

# 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

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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

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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

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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

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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

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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**

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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**

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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**

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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**

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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**

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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**

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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**

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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**

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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**

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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**

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

### **DIRECTOR’S FORM 200**

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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).