

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

PUBLIC NOTICE

REVISION TO INTERIM BANKRUPTCY RULE 1007-I
EFFECTIVE DECEMBER 18, 2015

On December 18, 2015, the President signed into law a four-year extension of the National Guard and Reservist Debt Relief Act of 2008, Pub. L. No. 110-438. The Act amends Section 707(b)(2)(D) of the Bankruptcy Code to provide a temporary exclusion from the bankruptcy means test for reservists and members of the National Guard called up for at least 90 days of active duty or homeland defense activity following September 11, 2001. As originally enacted, the exclusion only applied to cases commenced during the three-year period after December 18, 2008. This three-year period was extended to seven years through subsequent legislation and to 11 years by this latest extension.

At the request of the Judicial Conference of the United States' Advisory Committee on Bankruptcy Rules, Interim Rule 1007-I was transmitted to the courts in 2008 for adoption as a local rule to implement the temporary exclusion. A copy of Standing Order No. 16-1 and Interim Rule 1007-I with an updated footnote, which reflects the extension of time embodied in the Act, are attached.

William C. Redden
Clerk of Court

Date: January 4, 2016

Attachments

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re)
)
Adoption of Revision) Standing Order No. 16-1
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 then Official Form 22A, Statement of Current Monthly Income and Means Test Calculation, which created a new Part 1C therein (currently Official Form 122A-2, Chapter 7 Means Test Calculation).

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 was 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 extended the 2008 Act's original three-year period to a seven-year period commencing December 19, 2008; and

It was 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 were amended effective December 1, 2012. The amendment eliminated from Rule 1007(c) the previously existing time limit for filing the list of creditors in an involuntary bankruptcy case. The previously existing time limit in Rule 1007(c) was inconsistent with the time limit in Rule 1007(a)(2), as amended, effective December 1, 2010;

The reference in Standing Order No. 12-4 Addendum to Standing Order No. 12-4 shall be deemed to reference this standing order; and

It is necessary to make further revision to Interim Rule 1007-I, effective December 18, 2015, to conform to an amendment effected by the National Guard and Reservist Debt Relief Extension Act of 2015 (2015 Act), which extends the 2008 Act's original three-year period to an eleven-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, for the Court, by the chief judge of the Court, effective December 18, 2015, conforming to the 2008 Act, the 2015 Act and Federal Rule of Bankruptcy Procedure 1007(c), as amended, effective December 1, 2012. For cases and proceedings not governed by the 2008 Act, as amended by the 2011 Act, the 2015 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 and 2015 Act, applies only to cases commenced in the eleven-year period beginning on the effective date of the 2008 Act, December 19, 2008.

The reference in Standing Order No. 12-4 Addendum to Standing Order No. 12-4 shall be deemed to reference this standing order.

Interim Rule 1007-I, as revised effective December 18, 2015, shall remain in effect until further order of the Court.

Dated: January 4, 2016

FOR THE COURT:

/s/ Stephen C. St. John
STEPHEN C. ST. JOHN
Chief United States Bankruptcy

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

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

(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.

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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

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. 114-107. 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 11-year period beginning December 19, 2008.

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

41 otherwise. Except as provided in § 1116(3), any extension of time
42 to file schedules, statements, and other documents required under
43 this rule may be granted only on motion for cause shown and on
44 notice to the United States trustee, any committee elected under
45 § 705 or appointed under § 1102 of the Code, trustee, examiner, or
46 other party as the court may direct. Notice of an extension shall be
47 given to the United States trustee and to any committee, trustee, or
48 other party as the court may direct.

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

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

58 (2) If the temporary exclusion from means testing under
59 § 707(b)(2)(D)(ii) terminates due to the circumstances specified in
60 subdivision (n)(1), and if the debtor has not previously filed a
61 statement and calculations required by subdivision (b)(4), the clerk
62 shall promptly notify the debtor that the required statement and
63 calculations must be filed within the time specified in subdivision (n)(1).