

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

PUBLIC NOTICE

**ENTRY OF STANDING ORDER NO. 11-5 ADOPTING
REVISED INTERIM RULE 1007-I**

Effective December 19, 2011, Interim Rule 1007-I, as revised, by entry of Standing Order No. 11-5, is adopted, for the Court, by the chief judge of the United States Bankruptcy Court for the Eastern District of Virginia.

Revised Interim Rule 1007-I provides for uniform procedures and means by which to implement the National Guard and Reservists Debt Relief Act of 2008 (2008 Act), as amended by the National Guard and Reservist Debt Extension Act of 2011 (2011 Act). The 2008 Act provided a temporary exclusion from the bankruptcy means test in chapter 7 bankruptcy cases for those members of the National Guard and Reserves called to active duty or homeland defense activity after September 11, 2001, for at least 90 days. For cases and proceedings not governed by the 2008 Act, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, other than Interim Rule 1007-I, as revised, would apply. The 2008 Act applied only to chapter 7 bankruptcy cases commenced in the three-year period beginning on the effective date of the Act, December 19, 2008. Revised Interim Rule 1007-I conforms to an amendment made to the 2008 Act effected by the 2011 Act, which extends the exemption in the 2008 Act for an additional four-year period to a seven-year period commencing December 19, 2008.

Interim Rule 1007-I, as revised, shall remain in effect until further order of the Court.

William C. Redden
Clerk of Court

Date: December 19, 2011

Attachment

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re)
)
Adoption of Revision) Standing Order No. 11-5
to Interim Rule 1007-I)
)

ORDER ADOPTING REVISION TO INTERIM RULE 1007-I

On October 20, 2008, the National Guard and Reservists Debt Relief Act of 2008 (2008 Act) was enacted into law; and

The provisions of the Act became effective December 19, 2008; and

The Advisory Committee on Bankruptcy Rules prepared a new Interim Rule 1007-I, Lists, Schedules, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion in addition to an amendment to Official Form 22A, Statement of Current Monthly Income and Means Test Calculation creating a then new Part 1C therein.

The Committee on Rules of Practice and Procedure of the Judicial Conference of the United States approved the new Interim Rule and form amendment and recommended the adoption of both by the Judicial Conference of the United States to provide for uniform procedures and means by which to implement the Act; and

The Judicial Conference of the United States, which had approved both recommendations, transmitted the Interim Rule to the courts for adoption by standing order, effective December 19, 2008; and

The Court adopted Interim Rule 1007-I, in its entirety without change, effective December 19, 2008.

Interim Rule 1007-I previously was revised, effective December 1, 2009, to conform to time deadline changes in Federal Rule of Bankruptcy Procedure 1007 (Rule 1007), as follows: the 10-day period in Rule 1007(h) and the 15-day periods in subdivisions (a)(2), (a)(3), (c), (f) of the rule all became 14-day periods, as part of a comprehensive package of changes to time periods in all federal rules of practice and procedure; and

Interim Rule 1007-I further was revised, effective December 1, 2010, to conform to a deadline change in Rule 1007(c), as follows: the time for the individual debtor to file the statement of completion of a course in personal financial management in a chapter 7 case is extended from within 45 days after the first date set for the meeting of creditors to within 60 days after the first date set for the meeting of creditors.

It is necessary to make further revision to Interim Rule 1007-I, effective December 19, 2011, to conform to an amendment effected by the National Guard and Reservist Debt Relief Extension Act of 2011 (2011 Act), which extends the 2008 Act's original three-year period to a seven-year period commencing December 19, 2008.

NOW, THEREFORE, IT IS ORDERED that:

Pursuant to 28 U.S.C. section 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the attached revised Interim Rule 1007-I is adopted by the chief judge of the Court, effective December 19, 2011, conforming to the 2008 Act and 2011 Act. For cases and proceedings not governed by the 2008 Act, as amended by the 2011 Act, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, other than Interim Rule 1007-I, as further revised, shall apply. The 2008 Act, as amended by the 2011 Act, applies only to cases commenced in the seven-year period beginning on the effective date of the 2008 Act, December 19, 2008. Interim Rule 1007-I, as further revised, shall remain in effect until further order of the Court.

Dated: December 19, 2011

FOR THE COURT:

DOUGLAS O. TICE JR.
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
for the
EASTERN DISTRICT OF VIRGINIA
AMENDMENTS TO
LOCAL BANKRUPTCY RULES
2015-(a)-1(A), 3015-1(D), 8006-1(C), AND 9014-1(B)



Effective September 1, 2011
(Version 06/27/11)

With Exhibit 8
Revision to Interim Rule 1007-I
Effective December 19, 2011
(Version 12/19/11)

**Interim Rule 1007-I¹. Lists, Schedules, Statements, and Other Documents;
Time Limits; Expiration of Temporary Means Testing Exclusion²**

1 * * * * *

2 (b) SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS
3 REQUIRED.

4 * * * * *

5 (4) Unless either: (A) § 707(b)(2)(D)(i) applies, or (B) §
6 707(b)(2)(D)(ii) applies and the exclusion from means testing granted therein
7 extends beyond the period specified by Rule 1017(e),
8 an individual debtor in a chapter 7 case shall file a statement of current monthly
9 income prepared as prescribed by the appropriate Official Form, and, if the current
10 monthly income exceeds the median family income for the applicable state and
11 household size, the information, including calculations, required by § 707(b),
12 prepared as prescribed by the appropriate Official Form.

13 * * * * *

14 (c) TIME LIMITS. In a voluntary case, the schedules, statements, and other
15 documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the
16 petition or within 14 days thereafter, except as otherwise provided in subdivisions
17 (d), (e), (f), (h), and (n) of this rule. In an involuntary case, the list in subdivision

¹ Interim Rule 1007-I was adopted by the bankruptcy courts to implement the National Guard and Reservists Debt Relief Act of 2008, Public Law No: 110-438-, as amended by the National Guard and Reservist Debt Relief Extension Act of 2011, Public Law No. 112-64. The Act, as amended, which provides a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces. It applies to bankruptcy cases commenced in the ~~three~~ seven-year period beginning December 19, 2008.

² Incorporates (1) time amendments to Rule 1007 which took effect on December 1, 2009, and (2) an amendment, effective December 1, 2010, which extended the time to file the statement of completion of a course in personal financial management in a chapter 7 case filed by an individual debtor.

18 (a)(2), and the schedules, statements, and other documents required by subdivision
19 (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief.
20 In a voluntary case, the documents required by paragraphs (A), (C), and (D) of
21 subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise,
22 a debtor who has filed a statement under subdivision (b)(3)(B), shall file the
23 documents required by subdivision (b)(3)(A) within 14 days of the order for relief.
24 In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7)
25 within 60 days after the first date set for the meeting of creditors under § 341 of
26 the Code, and in a chapter 11 or 13 case no later than the date when the last payment
27 was made by the debtor as required by the plan or the filing of a motion for a
28 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any
29 time and in its discretion, enlarge the time to file the statement required by
30 subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8)
31 no earlier than the date of the last payment made under the plan or the date of the
32 filing of motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the
33 Code. Lists, schedules, statements, and other documents filed prior to the conversion
34 of a case to another chapter shall be deemed filed in the converted case unless the
35 court directs otherwise. Except as provided in § 1116(3), any extension of time to
36 file schedules, statements, and other documents required under this rule may be
37 granted only on motion for cause shown and on notice to the United States trustee,
38 any committee elected under § 705 or appointed under § 1102 of the Code, trustee,
39 examiner, or other party as the court may direct. Notice of an extension shall be
40 given to the United States trustee and to any committee, trustee, or other party as the

41 court may direct.

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43 (n) TIME LIMITS FOR, AND NOTICE TO, DEBTORS TEMPORARILY
44 EXCLUDED FROM MEANS TESTING.

45 (1) An individual debtor who is temporarily excluded from means testing
46 pursuant to § 707(b)(2)(D)(ii) of the Code shall file any statement and calculations
47 required by subdivision (b)(4) no later than 14 days after the expiration of the
48 temporary exclusion if the expiration occurs within the time specified by Rule
49 1017(e) for filing a motion pursuant to § 707(b)(2).

50 (2) If the temporary exclusion from means testing under § 707(b)(2)(D)(ii)
51 terminates due to the circumstances specified in subdivision (n)(1), and if the debtor
52 has not previously filed a statement and calculations required by subdivision (b)(4),
53 the clerk shall promptly notify the debtor that the required statement and calculations
54 must be filed within the time specified by subdivision (n)(1).

COMMITTEE NOTE

This rule is amended to take account of the enactment of the National Guard and Reservists Debt Relief Act of 2008, which amended § 707(b)(2)(D) of the code to provide a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces. This exclusion applies to qualifying debtors while they remain on active duty or are performing a homeland defense activity, and for a period of 540 days thereafter. For some debtors initially covered by the exclusion, the protection from means testing will expire while their chapter 7 cases are pending, and at a point when a timely motion to dismiss under § 707(b)(2) can still be filed. Under the amended rule, these debtors are required to file the statement and calculations required by subdivision (b)(4) no later than 14 days after the expiration of their exclusion.

Subdivisions (b)(4) and (c) are amended to relieve debtors qualifying for an exclusion under § 707(b)(2)(D)(ii) from the obligation to file a statement of current monthly income and required calculations within the time period specified in subdivision (c).

Subdivision (n)(1) is added to specify the time for filing of the information required by subdivision (b)(4) by a debtor who initially qualifies for the means test exclusion under § 707(b)(2)(D)(ii), but whose exclusion expires during the time that a motion to dismiss under § 707(b)(2) may still be made under Rule 1017(e). If, upon the expiration of the temporary exclusion, a debtor has not already filed the required statement and calculations, subdivision (n)(2) directs the clerk to provide prompt notice to the debtor of the time for filing as set forth in subdivision (n)(1).