(3) applies, or chapter 13 case must file this certification. If a joint petition is filed, each spouse must complete and file a separate certification. Complete one of the following statements and file by the deadline stated below:

I, _____, the debtor in the above-styled case, hereby
(Printed Name of Debtor)
certify that on _____ (Date), I completed an instructional course in personal financial management
provided by _____, an approved personal financial
(Name of Provider)
management provider.

Certificate No. (if any): _____.

I, _____, the debtor in the above-styled case, hereby
(Printed Name of Debtor)
certify that no personal financial management course is required because of [Check the appropriate box]:

- Incapacity or disability, as defined in 11 U.S.C. § 109(h);
- Active military duty in a military combat zone; or
- Residence in a district in which the United States trustee (or bankruptcy administrator) has determined that the approved instructional courses are not adequate at this time to serve the additional individuals who would otherwise be required to complete such courses.

Signature of Debtor: _____

Date: _____

Instructions: Use this form only to certify whether you completed a course in personal financial management. (Fed. R. Bankr. P. 1007(b)(7).) Do NOT use this form to file the certificate given to you by your prepetition credit counseling provider and do NOT include with the petition when filing your case.

Filing Deadlines: In a chapter 7 case, file within **45-60 days** of the first date set for the meeting of creditors under § 341 of the Bankruptcy Code. In a chapter 11 or 13 case, file no later than the last payment made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. (See Fed. R. Bankr. P. 1007(c).)

COMMITTEE NOTE

The statement of the deadline for filing the form in a chapter 7 case is amended to conform to amended Rule 1007(c).

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE***

Rule 1004.2. Petition in Chapter 15 Cases**

1 (a) DESIGNATING CENTER OF MAIN
2 INTERESTS. A petition for recognition of a foreign
3 proceeding under chapter 15 of the Code shall state the
4 country where the debtor has the center of its main interests.
5 The petition shall also identify each country in which a
6 foreign proceeding by, regarding, or against the debtor is
7 pending.

8 (b) CHALLENGING DESIGNATION. The United
9 States trustee or a party in interest may file a motion for a
10 determination that the debtor's center of main interests is
11 other than as stated in the petition for recognition

*New Material is underlined; matter to be omitted is lined through.

**In addition to the adoption of Rule 1004.2, Official Form 1 would be amended to include a line on the form where the foreign representative indicates the country of the debtor's center of main interests. The Official Form would also be amended to include a line or lines on which the filer would set out the countries in which cases are pending.

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12 commencing the chapter 15 case. Unless the court orders
13 otherwise, the motion shall be filed no later than seven days
14 before the date set for the hearing on the petition for
15 recognition. The motion shall be transmitted to the United
16 States trustee and served on the debtor, all persons or bodies
17 authorized to administer foreign proceedings of the debtor, all
18 entities against whom provisional relief is being sought under
19 § 1519 of the Code, all parties to litigation pending in the
20 United States in which the debtor was a party at the time of
21 the filing of the petition, and such other entities as the court
22 may direct.

COMMITTEE NOTE

This rule is new. Subdivision (a) directs any entity that files a petition for recognition of a foreign proceeding under chapter 15 of the Code to state in the petition the center of the debtor's main interests. The petition must also list each country in which a foreign proceeding involving the debtor is pending. This information will assist the court and parties in interest in determining whether the foreign proceeding is a foreign main or nonmain proceeding.

Subdivision (b) sets a deadline of seven days before the date set for the hearing on the petition for recognition for filing a motion

challenging the statement in the petition as to the country in which the debtor's center of main interests is located.

Rule 2003. Meeting of Creditors or Equity Security Holders

1
2
3
4
5
6
7

* * * * *

(e) ADJOURNMENT. The meeting may be adjourned from time to time by announcement at the meeting of the adjourned date and time ~~without further written notice.~~ The presiding official shall promptly file a statement specifying the date and time to which the meeting is adjourned.

* * * * *

COMMITTEE NOTE

Subdivision (e) is amended to require the presiding official to file a statement after the adjournment of a meeting of creditors or equity security holders designating the period of the adjournment. The presiding official is the United States trustee or the United States trustee's designee. This requirement will provide notice to parties in interest not present at the initial meeting of the date and time to which the meeting has been continued. When a meeting is adjourned or "held open" as permitted by § 1308(b)(1) of the Code in order to allow a debtor additional time in which to file a tax return with taxing

authorities, the filing of this statement will also discourage premature motions to dismiss or convert the case under § 1307(e).

~~Rule 2019. Representation of Creditors and Equity Security Holders in Chapter 9 Municipality and Chapter 11 Reorganization Cases~~

1 ~~—(a) DATA REQUIRED. In a chapter 9 municipality or~~
2 ~~chapter 11 reorganization case, except with respect to a~~
3 ~~committee appointed pursuant to § 1102 or 1114 of the Code,~~
4 ~~every entity or committee representing more than one creditor~~
5 ~~or equity security holder and, unless otherwise directed by the~~
6 ~~court, every indenture trustee, shall file a verified statement~~
7 ~~setting forth (1) the name and address of the creditor or equity~~
8 ~~security holder; (2) the nature and amount of the claim or~~
9 ~~interest and the time of acquisition thereof unless it is alleged~~
10 ~~to have been acquired more than one year prior to the filing~~
11 ~~of the petition; (3) a recital of the pertinent facts and~~
12 ~~circumstances in connection with the employment of the~~
13 ~~entity or indenture trustee, and, in the case of a committee,~~

14 ~~the name or names of the entity or entities at whose instance;~~
15 ~~directly or indirectly, the employment was arranged or the~~
16 ~~committee was organized or agreed to act; and (4) with~~
17 ~~reference to the time of the employment of the entity, the~~
18 ~~organization or formation of the committee, or the appearance~~
19 ~~in the case of any indenture trustee, the amounts of claims or~~
20 ~~interests owned by the entity, the members of the committee~~
21 ~~or the indenture trustee, the times when acquired, the amounts~~
22 ~~paid therefor, and any sales or other disposition thereof. The~~
23 ~~statement shall include a copy of the instrument, if any,~~
24 ~~whereby the entity, committee, or indenture trustee is~~
25 ~~empowered to act on behalf of creditors or equity security~~
26 ~~holders. A supplemental statement shall be filed promptly,~~
27 ~~setting forth any material changes in the facts contained in the~~
28 ~~statement filed pursuant to this subdivision.~~

29 ~~—(b) FAILURE TO COMPLY; EFFECT. On motion of~~
30 ~~any party in interest or on its own initiative, the court may (1)~~

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31 ~~determine whether there has been a failure to comply with the~~
32 ~~provisions of subdivision (a) of this rule or with any other~~
33 ~~applicable law regulating the activities and personnel of any~~
34 ~~entity, committee, or indenture trustee or any other~~
35 ~~impropriety in connection with any solicitation and, if it so~~
36 ~~determines, the court may refuse to permit that entity,~~
37 ~~committee, or indenture trustee to be heard further or to~~
38 ~~intervene in the case; (2) examine any representation~~
39 ~~provision of a deposit agreement, proxy, trust mortgage, trust~~
40 ~~indenture, or deed of trust, or committee or other~~
41 ~~authorization, and any claim or interest acquired by any entity~~
42 ~~or committee in contemplation or in the course of a case~~
43 ~~under the Code and grant appropriate relief; and (3) hold~~
44 ~~invalid any authority, acceptance, rejection, or objection~~
45 ~~given, procured, or received by an entity or committee who~~
46 ~~has not complied with this rule or with § 1125(b) of the Code.~~

Rule 2019. Disclosure Regarding Creditors and Equity Security Holders in Chapter 9 and Chapter 11 Cases

1 (a) DEFINITION. In this rule, “disclosable economic
2 interest” means any claim, interest, pledge, lien, option,
3 participation, derivative instrument, or any other right or
4 derivative right that grants the holder an economic interest
5 that is affected by the value, acquisition, or disposition of a
6 claim or interest.

7 (b) DISCLOSURE BY ENTITIES, GROUPS,
8 COMMITTEES, INDENTURE TRUSTEES, AND OTHER
9 PARTIES IN INTEREST. In a chapter 9 or 11 case, every
10 entity, group, or committee that consists of or represents more
11 than one creditor or equity security holder and, unless the
12 court directs otherwise, every indenture trustee, shall file a
13 verified statement setting forth the information specified in
14 subdivision (c) of this rule. On motion of a party in interest,
15 or on its own motion, the court may also require disclosure of

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16 some or all of the information specified in subdivision (c)(2)
17 by an entity that seeks or opposes the granting of relief.

18 (c) INFORMATION REQUIRED. The verified
19 statement shall include:

20 (1) the pertinent facts and circumstances
21 concerning:

22 (A) the employment of the entity or indenture
23 trustee, including the name of each entity at whose instance
24 the employment was arranged; or

25 (B) in the case of a group or committee, other
26 than a committee appointed pursuant to §§ 1102 or 1114 of
27 the Code, the formation of the group or committee, including
28 the name of each entity at whose instance the group or
29 committee was formed or for whom the group or committee
30 has agreed to act;

31 (2) if not disclosed under subdivision (c)(1), with
32 respect to the entity or indenture trustee, and with respect to
33 each member of the group or committee:

34 (A) name and address;

35 (B) the nature and amount of, and if directed
36 by the court, the amount paid for, each disclosable economic
37 interest held in relation to the debtor as of the date the entity
38 was employed, the group or committee was formed, or the
39 indenture trustee appeared in the case; and

40 (C) the date when each disclosable economic
41 interest was acquired, unless acquired more than one year
42 before the petition was filed;

43 (3) if not disclosed under subdivision (c)(1) or
44 (c)(2), with respect to each creditor or equity security holder
45 represented by the entity, group, or committee, other than a
46 committee appointed pursuant to §§ 1102 or 1114 of the
47 Code, or by the indenture trustee:

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48 (A) name and address;

49 (B) the nature and amount of, and if directed
50 by the court, the amount paid for, each disclosable economic
51 interest held in relation to the debtor as of the date of the
52 statement; and

53 (C) the date each disclosable economic
54 interest was acquired, unless acquired more than one year
55 before the petition was filed; and

56 (4) a copy of the instrument, if any, authorizing the
57 entity, group, committee, or indenture trustee to act on behalf
58 of creditors or equity security holders.

59 (d) SUPPLEMENTAL STATEMENTS. A
60 supplemental verified statement shall be filed monthly, or as
61 the court otherwise orders, setting forth any material change
62 in facts contained in a statement previously filed under this
63 rule, including information about any acquisition, sale, or
64 other disposition of a disclosable economic interest by the

65 entity, members of the group or committee, or the indenture
66 trustee.

67 (e) DETERMINATION OF FAILURE TO COMPLY;
68 SANCTIONS

69 (1) On motion of any party in interest, or on its
70 own motion, the court may determine:

71 (A) whether there has been any failure to
72 comply with the provisions of this rule;

73 (B) whether there has been any failure to
74 comply with any other applicable law regulating the activities
75 and personnel of any entity, group, committee, or indenture
76 trustee; or

77 (C) whether there has been any impropriety
78 in connection with any solicitation.

79 (2) In making a determination under subdivision

80 (e) (1), the court may examine:

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81 (A) any representation provision of a deposit
82 agreement, proxy, trust mortgage, trust indenture, deed of
83 trust, or authorization to act as a representative; and

84 (B) any disclosable economic interest
85 acquired by any entity, group, committee, or indenture trustee
86 in contemplation of or in the course of a case.

87 (3) If, under subdivision (e)(1), the court
88 determines that a failure to comply or an impropriety has
89 occurred, it may:

90 (A) refuse to permit the entity, group,
91 committee, or indenture trustee to be heard or to intervene in
92 the case;

93 (B) hold invalid any authority, acceptance,
94 rejection, or objection given, procured, or received by the
95 entity, group, committee, or indenture trustee; or

96 (C) grant other appropriate relief.

COMMITTEE NOTE

The rule is substantially amended to expand the scope of its coverage and the content of its disclosure requirements. Stylistic and organizational changes are also made in order to provide greater clarity. Because the rule no longer applies only to representatives of creditors and equity security holders, the title of the rule has been changed to reflect its broadened focus on disclosure of financial information in chapter 9 and chapter 11 cases.

The content of subdivision (a) is new. It sets forth a definition of the term “disclosable economic interest,” which is used in subdivisions (c)(2), (c)(3), (d), and (e). The definition of the term is intended to be sufficiently broad to cover any economic interest that could affect the legal and strategic positions a stakeholder takes in a chapter 9 or chapter 11 case. A disclosable economic interest extends beyond claims and interests owned by a stakeholder.

Subdivision (b) specifies who is covered by the rule’s disclosure requirements. In addition to an entity or committee that represents more than one creditor or equity security holder, the amendment extends the rule’s coverage to committees that consist of more than one creditor or equity security holder. It also applies to a group of creditors or equity security holders that act in concert to advance common interests, even if the group does not call itself a committee. The rule continues to apply to indenture trustees, unless the court directs otherwise.

As amended, the rule authorizes a court, on motion of a party in interest or *sua sponte*, to require disclosure of some or all of the information specified in subdivision (c)(2) by any other entity that seeks or opposes the granting of relief. Although the rule does not automatically require disclosure by parties that act individually and on their own behalf, it allows for such disclosure when a court

believes that knowledge of the party's economic stake in the debtor will assist it in evaluating that party's arguments.

Subdivision (c) sets forth the information that must be included in a verified statement required to be filed under this rule. Subdivision (c)(1) continues to require disclosure concerning the employment of an entity or indenture trustee and the formation of a committee or group, other than an official committee.

Subdivision (c)(2) specifies information that must be disclosed with respect to the entity, indenture trustee, and each member of the committee and group filing the statement. In the case of a committee or group, the information about the nature and amount of a disclosable economic interest must be specifically provided on a member-by-member basis, and not in the aggregate. The date of acquisition of each disclosable economic interest must also be specifically provided, except for a disclosable economic interest acquired more than a year before the filing of the petition. The amendment leaves to the court's discretion whether to require the disclosure of the amount paid for each disclosable economic interest.

Subdivision (c)(3) specifies information that must be disclosed with respect to creditors or equity security holders that are represented by an entity, group, committee, or indenture trustee. This provision does not apply with respect to those represented by official committees. The information required to be disclosed under subdivision (c)(3) parallels that required to be disclosed under (c)(2). The amendment also clarifies that under (c)(3) the nature and amount of each disclosable economic interest of represented creditors and shareholders must be stated as of the date of the verified statement.

Subdivision (c)(4) requires the attachment of any instrument authorizing the filer of the verified statement to act on behalf of creditors or equity security holders.

Subdivision (d) requires the monthly filing of a supplemental statement if there are material changes in facts contained in an earlier filed verified statement. The required supplementation is not cumulative; changes already disclosed need not be repeated. Supplemental statements may be filed on a different schedule if the court directs.

Subdivision (e) addresses the court’s authority to determine whether there has been a violation of this rule, any solicitation requirement, or other applicable law, and to impose a sanction for any violation. It also specifies some of the information the court may examine in making its determination. The sanction set forth in subparagraph (3)(B) may now be imposed not only for a failure to comply with this rule or § 1125(b) of the Code, but also for a violation of other applicable law.

Rule 3001. Proof of Claim

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(c) SUPPORTING INFORMATION.

(1) Claim Based on a Writing. When a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim. When a claim is based on an open-

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9 end or revolving consumer credit agreement, the last account
10 statement sent to the debtor prior to the filing of the petition
11 shall also be filed with the proof of claim.

12 (2) Additional Requirements in an Individual
13 Debtor Case; Sanctions for Failure to Comply. In a case in
14 which the debtor is an individual:

15 (A) If, in addition to its principal amount, a
16 claim includes interest, fees, expenses, or other charges
17 incurred before the petition was filed, an itemized statement
18 of the interest, fees, expenses, or charges shall be filed with
19 the proof of claim.

20 (B) If a security interest is claimed in
21 property of the debtor, the proof of claim shall include a
22 statement of the amount necessary to cure any default as of
23 the date of the petition.

24 (C) If a security interest is claimed in property
25 that is the debtor's principal residence and an escrow account

26 has been established in connection with the claim, the proof of
27 claim shall be accompanied by an escrow account statement
28 prepared as of the date the petition was filed and in a form
29 consistent with applicable nonbankruptcy law.

30 (D) If the holder of a claim fails to provide
31 any information required by this subdivision (c), the holder
32 shall be precluded from presenting the omitted information,
33 in any form, as evidence in any hearing or submission in any
34 contested matter or adversary proceeding in the case, unless
35 the court determines that the failure was substantially justified
36 or is harmless. In addition to or in lieu of this sanction, the
37 court may, after notice and hearing, award other appropriate
38 relief, including reasonable expenses and attorney's fees
39 caused by the failure.

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COMMITTEE NOTE

Subdivision (c) is amended to prescribe with greater specificity the supporting information required to accompany certain proofs of claim and, in cases in which the debtor is an individual, the consequences of failing to provide the required information.

Existing subdivision (c) is redesignated as (c)(1). It is amended to require that a proof of claim based on an open-end or revolving consumer credit agreement (such as an agreement underlying the issuance of a credit card) be accompanied by the last account statement sent to the debtor prior to the filing of the bankruptcy petition. This requirement applies whether the statement was sent by the entity filing the proof of claim or by a prior holder of the claim.

Subdivision (c)(2) is added to require additional information to accompany proofs of claim filed in cases in which the debtor is an individual. When the holder of a claim seeks to recover – in addition to the principal amount of a debt – interest, fees, expenses, or other charges, the proof of claim must be accompanied by a statement itemizing these additional amounts with sufficient specificity to make clear the basis for the claimed amount.

If a claim is secured by property of the debtor and the debtor defaulted on the claim prior to the filing of the petition, the proof of claim must be accompanied by a statement of the amount required to cure the prepetition default. If the claim is secured by the debtor's principal residence and an escrow account has been established in connection with the claim, the proof of claim must also be accompanied by an escrow account statement showing the account balance, and any amount owed, as of the date the petition was filed. The statement shall be prepared in a form consistent with the

requirements of nonbankruptcy law. *See, e.g.*, 12 U.S.C. § 2601 *et seq.* (Real Estate Settlement Procedure Act).

Paragraph (D) of subdivision (c)(2) sets forth the sanctions that apply to, or that may be imposed by the court against, a creditor in an individual debtor case that fails to provide information required by subdivision (c).

Rule 3002.1 Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence

1 (a) NOTICE OF PAYMENT CHANGES. In a chapter
2 13 case, if a claim secured by a security interest in the
3 debtor's principal residence is provided for under the debtor's
4 plan pursuant to § 1322(b)(5) of the Code, the holder of the
5 claim shall file and serve on the debtor, debtor's counsel, and
6 the trustee notice of any change in the payment amount,
7 including any change that results from an interest rate or
8 escrow account adjustment, no later than 30 days before a
9 payment at a new amount is due.

10 (b) FORM AND CONTENT. A notice filed and served
11 pursuant to subdivision (a) of this rule shall: (1) conform

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12 substantially to the form of notice under applicable
13 nonbankruptcy law and the underlying agreement that would
14 be given if the debtor were not a debtor in bankruptcy, (2) be
15 filed as a supplement to the holder's proof of claim, and (3)
16 not be subject to Rule 3001(f).

17 (c) NOTICE OF FEES, EXPENSES, AND CHARGES.

18 In a chapter 13 case, if a claim secured by a security interest
19 in the debtor's principal residence is provided for under the
20 debtor's plan pursuant to § 1322(b)(5) of the Code, the holder
21 of the claim shall file and serve on the debtor, debtor's
22 counsel, and the trustee a notice that itemizes all fees,
23 expenses, or charges incurred in connection with the claim
24 after the bankruptcy case was filed, and that the holder asserts
25 are recoverable against the debtor or against the debtor's
26 principal residence. The notice shall be filed as a supplement
27 to the holder's proof of claim and served no later than 180
28 days after the date when the fees, expenses, or charges are

29 incurred. The notice shall not be subject to Rule 3001(f). On
30 motion of the debtor or trustee filed no later than one year
31 after service of the notice, the court shall, after notice and
32 hearing, determine whether payment of the fees, expenses, or
33 charges is required by the underlying agreement and
34 applicable nonbankruptcy law to cure a default or maintain
35 payments in accordance with § 1322(b)(5) of the Code.

36 (d) NOTICE OF FINAL CURE PAYMENT. No later
37 than 30 days after making final payment of any cure amount
38 on a claim secured by a security interest in the debtor's
39 principal residence, the trustee in a chapter 13 case shall file
40 and serve upon the holder of the claim, the debtor, and
41 debtor's counsel a notice stating that the amount required to
42 cure the default has been paid in full. If the debtor contends
43 that final cure payment has been made and the trustee does
44 not timely file and serve the notice required by this
45 subdivision, the debtor may file and serve upon the holder of

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46 the claim and the trustee a notice stating that the amount
47 required to cure the default has been paid in full.

48 (e) RESPONSE TO NOTICE OF FINAL CURE
49 PAYMENT. No later than 21 days after service of the notice
50 under subdivision (d) of this rule, the holder of a claim
51 secured by a security interest in the debtor's principal
52 residence shall file and serve on the debtor, debtor's counsel,
53 and the trustee a statement indicating (1) whether it agrees
54 that the debtor has paid in full the amount required to cure the
55 default, and (2) whether, consistent with § 1322(b)(5) of the
56 Code, the debtor is otherwise current on all payments. If
57 applicable, the statement shall itemize any required cure or
58 postpetition amounts that the holder contends remain unpaid
59 as of the date of the statement. The statement shall be filed
60 as a supplement to the holder's proof of claim and shall not
61 be subject to Rule 3001(f).

62 (f) MOTION AND HEARING. On motion of the
63 debtor or trustee filed no later than 21 days after service of
64 the statement under subdivision (e) of this rule, the court
65 shall, after notice and hearing, determine whether the debtor
66 has cured the default and paid all required postpetition
67 amounts in full.

68 (g) FAILURE TO NOTIFY. If the holder of a claim
69 secured by a security interest in the debtor's principal
70 residence fails to provide any information required by
71 subdivision (a), (c), or (e) of this rule, the holder shall be
72 precluded from presenting the omitted information, in any
73 form, as evidence in any hearing or submission in any
74 contested matter or adversary proceeding in the case, unless
75 the court determines that the failure was substantially justified
76 or is harmless. In addition to or in lieu of this sanction, the
77 court may, after notice and hearing, award other appropriate

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- 78 relief, including reasonable expenses and attorney's fees
79 caused by the failure.

COMMITTEE NOTE

This rule is new. It is added to aid in the implementation of § 1322(b)(5), which permits a chapter 13 debtor to cure a default and maintain payments of a home mortgage over the course of the debtor's plan.

In order to be able to fulfill the obligations of § 1322(b)(5), a debtor and the trustee must be informed of the exact amount needed to cure any prepetition arrearage, *see* Rule 3001(c)(2), and the amount of the postpetition payment obligations. If the latter amount changes over time, due to the adjustment of the interest rate, escrow account adjustments, or the assessment of fees, expenses, or other charges, notice of any change in payment amount needs to be conveyed to the debtor and trustee. Timely notice of these changes will permit the debtor or trustee to challenge the validity of any such charges, if necessary, and to adjust postpetition mortgage payments to cover any properly claimed adjustment. Compliance with the notice provision of the rule should also eliminate any concern on the part of the holder of the claim that informing a debtor of a change in postpetition payment obligations might violate the automatic stay.

Subdivision (a) requires the holder of a claim secured by the debtor's principal residence to notify the debtor, debtor's counsel, and the trustee of any postpetition change in the mortgage payment amount. Notice must be provided at least 30 days before the new payment amount is due.

Subdivision (b) provides the method of giving the notice of a payment change. The holder of the claim must give notice of the change in substantially the same form that would be used according to the underlying agreement and nonbankruptcy law if the debtor were not a debtor in bankruptcy. In addition to serving the debtor, debtor's counsel, and the trustee, as required by subdivision (a), the holder of the claim must also file the notice of payment change on the claims register in the case as a supplement to its proof of claim. Rule 3001(f) does not apply to this notice, and therefore it will not constitute prima facie evidence of the validity and amount of the payment change.

Subdivision (c) requires an itemized notice to be given, within 180 of incurrence, of any postpetition fees, expenses, or charges that the holder of the claim asserts are recoverable in connection with a claim secured by the debtor's principal residence. This amount might include, for example, inspection fees, late charges, or attorney's fees. Filing and service requirements for this notice are the same as for the notice required under subdivision (a).

Within a year after service of a notice under subdivision (c), the debtor or trustee may move for a court determination of whether the fees, expenses, or charges set forth in the notice are required by the underlying agreement or applicable nonbankruptcy law to cure a default or maintain payments.

Subdivision (d) requires the trustee to issue notice within 30 days after making the last payment to cure a prepetition default on a claim secured by the debtor's principal residence. If the trustee fails to file this notice within the required time, this subdivision also permits a debtor who contends that the prepetition default has been cured to file and serve the notice.

Subdivision (e) governs the response of the holder of the claim to the trustee's or debtor's notice under subdivision (d). Within 21 days after service of notice of the final cure payment, the holder of the claim must file and serve a statement indicating whether the prepetition default has been fully cured and also whether the debtor is current on all payments in accordance with § 1322(b)(5) of the Code. If the holder of the claim contends that final cure payment has not been made or that the debtor is not current on other payments required by § 1325(b)(5), the response must itemize all missed amounts the holder contends are still due.

Subdivision (f) provides the procedure for the judicial resolution of any disputes that may arise about payment of a claim secured by the debtor's principal residence. The trustee or debtor may move no later than 21 days after the service of the statement under (e) for a determination by the court of whether the prepetition default has been cured and whether all postpetition obligations have been fully paid.

Subdivision (g) specifies sanctions that may be imposed if the holder of a claim secured by the debtor's principal residence fails to provide any of the information required by subdivisions (a), (c), or (e).

If, after the chapter 13 debtor has completed payments under the plan and the case has been closed, the holder of a claim secured by the debtor's principal residence seeks to recover amounts that should have been but were not disclosed under this rule, the debtor may move to have the case reopened in order to seek sanctions against the holder of the claim under subdivision (g).

Rule 4004. Grant or Denial of Discharge

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(b) EXTENSION OF TIME.

(1) On motion of any party in interest, after notice and hearing on notice, the court may for cause extend the time to file a complaint objecting to discharge. Except as provided in subdivision (b)(2), the motion shall be filed before the time has expired.

(2) A motion to extend the time to object to discharge may be filed after the time for objection has expired and before discharge is granted if the objection is based on facts that, if learned after the discharge, would provide a basis for revocation under § 727(d) of the Code, provided that the movant did not have knowledge of those facts in time to permit a timely filed objection. The motion shall be filed

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15 promptly after the movant discovers the facts on which the
16 objection is based.

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COMMITTEE NOTE

Subdivision (b) is amended to allow, under certain specified circumstances, a party to seek an extension of time to object to discharge after the time for filing has expired. This amendment addresses the situation in which there is a gap between the expiration of the time for objecting to discharge and the entry of the discharge order. If, during that period, a party discovers facts that would provide grounds for revocation of discharge, it may not be able to seek revocation under § 727(d) of the Code because the facts would have been known prior to the granting of the discharge. In that situation, subdivision (b)(2) allows a party to file a motion for an extension of time to object to discharge based on those facts so long as they were not known to the party before expiration of the deadline for objecting. The motion must be filed promptly after discovery of those facts.

**Official Form 22A. Chapter 7 Statement of Current Monthly
Income and Means-Test Calculation**

The form is amended in several respects:

- (1) On lines 19A, 19B, 20A, and 20B, references to “household” and “household size” are replaced with “numbers of persons” or “family size”;
- (2) An instruction is added to line 8 to clarify that only one joint filer should report regular payments by another person for household expenses;
- (3) The introductory instruction to Part I is amended to direct debtors in joint cases to file separate forms if only one of the debtors is entitled to an exemption under Part I and the debtors believe that the filing of separate forms is required by § 707(b)(2)(C) of the Bankruptcy Code.

**Official Form 22B. Chapter 11 Statement of Current Monthly
Income**

The form is amended to add an instruction to line 7 to clarify that only one joint filer should report regular payments by another person for household expenses.

**Official Form 22C. Chapter 13 Statement of Current Monthly
Income and Calculation of Commitment Period and Disposable
Income**

The form is amended (1) on lines 24A, 24B, 25A, and 25B to replace references to “household” and “household size” with “numbers of persons” or “family size”; and (2) to add an instruction to line 7 to clarify that only one joint filer should report regular payments by another person for household expenses.

Excerpts of the forms, with amendments indicated by highlighting, follow.

In re _____
Debtor(s)

Case Number: _____
(If known)

According to the information required to be entered on this statement (check one box as directed in Part I, III, or VI of this statement):

- The presumption arises.
- The presumption does not arise.
- The presumption is temporarily inapplicable.

CHAPTER 7 STATEMENT OF CURRENT MONTHLY INCOME AND MEANS-TEST CALCULATION

In addition to Schedules I and J, this statement must be completed by every individual chapter 7 debtor. If none of the exclusions in Part I applies, joint debtors may complete one statement only. If any of the exclusions in Part I applies, joint debtors should complete separate statements if they believe this is required by § 707(b)(2)(C).

Part I. MILITARY AND NON-CONSUMER DEBTORS

1A	<p>Disabled Veterans. If you are a disabled veteran described in the Declaration in this Part IA, (1) check the box at the beginning of the Declaration, (2) check the box for “The presumption does not arise” at the top of this statement, and (3) complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.</p> <p><input type="checkbox"/> Declaration of Disabled Veteran. By checking this box, I declare under penalty of perjury that I am a disabled veteran (as defined in 38 U.S.C. § 3741(1)) whose indebtedness occurred primarily during a period in which I was on active duty (as defined in 10 U.S.C. § 101(d)(1)) or while I was performing a homeland defense activity (as defined in 32 U.S.C. §901(1)).</p>
1B	<p>Non-consumer Debtors. If your debts are not primarily consumer debts, check the box below and complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.</p> <p><input type="checkbox"/> Declaration of non-consumer debts. By checking this box, I declare that my debts are not primarily consumer debts.</p>
1C	<p>Reservists and National Guard Members; active duty or homeland defense activity. Members of a reserve component of the Armed Forces and members of the National Guard who were called to active duty (as defined in 10 U.S.C. § 101(d)(1)) after September 11, 2001, for a period of at least 90 days, or who have performed homeland defense activity (as defined in 32 U.S.C. § 901(1)) for a period of at least 90 days, are excluded from all forms of means testing during the time of active duty or homeland defense activity and for 540 days thereafter (the “exclusion period”). If you qualify for this temporary exclusion, (1) check the appropriate boxes and complete any required information in the Declaration of Reservists and National Guard Members below, (2) check the box for “The presumption is temporarily inapplicable” at the top of this statement, and (3) complete the verification in Part VIII. During your exclusion period you are not required to complete the balance of this form, but you must complete the form no later than 14 days after the date on which your exclusion period ends, unless the time for filing a motion raising the means test presumption expires in your case before your exclusion period ends.</p> <p><input type="checkbox"/> Declaration of Reservists and National Guard Members. By checking this box and making the appropriate entries below, I declare that I am eligible for a temporary exclusion from means testing because, as a member of a reserve component of the Armed Forces or the National Guard</p> <p style="margin-left: 40px;">a. <input type="checkbox"/> I was called to active duty after September 11, 2001, for a period of at least 90 days and <input type="checkbox"/> I remain on active duty /or/ <input type="checkbox"/> I was released from active duty on _____, which is less than 540 days before this bankruptcy case was filed;</p> <p style="text-align: center; margin-left: 40px;">OR</p> <p style="margin-left: 40px;">b. <input type="checkbox"/> I am performing homeland defense activity for a period of at least 90 days /or/ <input type="checkbox"/> I performed homeland defense activity for a period of at least 90 days, terminating on _____, which is less than 540 days before this bankruptcy case was filed.</p>

Part II. CALCULATION OF MONTHLY INCOME FOR § 707(b)(7) EXCLUSION														
2	<p>Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed.</p> <p>a. <input type="checkbox"/> Unmarried. Complete only Column A (“Debtor’s Income”) for Lines 3-11.</p> <p>b. <input type="checkbox"/> Married, not filing jointly, with declaration of separate households. By checking this box, debtor declares under penalty of perjury: “My spouse and I are legally separated under applicable non-bankruptcy law or my spouse and I are living apart other than for the purpose of evading the requirements of § 707(b)(2)(A) of the Bankruptcy Code.” Complete only Column A (“Debtor’s Income”) for Lines 3-11.</p> <p>c. <input type="checkbox"/> Married, not filing jointly, without the declaration of separate households set out in Line 2.b above. Complete both Column A (“Debtor’s Income”) and Column B (“Spouse’s Income”) for Lines 3-11.</p> <p>d. <input type="checkbox"/> Married, filing jointly. Complete both Column A (“Debtor’s Income”) and Column B (“Spouse’s Income”) for Lines 3-11.</p>			Column A	Column B									
	<p>All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.</p>			Debtor’s Income	Spouse’s Income									
3	Gross wages, salary, tips, bonuses, overtime, commissions.			\$	\$									
4	<p>Income from the operation of a business, profession or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. If you operate more than one business, profession or farm, enter aggregate numbers and provide details on an attachment. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part V.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 5%; text-align: center;">a.</td> <td style="width: 75%;">Gross receipts</td> <td style="width: 20%; text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td>Ordinary and necessary business expenses</td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td>Business income</td> <td style="text-align: right;">Subtract Line b from Line a</td> </tr> </table>			a.	Gross receipts	\$	b.	Ordinary and necessary business expenses	\$	c.	Business income	Subtract Line b from Line a	\$	\$
a.	Gross receipts	\$												
b.	Ordinary and necessary business expenses	\$												
c.	Business income	Subtract Line b from Line a												
5	<p>Rent and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 5. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part V.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 5%; text-align: center;">a.</td> <td style="width: 75%;">Gross receipts</td> <td style="width: 20%; text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td>Ordinary and necessary operating expenses</td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td>Rent and other real property income</td> <td style="text-align: right;">Subtract Line b from Line a</td> </tr> </table>			a.	Gross receipts	\$	b.	Ordinary and necessary operating expenses	\$	c.	Rent and other real property income	Subtract Line b from Line a	\$	\$
a.	Gross receipts	\$												
b.	Ordinary and necessary operating expenses	\$												
c.	Rent and other real property income	Subtract Line b from Line a												
6	Interest, dividends and royalties.			\$	\$									
7	Pension and retirement income.			\$	\$									
8	<p>Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor’s dependents, including child support paid for that purpose. Do not include alimony or separate maintenance payments or amounts paid by your spouse if Column B is completed. Each regular payment should be reported in only one column; if a payment is listed in Column A, do not report that payment in Column B.</p>			\$	\$									
9	<p>Unemployment compensation. Enter the amount in the appropriate column(s) of Line 9. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 40%;">Unemployment compensation claimed to be a benefit under the Social Security Act</td> <td style="width: 30%;">Debtor \$ _____</td> <td style="width: 30%;">Spouse \$ _____</td> </tr> </table>			Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____	Spouse \$ _____	\$	\$						
Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____	Spouse \$ _____												

19A	<p>National Standards: food, clothing and other items. Enter in Line 19A the “Total” amount from IRS National Standards for Food, Clothing and Other Items for the applicable number of persons. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) The applicable number of persons is the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.</p>	\$																								
19B	<p>National Standards: health care. Enter in Line a1 below the amount from IRS National Standards for Out-of-Pocket Health Care for persons under 65 years of age, and in Line a2 the IRS National Standards for Out-of-Pocket Health Care for persons 65 years of age or older. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) Enter in Line b1 the applicable number of persons who are under 65 years of age, and enter in Line b2 the applicable number of persons who are 65 years of age or older. (The applicable number of persons in each age category is the number in that category that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.) Multiply Line a1 by Line b1 to obtain a total amount for persons under 65, and enter the result in Line c1. Multiply Line a2 by Line b2 to obtain a total amount for persons 65 and older, and enter the result in Line c2. Add Lines c1 and c2 to obtain a total health care amount, and enter the result in Line 19B.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th colspan="3" style="text-align: left; padding: 2px;">Persons under 65 years of age</th> <th colspan="3" style="text-align: left; padding: 2px;">Persons 65 years of age or older</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; padding: 2px;">a1.</td> <td style="width: 40%; padding: 2px;">Allowance per person</td> <td style="width: 15%;"></td> <td style="width: 5%; padding: 2px;">a2.</td> <td style="width: 40%; padding: 2px;">Allowance per person</td> <td style="width: 15%;"></td> </tr> <tr> <td style="padding: 2px;">b1.</td> <td style="padding: 2px;">Number of persons</td> <td></td> <td style="padding: 2px;">b2.</td> <td style="padding: 2px;">Number of persons</td> <td></td> </tr> <tr> <td style="padding: 2px;">c1.</td> <td style="padding: 2px;">Subtotal</td> <td></td> <td style="padding: 2px;">c2.</td> <td style="padding: 2px;">Subtotal</td> <td></td> </tr> </tbody> </table>	Persons under 65 years of age			Persons 65 years of age or older			a1.	Allowance per person		a2.	Allowance per person		b1.	Number of persons		b2.	Number of persons		c1.	Subtotal		c2.	Subtotal		\$
Persons under 65 years of age			Persons 65 years of age or older																							
a1.	Allowance per person		a2.	Allowance per person																						
b1.	Number of persons		b2.	Number of persons																						
c1.	Subtotal		c2.	Subtotal																						
20A	<p>Local Standards: housing and utilities; non-mortgage expenses. Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) The applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.</p>	\$																								
20B	<p>Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court) (the applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 42; subtract Line b from Line a and enter the result in Line 20B. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tbody> <tr> <td style="width: 5%; padding: 2px;">a.</td> <td style="width: 60%; padding: 2px;">IRS Housing and Utilities Standards; mortgage/rental expense</td> <td style="width: 35%; padding: 2px;">\$</td> </tr> <tr> <td style="padding: 2px;">b.</td> <td style="padding: 2px;">Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42</td> <td style="padding: 2px;">\$</td> </tr> <tr> <td style="padding: 2px;">c.</td> <td style="padding: 2px;">Net mortgage/rental expense</td> <td style="padding: 2px;">Subtract Line b from Line a.</td> </tr> </tbody> </table>	a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	c.	Net mortgage/rental expense	Subtract Line b from Line a.	\$															
a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$																								
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$																								
c.	Net mortgage/rental expense	Subtract Line b from Line a.																								
21	<p>Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 20A and 20B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:</p> <p>_____</p> <p>_____</p> <p>_____</p>	\$																								

Official Form 22B (Chapter 11) (12/08)

In re _____
Debtor(s)

Case Number: _____
(If known)

CHAPTER 11 STATEMENT OF CURRENT MONTHLY INCOME

In addition to Schedules I and J, this statement must be completed by every individual Chapter 11 debtor, whether or not filing jointly. Joint debtors may complete one statement only.

Part I. CALCULATION OF CURRENT MONTHLY INCOME														
1	<p>Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed.</p> <p>a. <input type="checkbox"/> Unmarried. Complete only Column A ("Debtor's Income") for Lines 2-10.</p> <p>b. <input type="checkbox"/> Married, not filing jointly. Complete only Column A ("Debtor's Income") for Lines 2-10.</p> <p>c. <input type="checkbox"/> Married, filing jointly. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 2-10.</p>													
<p>All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.</p>			Column A Debtor's Income	Column B Spouse's Income										
2	Gross wages, salary, tips, bonuses, overtime, commissions.			\$	\$									
3	<p>Net income from the operation of a business, profession, or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 3. Do not enter a number less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 30px;">a.</td> <td style="width: 40%;">Gross receipts</td> <td style="width: 30%;">\$</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary business expenses</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Business income</td> <td>Subtract Line b from Line a</td> </tr> </table>			a.	Gross receipts	\$	b.	Ordinary and necessary business expenses	\$	c.	Business income	Subtract Line b from Line a	\$	\$
a.	Gross receipts	\$												
b.	Ordinary and necessary business expenses	\$												
c.	Business income	Subtract Line b from Line a												
4	<p>Net rental and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 30px;">a.</td> <td style="width: 40%;">Gross receipts</td> <td style="width: 30%;">\$</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary operating expenses</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Rent and other real property income</td> <td>Subtract Line b from Line a</td> </tr> </table>			a.	Gross receipts	\$	b.	Ordinary and necessary operating expenses	\$	c.	Rent and other real property income	Subtract Line b from Line a	\$	\$
a.	Gross receipts	\$												
b.	Ordinary and necessary operating expenses	\$												
c.	Rent and other real property income	Subtract Line b from Line a												
5	Interest, dividends, and royalties.			\$	\$									
6	Pension and retirement income.			\$	\$									
7	<p>Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child or spousal support. Do not include contributions from the debtor's spouse if Column B is completed. Each regular payment should be reported in only one column; if a payment is listed in Column A, do not report that payment in Column B.</p>			\$	\$									
8	<p>Unemployment compensation. Enter the amount in the appropriate column(s) of Line 8. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 40%;">Unemployment compensation claimed to be a benefit under the Social Security Act</td> <td style="width: 30%;">Debtor \$ _____</td> <td style="width: 30%;">Spouse \$ _____</td> </tr> </table>			Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____	Spouse \$ _____	\$	\$						
Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ _____	Spouse \$ _____												
9	<p>Income from all other sources. If necessary, list additional sources on a separate page. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism. Specify source and amount.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 30px;">a.</td> <td style="width: 40%;"></td> <td style="width: 30%;">\$</td> </tr> <tr> <td>b.</td> <td></td> <td>\$</td> </tr> </table> <p>Total and enter on Line 9</p>			a.		\$	b.		\$	\$	\$			
a.		\$												
b.		\$												
10	Subtotal of current monthly income. Add Lines 2 thru 9 in Column A, and, if Column B is completed, add Lines 2 through 9 in Column B. Enter the total(s).			\$	\$									

In re _____
Debtor(s)

Case Number: _____
(If known)

According to the calculations required by this statement:

The applicable commitment period is 3 years.

The applicable commitment period is 5 years.

Disposable income is determined under § 1325(b)(3).

Disposable income is not determined under § 1325(b)(3).

(Check the boxes as directed in Lines 17 and 23 of this statement.)

CHAPTER 13 STATEMENT OF CURRENT MONTHLY INCOME AND CALCULATION OF COMMITMENT PERIOD AND DISPOSABLE INCOME

In addition to Schedules I and J, this statement must be completed by every individual chapter 13 debtor, whether or not filing jointly. Joint debtors may complete one statement only.

Part I. REPORT OF INCOME					
1	Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed. a. <input type="checkbox"/> Unmarried. Complete only Column A (“Debtor’s Income”) for Lines 2-10. b. <input type="checkbox"/> Married. Complete both Column A (“Debtor’s Income”) and Column B (“Spouse’s Income”) for Lines 2-10.				
	All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.			Column A Debtor’s Income	Column B Spouse’s Income
2	Gross wages, salary, tips, bonuses, overtime, commissions.			\$	\$
3	Income from the operation of a business, profession, or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 3. If you operate more than one business, profession or farm, enter aggregate numbers and provide details on an attachment. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part IV.				
	a.	Gross receipts	\$		
	b.	Ordinary and necessary business expenses	\$		
	c.	Business income	Subtract Line b from Line a	\$	\$
4	Rent and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part IV.				
	a.	Gross receipts	\$		
	b.	Ordinary and necessary operating expenses	\$		
	c.	Rent and other real property income	Subtract Line b from Line a	\$	\$
5	Interest, dividends, and royalties.			\$	\$
6	Pension and retirement income.			\$	\$
7	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor’s dependents, including child support paid for that purpose. Do not include alimony or separate maintenance payments or amounts paid by the debtor’s spouse. Each regular payment should be reported in only one column; if a payment is listed in Column A, do not report that payment in Column B.			\$	\$

19	<p>Marital adjustment. If you are married, but are not filing jointly with your spouse, enter on Line 19 the total of any income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor’s dependents. Specify in the lines below the basis for excluding the Column B income (such as payment of the spouse’s tax liability or the spouse’s support of persons other than the debtor or the debtor’s dependents) and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page. If the conditions for entering this adjustment do not apply, enter zero.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width:10%; padding: 2px;">a.</td> <td style="width:60%;"></td> <td style="width:10%; text-align:right;">\$</td> </tr> <tr> <td style="padding: 2px;">b.</td> <td></td> <td style="text-align:right;">\$</td> </tr> <tr> <td style="padding: 2px;">c.</td> <td></td> <td style="text-align:right;">\$</td> </tr> </table> <p>Total and enter on Line 19.</p>	a.		\$	b.		\$	c.		\$	\$															
a.		\$																								
b.		\$																								
c.		\$																								
20	<p>Current monthly income for § 1325(b)(3). Subtract Line 19 from Line 18 and enter the result.</p>																									
21	<p>Annualized current monthly income for § 1325(b)(3). Multiply the amount from Line 20 by the number 12 and enter the result.</p>	\$																								
22	<p>Applicable median family income. Enter the amount from Line 16.</p>	\$																								
23	<p>Application of § 1325(b)(3). Check the applicable box and proceed as directed.</p> <p><input type="checkbox"/> The amount on Line 21 is more than the amount on Line 22. Check the box for “Disposable income is determined under § 1325(b)(3)” at the top of page 1 of this statement and complete the remaining parts of this statement.</p> <p><input type="checkbox"/> The amount on Line 21 is not more than the amount on Line 22. Check the box for “Disposable income is not determined under § 1325(b)(3)” at the top of page 1 of this statement and complete Part VII of this statement. Do not complete Parts IV, V, or VI.</p>																									
<p>Part IV. CALCULATION OF DEDUCTIONS FROM INCOME</p>																										
<p>Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)</p>																										
24A	<p>National Standards: food, apparel and services, housekeeping supplies, personal care, and miscellaneous. Enter in Line 24A the “Total” amount from IRS National Standards for Allowable Living Expenses for the applicable number of persons. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) The applicable number of persons is the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.</p>	\$																								
24B	<p>National Standards: health care. Enter in Line a1 below the amount from IRS National Standards for Out-of-Pocket Health Care for persons under 65 years of age, and in Line a2 the IRS National Standards for Out-of-Pocket Health Care for persons 65 years of age or older. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) Enter in Line b1 the applicable number of persons who are under 65 years of age, and enter in Line b2 the applicable number of persons who are 65 years of age or older. (The applicable number of persons in each age category is the number in that category that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.) Multiply Line a1 by Line b1 to obtain a total amount for persons under 65, and enter the result in Line c1. Multiply Line a2 by Line b2 to obtain a total amount for persons 65 and older, and enter the result in Line c2. Add Lines c1 and c2 to obtain a total health care amount, and enter the result in Line 24B.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th colspan="3" style="text-align:left; padding: 2px;">Persons under 65 years of age</th> <th colspan="3" style="text-align:left; padding: 2px;">Persons 65 years of age or older</th> </tr> </thead> <tbody> <tr> <td style="width:5%; padding: 2px;">a1.</td> <td style="width:60%; padding: 2px;">Allowance per person</td> <td style="width:10%;"></td> <td style="width:5%; padding: 2px;">a2.</td> <td style="width:60%; padding: 2px;">Allowance per person</td> <td style="width:10%;"></td> </tr> <tr> <td style="padding: 2px;">b1.</td> <td style="padding: 2px;">Number of persons</td> <td></td> <td style="padding: 2px;">b2.</td> <td style="padding: 2px;">Number of persons</td> <td></td> </tr> <tr> <td style="padding: 2px;">c1.</td> <td style="padding: 2px;">Subtotal</td> <td></td> <td style="padding: 2px;">c2.</td> <td style="padding: 2px;">Subtotal</td> <td></td> </tr> </tbody> </table>	Persons under 65 years of age			Persons 65 years of age or older			a1.	Allowance per person		a2.	Allowance per person		b1.	Number of persons		b2.	Number of persons		c1.	Subtotal		c2.	Subtotal		\$
Persons under 65 years of age			Persons 65 years of age or older																							
a1.	Allowance per person		a2.	Allowance per person																						
b1.	Number of persons		b2.	Number of persons																						
c1.	Subtotal		c2.	Subtotal																						
25A	<p>Local Standards: housing and utilities; non-mortgage expenses. Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) The applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.</p>	\$																								

25B	<p>Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court) (the applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 47; subtract Line b from Line a and enter the result in Line 25B. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width:5%; text-align: center;">a.</td> <td style="width:65%;">IRS Housing and Utilities Standards; mortgage/rent expense</td> <td style="width:30%; text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47</td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td>Net mortgage/rental expense</td> <td style="text-align: right;">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Housing and Utilities Standards; mortgage/rent expense	\$	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47	\$	c.	Net mortgage/rental expense	Subtract Line b from Line a.	\$
a.	IRS Housing and Utilities Standards; mortgage/rent expense	\$									
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47	\$									
c.	Net mortgage/rental expense	Subtract Line b from Line a.									
26	<p>Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 25A and 25B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:</p> <hr style="border: 0.5px solid black; margin: 5px 0;"/> <hr style="border: 0.5px solid black; margin: 5px 0;"/> <hr style="border: 0.5px solid black; margin: 5px 0;"/>	\$									
27A	<p>Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation.</p> <p>Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 7. <input type="checkbox"/> 0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 or more.</p> <p>If you checked 0, enter on Line 27A the “Public Transportation” amount from IRS Local Standards: Transportation. If you checked 1 or 2 or more, enter on Line 27A the “Operating Costs” amount from IRS Local Standards: Transportation for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (These amounts are available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$									
27B	<p>Local Standards: transportation; additional public transportation expense. If you pay the operating expenses for a vehicle and also use public transportation, and you contend that you are entitled to an additional deduction for your public transportation expenses, enter on Line 27B the “Public Transportation” amount from IRS Local Standards: Transportation. (This amount is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$									
28	<p>Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.) <input type="checkbox"/> 1 <input type="checkbox"/> 2 or more.</p> <p>Enter, in Line a below, the “Ownership Costs” for “One Car” from the IRS Local Standards: Transportation (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 47; subtract Line b from Line a and enter the result in Line 28. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width:5%; text-align: center;">a.</td> <td style="width:65%;">IRS Transportation Standards, Ownership Costs</td> <td style="width:30%; text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47</td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td style="text-align: right;">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs	\$	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$									
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.									

COMMITTEE NOTE

Form 22A, lines 19A, 19B, 20A, and 20B, and Form 22C, lines 24A, 24B, 25A, and 25B, are amended to delete the terms “household” and “household size” and to replace them with “number of persons” or “family size.” Under § 707(b)(2)(A)(ii)(I) means test deductions for food, clothing, and other items and for health care are permitted to be taken in the amounts specified in the IRS National Standards. The IRS National Standards are based on numbers of persons, not household size. Similarly, the IRS Local Standards are based on family, not household, size. The IRS itself generally determines the applicable number of persons or family size for these purposes according to the number of dependents that the debtor claims for federal income tax purposes.

In order for Forms 22A and 22C to reflect more accurately the manner in which the specified National and Local Standards are applied by the IRS, the references to “household” and “household size” are deleted, and the substituted terms – “number of persons” and “family size” – are defined in terms of exemptions on the debtor’s federal income tax return and other dependents.

Form 22A, line 8, Form 22B, line 7, and Form 22C, line 7, are amended to add an instruction that only one joint filer should report regular payments by another person for household expenses. Reporting of the figure by both spouses results in an erroneous double-counting of this source of income.

The introductory instruction to Part I of Form 22A is amended to direct debtors in joint cases to file separate forms if only one of the debtors is entitled to an exemption under Part I and the debtors believe that the filing of separate forms is required by § 707(b)(2)(C) of the Code. The language of § 707(b) is ambiguous about how the exclusions from means testing authorized by § 707(b)(1) (for debtors whose debts are not primarily consumer debts) and (b)(2)(D) (for certain disabled veterans, National Guard members, and Armed Forces reservists) are to be applied in joint cases. The form does not impose a particular interpretation of these provisions. It leaves up to joint debtors the initial determination of whether the exclusion of one spouse from means testing relieves the other spouse from the obligation to complete the form, and allows any dispute over this matter to be resolved by the courts.