



February 14, 2008

07-BK-016

Mr. Peter G. McCabe  
Secretary, Committee on Rules of Practice and Procedure  
Judicial Conference of the United States  
Washington, DC 20544

Re: November 1, 2007 Federal Register Notice of Proposed Amendments

Dear Mr. McCabe:

This comment letter is submitted on behalf of the Financial Services Roundtable, a trade association comprised of CEOs and senior executives of financial institutions. The Roundtable has previously provided comments on the proposed rules and forms to implement PL 109-8.

### **Proposed Rule 1017.1. Exemption from Prepetition Credit Counseling Requirement**

Proposed Rule 1017.1 would provide that any certification filed by a debtor is presumed to satisfy the requirement of 11 USC § 109(h), even if the certification is obviously invalid or fraudulent, unless challenged. In our view, this would *de facto* create a new exception to the pre-petition credit counseling requirement and place unnecessary administrative burdens on courts and creditors. There is nothing in the statute to justify such an exceptional step.

In the name of flexibility, the Roundtable has previously suggested in comments to the Justice Department that valid certificates be considered valid for one year, if reissued prior to the expiration of the initial six month period. We again suggest that such a rule be adopted to prevent debtors who try, but fail, to complete an out-of-court repayment plan and then file for bankruptcy from being required to go through credit counseling a second time. Finally, the Roundtable has previously suggested that, where debtors are offered an out-of-court repayment plan during pre-bankruptcy counseling, evidence of such offer be appended to the counseling certificate.

### **Proposed Form 27. Reaffirmation Agreements**

Proposed Official Form 27 would create a reaffirmation cover sheet that must be attached to any reaffirmation agreement to assist the court with assessing compliance with 11

USC § 524(m). We believe strongly that additional work for reaffirmation forms are needed to ensure that reaffirmation forms are fully consistent across jurisdictions. The GAO recently noted that there is a need for greater uniformity in forms used to implement the reaffirmation requirements in PL 109-8. The Roundtable assisted various auto lenders who were interviewed for this report and it became very apparent that greater uniformity would ease compliance burdens for lenders and promote greater transparency in the bankruptcy process. In fact, the GAO notes one lender is required to have 32 separate reaffirmation forms to comply with the patchwork of current reaffirmation forms.<sup>1</sup>

Thank you for considering the views of the Financial Services Roundtable.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Bartlett". The signature is written in a cursive, somewhat stylized font.

President and CEO

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<sup>1</sup> GAO-08-94 Bankruptcy Implementation of Reform Act's Debt Reaffirmation Agreement