

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

PUBLIC NOTICE

**ENTRY OF STANDING ORDER NO. 12-4 ADOPTING
REVISED INTERIM BANKRUPTCY RULE 1007-I**

EFFECTIVE DECEMBER 1, 2012

Effective December 1, 2012, Interim Bankruptcy Rule (Interim Rule) 1007-I, as revised, by entry of Standing Order No. 12-4, is adopted, for the Court, by the chief judge of the United States Bankruptcy Court for the Eastern District of Virginia.

1. Background

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.

2. Revision

Current Interim Rule 1007-I incorporates provisions of Federal Rule of Bankruptcy Procedure 1007(c), which will be amended effective December 1, 2012, unless Congress takes action to reject, modify, or defer the amendment. The amendment will eliminate from Rule 1007(c) the existing time limit for filing the list of creditors in an involuntary bankruptcy case. The existing time limit in Rule 1007(c) is inconsistent with the time limit in Rule 1007(a)(2), as amended, effective December 1, 2010. Interim Rule 1007-I, as revised, which will be designated as Exhibit 8 to the Court's Local Rules, is attached, following Standing Order No. 12-4, and sets forth the conforming deletion and provides an updated footnote 2 reflecting the revision.

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

William C. Redden
Clerk of Court

Date: November 9, 2012

Attachment

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re)
)
Adoption of Revision) Standing Order No. 12-4
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; and

It was 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; and

It is necessary to make further revision to Interim Rule 1007-I, effective December 1, 2012. Current Interim Rule 1007-I incorporates provisions of Federal Rule of Bankruptcy Procedure 1007(c), which will be amended effective December 1, 2012, unless Congress takes action to reject, modify, or defer the amendment. The amendment will eliminate from Rule 1007(c) the existing time limit for filing the list of creditors in an involuntary bankruptcy case. The existing time limit in Rule 1007(c) is inconsistent with the time limit in Rule 1007(a)(2), as amended, effective December 1, 2010.

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, for the Court, by the chief judge of the Court, effective December 1, 2012, conforming to the 2008 Act, the 2011 Act and Federal Rule of Bankruptcy Procedure 1007(c), as proposed for amendment, effective December 1, 2012. 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 on December 1, 2012, shall remain in effect until further order of the Court.

Dated: November 8, 2012

FOR THE COURT:

/s/ Douglas O. Tice Jr.
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 1, 2012
(Version 11/08/12)

Interim Rule 1007-I.¹ Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion²

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

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

* * * * *

¹ Interim Rule 1007-I has been 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 Public Law No. 112-64. The amended Act, 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, applies to bankruptcy cases commenced in the 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, and (3) a conforming amendment, effective December 1, 2012, which removed an inconsistency created by the 2010 amendment.

15 (c) TIME LIMITS. In a voluntary case, the schedules,
16 statements, and other documents required by subdivision (b)(1), (4),
17 (5), and (6) shall be filed with the petition or within 14 days
18 thereafter, except as otherwise provided in subdivisions (d), (e), (f),
19 (h), and (n) of this rule. In an involuntary case, ~~the list in~~
20 ~~subdivision (a)(2),~~ and the schedules, statements, and other
21 documents required by subdivision (b)(1) shall be filed by the
22 debtor within 14 days of the entry of the order for relief. In a
23 voluntary case, the documents required by paragraphs (A), (C), and
24 (D) of subdivision (b)(3) shall be filed with the petition. Unless
25 the court orders otherwise, a debtor who has filed a statement under
26 subdivision (b)(3)(B), shall file the documents required by
27 subdivision (b)(3)(A) within 14 days of the order for relief. In a
28 chapter 7 case, the debtor shall file the statement required by
29 subdivision (b)(7) within 60 days after the first date set for the
30 meeting of creditors under § 341 of the Code, and in a chapter 11 or
31 13 case no later than the date when the last payment was made by
32 the debtor as required by the plan or the filing of a motion for a
33 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The
34 court may, at any time and in its discretion, enlarge the time to file
35 the statement required by subdivision (b)(7). The debtor shall file
36 the statement required by subdivision (b)(8) no earlier than the date
37 of the last payment made under the plan or the date of the filing of a

38 motion for a discharge under §§1141(d)(5)(B), 1228(b), or 1328(b)
39 of the Code. Lists, schedules, statements, and other documents
40 filed prior to the conversion of a case to another chapter shall be
41 deemed filed in the converted case unless the court directs
42 otherwise. Except as provided in § 1116(3), any extension of time
43 to file schedules, statements, and other documents required under
44 this rule may be granted only on motion for cause shown and on
45 notice to the United States trustee, any committee elected under
46 § 705 or appointed under § 1102 of the Code, trustee, examiner, or
47 other party as the court may direct. Notice of an extension shall be
48 given to the United States trustee and to any committee, trustee, or
49 other party as the court may direct.

50 * * * * *

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

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

59 (2) If the temporary exclusion from means testing under
60 § 707(b)(2)(D)(ii) terminates due to the circumstances specified in

61 subdivision (n)(1), and if the debtor has not previously filed a
62 statement and calculations required by subdivision (b)(4), the clerk
63 shall promptly notify the debtor that the required statement and
64 calculations must be filed within the time specified in subdivision
65 (n)(1).