



SUPREME COURT APPROVED RULES AND FORMS AMENDMENTS

OVERVIEW

On April 28, 2010, the Supreme Court of the United States approved the following rules and forms amendments and a new rule, as approved by the Judicial Conference in September 2009:

Bankruptcy Rules 1007, 1014, 1015, 1018, 1019, 4001, 4004, 5009, 7001, 9001 and new Rule 5012

Changes to these Rules go into effect on December 1, 2010.

This guide explains the changes to these Rules, and a clean version of the Rules with the approved changes is attached for reference.

WHAT IS CHANGING?

CHAPTER 15 CASES

Amendments to five rules, Rules 1014, 1015, 1018, 5009, and 9001, and new Rule 5012, were proposed and approved consistent with the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Pub. L. No. 109-8), adding chapter 15 to the Bankruptcy Code. New chapter 15 governs ancillary and other cross-border insolvency cases. Its primary purpose is to foster cooperation and coordination between United States courts and foreign courts in which insolvency proceedings are pending against the same debtor. A case is commenced under new chapter 15 when a foreign representative files a petition for recognition of the foreign proceeding. If the court recognizes the foreign proceeding, limited relief is immediately provided, including an automatic stay, and several other sections of the Code become applicable.

RULE 1014

The amendments to Rule 1014 authorize a court to determine the district in which a case should proceed when multiple petitions – including a chapter 15 petition – involving the same debtor are pending in different districts.

RULE 1015

The amendments to Rule 1015 explicitly recognize a court's authority to consolidate or jointly administer cases when one or more of the petitions – including a petition under chapter 15 – is filed by, against, or regarding the same debtor.

RULE 1018

The amendments to Rule 1018 apply selected Part VII rules designated to govern proceedings contesting an involuntary petition to proceedings contesting a chapter 15 petition for recognition. The amendments also clarify that Rule 1018 does not apply to matters that are “merely related” to a contested involuntary petition.

RULE 5009

The amendments to Rule 5009 require a foreign representative to file a final report describing the nature and results of that representative’s activities in the court. The foreign representative must notify interested parties of the report. Those parties have 30 days to file objections. The amendments also require the clerk to notify individual chapter 7 and chapter 13 debtors 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.

RULE 5012

New Rule 5012 sets out notice provisions and establishes procedures in chapter 15 cases for obtaining court approval of an agreement or protocol coordinating insolvency proceedings pending in another country involving the debtor.

RULE 9001

The amendments to Rule 9001 apply the definitions of words and phrases listed in § 1502 of the Code, governing cross-border insolvencies, to the rules.

OTHER RULE CHANGES

RULE 1007

The amendments to Rule 1007 shorten the time (from 14 to 7 days) for a debtor in an involuntary case to file the list of creditors that must be included on schedules filed in the case. The amendments also give individual debtors in a chapter 7 case additional time (from 45 to 60 days after the first date set for the meeting of creditors under § 341 of the Code) to file a statement of completion of the mandatory course in personal financial management.

RULE 1019

The amendments to Rule 1019 provide a new time period to object to a claim of exemptions when a case is converted to chapter 7 from chapter 11, 12, or 13. The new time period does not apply, however, if the conversion occurs more than one year after the entry of 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.

RULE 4001

The amendments to Rule 4001 adjust the time deadlines in the rule consistent with the amendments to Rule 9006(a) that went into effect in December 2009, which simplified the method to compute time under the rules. Section 2 is adjusted from 15 to 14 days, and Section 3 is adjusted from 5 to 7 days.

RULE 4004

The amendments to Rule 4004 clarify that the time deadline governing the filing of a complaint objecting to a debtor’s discharge in a chapter 7 case also applies to a motion objecting to the discharge. In addition, the amendments set a deadline to file a motion in a chapter 13 case objecting to a debtor’s discharge. In chapter 11 and 13 cases, a court must withhold entering the discharge if the individual debtor fails to file a statement attesting to the completion of a mandatory personal financial-management course.

RULE 7001

Under the amendments to Rule 7001, specified objections to a discharge in chapter 7 and 13 cases (under §§ 727(a)(8), (a)(9), and 1328(f)) are not treated as adversary proceedings, because they typically are resolved more easily than other discharge objections and do not require the more elaborate procedures applicable to adversary proceedings.

FORM CHANGES

OFFICIAL FORMS 9A, 9C AND 9I

These forms are amended in the “Deadlines” section on the front and the “Discharge of Debts” section on the back. The changes conform to amendments to Bankruptcy Rules 4004 and 7001 that direct that certain objections to discharge be brought by motion rather than by complaint.

OFFICIAL FORMS 20A AND 20B

These forms are amended to instruct the filer to list all names used by the debtor in the last eight, rather than six, years, and to redact not only the debtor’s social security number, but also the debtor’s individual taxpayer identification number.

OFFICIAL FORMS 22A, 22B AND 22C

Forms 22A and 22C are amended in several places to delete references to “household” and “household size” and to replace them with “number of persons” or “family size.” (Form 22A at lines 19A, 19B, 20A, and 20B; Form 22C at lines 24A, 24B, 25A, and 25B).

Form 22A is also 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. Forms 22B and 22C are similarly amended on line 7 of each form.

The introductory instruction to Part I of Form 22A is amended to give debtors in joint case the choice of filing separate forms if they believe they are required to do so by § 707(b)(2)(C) of the Bankruptcy Code.

OFFICIAL FORM 23

The “deadlines” section at the bottom of the form is amended to conform to amended Rule 1007(c).

DIRECTOR’S FORM 200

The time period in the last statement on page 1 of the form (the Voluntary Chapter 7 Case checklist) is changed from 45 to 60 days. This change reflects amended Rule 1007(c).

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

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

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

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

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(c) TIME LIMITS. In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise

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provided in subdivisions (d), (e), (f), and (h) of this rule.

In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition.

Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 60 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was 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. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension

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shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

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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, (2) a partnership and one or more of its general partners, (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 district or districts in which the case or cases should proceed. Except as otherwise ordered by the court in the district in which the petition filed first is pending, the proceedings on the other petitions shall be stayed by the courts in which they have been filed until the determination is made.

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

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

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

Unless the court otherwise directs and except as otherwise prescribed in Part I of these rules, the following rules in Part VII apply to all proceedings contesting an involuntary petition or a chapter 15 petition for recognition, and to all proceedings to vacate an order for relief: Rules 7005, 7008-7010, 7015, 7016, 7024-7026, 7028-7037, 7052, 7054, 7056, and 7062. The court may direct that other rules in Part VII shall also apply. For the purposes of this rule a reference in the Part VII rules to adversary proceedings shall be read as a reference to proceedings contesting an involuntary petition or a chapter 15 petition for recognition, or proceedings to vacate an order for relief. Reference in the Federal Rules

of Civil Procedure to the complaint shall be read as a reference to the petition.

Rule 1019. Conversion of a 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

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

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(2) *New Filing Periods.*

(A) A new time period for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of dischargeability of any debt shall commence under Rules 1017, 3002, 4004, or 4007, but a new time period shall not commence if a chapter 7 case had been converted to a chapter 11, 12, or 13 case and thereafter reconverted to a chapter 7 case and the time for filing a motion under

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§ 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of the dischargeability of any debt, or any extension thereof, expired in the original chapter 7 case.

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

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

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

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

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

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

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objections may be filed within 14 days of the mailing of the notice.

(3) *Disposition; Hearing.* If no objection is filed, the court may enter an order approving or disapproving the agreement without conducting a hearing. If an objection is filed or if the court determines a hearing is appropriate, the court shall hold a hearing on no less than seven days' notice to the objector, the movant, the parties on whom service is required by paragraph (1) of this subdivision and such other entities as the court may direct.

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Rule 4004. Grant or Denial of Discharge

(a) TIME FOR OBJECTING TO DISCHARGE; NOTICE OF TIME FIXED. In a chapter 7 case, a complaint, or a motion under § 727(a)(8) or (a)(9) of the Code, objecting to the debtor's discharge shall be filed no

later than 60 days after the first date set for the meeting of creditors under § 341(a). In a chapter 11 case, the complaint shall be filed no later than the first date set for the hearing on confirmation. In a chapter 13 case, a motion objecting to the debtor's discharge under § 1328(f) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney.

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(c) GRANT OF DISCHARGE.

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

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(A) the debtor is not an individual;

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

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(4) In a chapter 11 case in which the debtor is an individual, or a chapter 13 case, the court shall not grant a discharge if the debtor has not filed any statement required by Rule 1007(b)(7).

(d) APPLICABILITY OF RULES IN PART VII AND RULE 9014. An objection to discharge is governed by Part VII of these rules, except that an objection to discharge under §§ 727(a)(8), (a)(9), or 1328(f) is commenced by motion and governed by Rule 9014.

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

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

(b) NOTICE OF FAILURE TO FILE RULE 1007(b)(7) STATEMENT. If an individual debtor in a chapter 7 or 13 case has not filed the statement required by Rule 1007(b)(7) within 45 days after the first date set for the meeting of creditors under § 341(a) of the Code, the clerk shall promptly notify the debtor that the case will be closed without entry of a discharge unless the

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statement is filed within the applicable time limit under Rule 1007(c).

(c) CASES UNDER CHAPTER 15. A foreign representative in a proceeding recognized under § 1517 of the Code shall file a final report when the purpose of the representative's appearance in the court is completed. The report shall describe the nature and results of the representative's activities in the court. The foreign representative shall transmit the report to the United States trustee, and give notice of its filing to the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all parties to litigation pending in the United States in which the debtor was a party at the time of the filing of the petition, and such other entities as the court may direct. The foreign representative shall file a certificate with the court that notice has been given. If no objection has been filed by

the United States trustee or a party in interest within 30 days after the certificate is filed, there shall be a presumption that the case has been fully administered.

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

Approval of an agreement under § 1527(4) of the Code shall be sought by motion. The movant shall attach to the motion a copy of the proposed agreement or protocol and, unless the court directs otherwise, give at least 30 days' notice of any hearing on the motion by transmitting the motion to the United States trustee, and serving it on the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519, all parties to litigation pending in the United States in which the debtor was a party at the time

of the filing of the petition, and such other entities as the court may direct.

Rule 7001. Scope of Rules of Part VII

An adversary proceeding is governed by the rules of this Part VII. The following are adversary proceedings:

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(4) a proceeding to object to or revoke a discharge, other than an objection to discharge under §§ 727(a)(8), (a)(9), or 1328(f);

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Rule 9001. General Definitions

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

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