PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE*

Rule 1007. Lists, Schedules, and Statements; Time Limits

1 * * * * *

2 (c) TIME LIMITS. The schedules and statements, other
3 than the statement of intention, shall be filed with the petition
4 in a voluntary case, or if the petition is accompanied by a list
5 of all the debtor's creditors and their addresses, within 15
6 days thereafter, except as otherwise provided in subdivisions
7 (d), (e), and (h) of this rule. In an involuntary case the
8 schedules and statements, other than the statement of
9 intention, shall be filed by the debtor within 15 days after
10 entry of the order for relief. Schedules and statements filed
11 prior to the conversion of a case to another chapter shall be
12 deemed filed in the converted case unless the court directs
13 otherwise. Except as otherwise provided in § 1116(3) of the

*New material is underlined; matter to be omitted is lined through.

14 Code, any ~~Any~~ extension of time for the filing of the
15 schedules and statements may be granted only on motion for
16 cause shown and on notice to the United States trustee and to
17 any committee elected under § 705 or appointed under § 1102
18 of the Code, trustee, examiner, or other party as the court may
19 direct. Notice of an extension shall be given to the United
20 States trustee and to any committee, trustee, or other party as
21 the court may direct.

22 * * * * *

COMMITTEE NOTE

The rule is amended to recognize the limitation on the extension of time to file schedules and statements when the debtor is a small business debtor. Section 1116(3), added to the Bankruptcy Code in 2005, establishes a specific standard for courts to apply in the event that the debtor in possession or the trustee seeks an extension for filing these forms for a period beyond 30 days after the order for relief.

[The amendment to Rule 1007 relates to § 436 of the 2005 Act]

Rule 1020. ~~Election to be Considered a Small Business in a Chapter 11 Reorganization Case~~ Small Business Chapter 11 Reorganization Case

~~In a chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election not later than 60 days after the date of the order for relief.~~

(a) SMALL BUSINESS DEBTOR DESIGNATION. In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor. In an involuntary chapter 11 case, the debtor shall file within 3 days after entry of the order for relief a statement as to whether the debtor is a small business debtor. Except as provided in subdivision (c), the status of the case with respect to whether it is a small business case shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect.

(b) OBJECTING TO DESIGNATION. Except as provided in subdivision (c), the United States trustee or a

18 party in interest may file an objection to the debtor's
19 designation under subdivision (a) not later than 30 days after
20 the conclusion of the meeting of creditors held under § 341(a)
21 of the Code, or within 30 days after any amendment to the
22 designation, whichever is later.
23 (c) APPOINTMENT OF COMMITTEE OF
24 UNSECURED CREDITORS. If the United States trustee has
25 appointed a committee of unsecured creditors under §
26 1102(a)(1), the case shall proceed as a small business case
27 only if, and from the time when, the court enters an order
28 determining that the committee has not been sufficiently
29 active and representative to provide effective oversight of the
30 debtor and that the debtor satisfies all the other requirements
31 for being a small business. A request for a determination
32 under this subdivision may be filed by the United States
33 trustee or a party in interest only within a reasonable time
34 after the failure of the committee to be sufficiently active and

35 representative. The debtor may file a request for a
36 determination at any time as to whether the committee has
37 been sufficiently active and representative.
38 (d)PROCEDURE FOR OBJECTION OR
39 DETERMINATION. Any objection or request for a
40 determination under this rule shall be governed by Rule 9014
41 and served on the debtor, the debtor's attorney, the United
42 States trustee, the trustee, any committee appointed under §
43 1102 or its authorized agent, or, if no committee of unsecured
44 creditors has been appointed under § 1102, on the creditors
45 included on the list filed under Rule 1007(d), and on such
46 other entities as the court may direct.

* * * * *

COMMITTEE NOTE

Under the Bankruptcy Code, as amended in 2005, there are no provisions permitting or requiring a small business debtor to elect to be treated as a small business. Therefore, there is no longer any need for a rule on elections to be considered a small business.

The 2005 amendments to the Code include several provisions

relating to small business cases under chapter 11. Section 101 of the Code includes definitions of "small business debtor" and "small business case." The purpose of the new language in this rule is to provide a procedure for informing the parties, the United States trustee, and the court of whether the debtor is a small business debtor, and to provide procedures for resolving disputes regarding the proper characterization of the debtor. Because it is important to resolve such disputes early in the case, a time limit for objecting to the debtor's self-designation is imposed. Rule 9006(b)(1), which governs enlargement of time, is applicable to the time limits set forth in this rule.

An important factor in determining whether the debtor is a small business debtor is whether the United States trustee has appointed a committee of unsecured creditors under § 1102 of the Code, and whether such a committee is sufficiently active and representative. Subdivision (c), relating to the appointment and activity of a committee of unsecured creditors, is designed to be consistent with the Code's definition of "small business debtor."

Rule 2002. Notices to Creditors, Equity Security Holders, United States, and United States Trustee

(a) TWENTY-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivisions (h), (i), ~~and~~ ~~(*l*)~~ (*l*), and (p) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 20 days' notice by

mail of:

* * * * *

(b) TWENTY-FIVE-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivision (*l*) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 25 days notice by mail of (1) the time fixed for filing objections and the hearing to consider approval of a disclosure statement <u>or, under § 1125(f), to consider a determination that the plan provides adequate information and that a separate disclosure statement is not necessary</u>; and (2) the time fixed for filing objections and the hearing to consider confirmation of a chapter 9, chapter 11, or chapter 13 plan.

(c) CONTENTS OF NOTICE.

(1) *Proposed Use, Sale, or Lease of Property.* Subject to Rule 6004, the notice of a proposed use, sale, or lease of

23 property required by subdivision (a)(2) of this rule shall
24 include the time and place of any public sale, the terms and
25 conditions of any private sale and the time fixed for filing
26 objections. The notice of a proposed use, sale, or lease of
27 property, including real estate, is sufficient if it generally
28 describes the property. The notice of a proposed sale or lease
29 of personally identifiable information under § 363(b)(1)(A)
30 or (B) of the Code shall state whether the sale is consistent
31 with a policy prohibiting the transfer of the information.
32 * * * * *
33 (p) NOTICE TO A FOREIGN CREDITOR.
34 (1) If, at the request of a party in interest or the United
35 States trustee, or on its own initiative, the court finds that a
36 notice mailed within the time prescribed by these rules would
37 not be sufficient to give a creditor with a foreign address to
38 which notices under these rules are mailed reasonable notice
39 under the circumstances, the court may order that the notice

40 be supplemented with notice by other means or that the time
41 prescribed for the notice by mail be enlarged.
42 (2) Unless the court for cause orders otherwise, a
43 creditor with a foreign address to which notices under this
44 rule are mailed shall be given at least 30 days' notice of the
45 time fixed for filing a proof of claim under Rule 3002(c) or
46 Rule 3003(c).

COMMITTEE NOTE

Subdivision (c)(1) is amended to require that a trustee leasing or selling personally identifiable information under § 363(b)(1)(A) or (B) of the Code, as amended in 2005, include in the notice of the lease or sale transaction a statement as to whether the lease or sale is consistent with a policy prohibiting the transfer of the information.

Section 1514(d) of the Code, added in 2005, requires that such additional time as is reasonable under the circumstances be given to creditors with foreign addresses with respect to notices and the filing of a proof of claim. Thus, subdivision (p)(1) is added to the rule to give the court flexibility to direct that notice by other means shall supplement notice by mail, or to enlarge the notice period, for creditors with foreign addresses. If cause exists, such as likely delays in the delivery of mailed notices in particular locations, the court may order that notice also be given by email, facsimile, or private courier. Alternatively, the court may enlarge the notice period for a creditor with a foreign address. It is expected that in most situations involving foreign creditors, fairness will not require any additional

notice or extension of the notice period. This rule recognizes that the court has discretion to establish procedures to determine, on its own initiative, whether relief under subdivision (p) is appropriate, but that the court is not required to establish such procedures and may decide to act only on request of a party in interest.

Subdivision (p)(2) is added to the rule to grant creditors with a foreign address to which notices are mailed at least 30 days' notice of the time within which to file proofs of claims if notice is mailed to the foreign address, unless the court orders otherwise. If cause exists, such as likely delays in the delivery of notices in particular locations, the court may extend the notice period for creditors with foreign addresses. The court may also shorten the additional notice time if circumstances so warrant. For example, if the court in a chapter 11 case determines that supplementing the notice to a foreign creditor with notice by electronic means, such as email or facsimile, would give the creditor reasonable notice, the court may order that the creditor be given only 20 days' notice in accordance with Rule 2002(a)(7).

[The amendments to Rule 2002(b) relate to § 431, and the new Rule 2002(p) relates to § 801 of the 2005 Act.]

Rule 2003. Meeting of Creditors or Equity Security Holders

1 (a) DATE AND PLACE. Except as provided in § 341(e)
2 of the Code, in ~~In~~ a chapter 7 liquidation or a chapter 11
3 reorganization case, the United States trustee shall call a
4 meeting of creditors to be held no fewer than 20 and no more

5 than 40 days after the order of relief. In a chapter 12 family
6 farmer debt adjustment case, the United States trustee shall
7 call a meeting of creditors to be held no fewer than 20 and no
8 more than 35 days after the order for relief. In a chapter 13
9 individual's debt adjustment case, the United States trustee
10 shall call a meeting of creditors to be held no fewer than 20
11 and no more than 50 days after the order for relief. If there is
12 an appeal from or a motion to vacate the order for relief, or if
13 there is a motion to dismiss the case, the United States trustee
14 may set a later date for the meeting. The meeting may be
15 held at a regular place for holding court or at any other place
16 designated by the United States trustee within the district
17 convenient for the parties in interest. If the United States
18 trustee designates a place for the meeting which is not
19 regularly staffed by the United States trustee or an assistant
20 who may preside at the meeting, the meeting may be held not
21 more than 60 days after the order for relief.

22 * * * * *

COMMITTEE NOTE

If the debtor has solicited acceptances to a plan before commencement of the case, § 341(e), which was added to the Bankruptcy Code in 2005, authorizes the court, on request of a party in interest and after notice and a hearing, to order that a meeting of creditors not be convened. The rule is amended to recognize that a meeting of creditors might not be held in those cases.

[The amendment to Rule 2003 relates to § 402 of the 2005 Act]

Rule 2007.1. Appointment of Trustee or Examiner in a Chapter 11 Reorganization Case

1 * * * * *

2 (b) ELECTION OF TRUSTEE.

3 * * * * *

4 (3) *Report of Election and Resolution of Disputes*.

5 (A) Report of Undisputed Election. If no dispute

6 arises out of the election ~~is not disputed~~, the United States

7 trustee shall promptly file a report ~~of~~ certifying the election,

8 including the name and address of the person elected and a

9 statement that the election is undisputed. The report shall be

accompanied by a verified statement of the person elected setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. ~~The United States trustee shall file with the report an application for approval of the appointment in accordance with subdivision (c) of this rule. The report constitutes appointment of the elected person to serve as trustee, subject to court approval, as of the date of entry of the order approving the appointment.~~

(B) Dispute Arising Out of an ~~Disputed~~ Election. If a dispute arises out of an ~~the~~ election ~~is disputed~~, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. The

report shall be accompanied by a verified statement of each candidate elected under each alternative presented by the dispute, setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, ~~and~~ or any person employed in the office of the United States trustee. Not later than the date on which the report of the disputed election is filed, the United States trustee shall mail a copy of the report and each verified statement to any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report, and to any committee appointed under § 1102 of the Code. ~~Unless a motion for the resolution of the dispute is filed not later than 10 days after the United States trustee files the report, any person appointed by the United States trustee under § 1104(d) and approved in accordance with subdivision (c) of this rule shall serve as trustee. If a motion for the resolution of the~~

~~dispute is timely filed, and the court determines the result of the election and approves the person elected, the report will constitute appointment of the elected person as of the date of entry of the order approving the appointment.~~

(c) APPROVAL OF APPOINTMENT. An order approving the appointment of a trustee ~~elected under § 1104(b) or appointed under § 1104(d),~~ or ~~the appointment of~~ an examiner under §1104(d) of the Code, shall be made on application of the United States trustee. The application shall state the name of the person appointed and, to the best of the applicant's knowledge, all the person's connections with the debtor, creditors, any other parties in interest, their respective attorneys and accountants, the United States trustee, ~~and~~ or persons employed in the office of the United States trustee. ~~Unless the person has been elected under § 1104(b), the~~ The application shall state the names of the parties in interest with whom the United States trustee consulted regarding the

61 appointment. The application shall be accompanied by a
62 verified statement of the person appointed setting forth the
63 person's connections with the debtor, creditors, any other
64 party in interest, their respective attorneys and accountants,
65 the United States trustee, ~~and~~ or any person employed in the
66 office of the United States trustee.

COMMITTEE NOTE

Under § 1104(b)(2) of the Code, as amended in 2005, if an eligible, disinterested person is elected to serve as trustee in a chapter 11 case, the United States trustee is directed to file a report certifying the election. The person elected does not have to be appointed to the position. Rather, the filing of the report certifying the election itself constitutes the appointment. The section further provides that in the event of a dispute in the election of a trustee, the court must resolve the matter. The rule is amended to be consistent with § 1104(b)(2).

When the United States trustee files a report certifying the election of a trustee, the person elected must file a verified statement, similar to the statement required of professional persons under Rule 2014, disclosing connections with parties in interest and certain other persons connected with the case. Although court approval of the person elected is not required, the disclosure of the person's connections will enable parties in interest to determine whether the person is disinterested.

[The amendments to Rule 2007.1 relate to § 416 of the 2005 Act]

Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case

(a) TRUSTEE OR DEBTOR IN POSSESSION. A trustee or debtor in possession shall

* * * * *

(6) In a chapter 11 small business case, unless the court, for cause, sets another reporting interval, file and transmit to the United States trustee for each calendar month after the order for relief, a report on the appropriate Official Form as required by § 308 of the Code. If the order for relief is within the first 15 days of a calendar month, a report shall be filed for the portion of the month that follows the order for relief. If the order for relief is after the 15th day of a calendar month, the period for the remainder of the month shall be included in the report for the next calendar month. Each report shall be filed no later than 15 days after the last day of the calendar month.

* * * * *

COMMITTEE NOTE

Section 308, which was added to the Bankruptcy Code in 2005, requires a small business debtor to submit periodic reports on profitability and projected and actual cash receipts and disbursements. The section also requires that the small business debtor report on compliance with the rules generally as well as the filing of necessary tax returns. Rule 2015(a)(6) is added to implement the requirement to file reports and to establish timing intervals for filing reports. The court may set different intervals based on the particular circumstances of the case.

[Rule 2015(a)(6) relates to § 434 of the 2005 Act. THE AMENDMENTS TO RULE 2015(a)(6) SHOULD NOT BE INCLUDED IN THE PACKAGE OF INTERIM RULES BECAUSE, UNDER § 419 OF THE ACT, § 308 DOES NOT BECOME EFFECTIVE UNTIL 60 DAYS AFTER THE RULE IS PROMULGATED, WHICH WILL HAPPEN IN ABOUT 3 YEARS.]

Rule 3002. Filing Proof of Claim or Interest

1 (c) TIME FOR FILING. In a chapter 7 ~~liquidation~~,
2 chapter 12
3 ~~family farmer's debt adjustment~~, or chapter 13 ~~individual's~~
4 ~~debt adjustment~~ case, a proof of claim is timely filed if it is
5 filed not later than 90 days after the first date set for the

6 meeting of creditors called under § 341(a) of the Code, except
7 as follows:
8 (1) A proof of claim filed by a governmental unit is
9 timely filed if it is filed not later than 180 days after the date
10 of the order for relief <u>or, if the claim is for a tax based on a</u>
11 <u>return filed under § 1308 of the Code, not later than 60 days</u>
12 <u>after the date on which the return was filed as required by that</u>
13 <u>section</u>. On motion of a governmental unit before the
14 expiration of such period and for cause shown, the court may
15 extend the time for filing of a claim by the governmental unit.
16 * * * * *
17 <u>(6) If notice of the time for filing a proof of claim has</u>
18 <u>been mailed to a creditor at a foreign address, on motion filed</u>
19 <u>by the creditor before or after the expiration of the time, the</u>
20 <u>court may extend the time by not more than 60 days if the</u>
21 <u>court finds that the notice was not sufficient under the</u>

22 circumstances to give the creditor a reasonable time to file a

23 proof of claim.

COMMITTEE NOTE

This rule is amended to conform to changes in the Code made in 2005. Under § 502(b)(9), governmental units asserting claims based on tax returns filed under § 1308 during a chapter 13 case have a different time period for filing proofs of those claims. Paragraph (c)(1) is amended to conform to § 502(b)(9).

Paragraph (c)(6) is added to give the court discretion to extend the time for filing a proof of claim for a creditor who received notice of the time to file the claim at a foreign address, if the court finds that the notice was not sufficient, under the particular circumstances, to give the foreign creditor a reasonable time to file a proof of claim. This amendment is designed to comply with § 1514(d), which was added to the Code in 2005 and requires that the rules and orders of the court provide such additional time as is reasonable under the circumstances for foreign creditors to file claims in cases under all chapters of the Code.

[The amendment to Rule 3002(c)(1) relates to § 716 of the 2005 Act. The amendment to Rule 3002(c)(6) relates to § 801 of the 2005 Act]

Rule 3003. Filing Proof of Claim or Equity Security Interest in Chapter 9 Municipality or Chapter 11 Reorganization Cases

* * * * *

(c) FILING PROOF OF CLAIM.

(1) *Who May File*. Any creditor or indenture trustee may file a proof of claim within the time prescribed by subdivision (c)(3) of this rule.

(2) *Who Must File*. Any creditor or equity security holder whose claim or interest is not scheduled or is scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3) of this rule; any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purpose of voting and distribution.

(3) *Time for Filing*. The court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed. Notwithstanding the expiration of such time, a proof of claim may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (c)(3), ~~and~~ (c)(4)<u>, and</u>

18 (c)(6).

19 (4) *Effect of Filing Claim or Interest*. A proof of
20 claim or interest executed and filed in accordance with this
21 subdivision shall supersede any scheduling of that claim or
22 interest pursuant to § 521(1) of the Code.

23 (5) *Filing by Indenture Trustee*. An indenture trustee
24 may file a claim on behalf of all known or unknown holders
25 of securities issued pursuant to the trust instrument under
26 which it is trustee.

27 * * * * *

COMMITTEE NOTE

The rule is amended to implement § 1514(d), which was added to the Code in 2005, by making the new Rule 3002(c)(6) applicable in chapter 9 and chapter 11 cases. Section 1514(d) requires that creditors with foreign addresses be provided such additional time as is reasonable under the circumstances to file proofs of claims.

[The amendment to Rule 3003(c) relates to § 801 of the 2005 Act.]

Rule 3016. Filing of Plan and Disclosure Statement in Chapter 9 Municipality or Chapter 11 Reorganization Cases

* * * * *

(b) DISCLOSURE STATEMENT. In a chapter 9 or 11 case, a disclosure statement under § 1125 or evidence showing compliance with § 1126(b) of the Code shall be filed with the plan or within a time fixed by the court, unless the plan is intended to provide adequate information under § 1125(f)(1). If the plan is intended to provide adequate information under § 1125(f)(1), Rule 3017.1 shall apply as if the plan is a disclosure statement.

* * * * *

(d) FORM OF DISCLOSURE STATEMENT AND PLAN IN SMALL BUSINESS CASE. In a small business case, the court may approve a disclosure statement and may confirm a plan that conform substantially to the appropriate

16 Official Form or other standard form approved by the court.

COMMITTEE NOTE

Subdivision (b) is amended to recognize that, in 2005, § 1125(f)(1) was added to the Code to provide that the plan proponent in a small business case need not file a disclosure statement if the plan itself includes adequate information and the court finds that a separate disclosure statement is unnecessary. If the plan is intended to provide adequate information in a small business case, it may be conditionally approved as a disclosure statement under Rule 3017.1 and is subject to all other rules applicable to disclosure statements in small business cases.

Section 433 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 requires the promulgation of Official Forms for plans and disclosure statements in small business cases. Section 1125(f)(2) provides that the court may approve a disclosure statement submitted on the appropriate Official Form promulgated under these rules or on a standard form approved by the court. New subdivision (d) of this rule is added to implement those provisions. These rules take no position on whether a court may require a local standard form disclosure statement or plan in lieu of the Official Forms.

[The amendments to Rule 3016 relate to §§ 431 and 433 of the 2005 Act]

Rule 3017.1. Court Consideration of Disclosure Statement in a Small Business Case

1 (a) CONDITIONAL APPROVAL OF DISCLOSURE

STATEMENT. ~~If the debtor is~~ In a small business case ~~and has made a timely election to be considered a small business in a chapter 11 case~~, the court may, on application of the plan proponent or on its own initiative, conditionally approve a disclosure statement filed in accordance with Rule 3016~~(b)~~. On or before conditional approval of the disclosure statement, the court shall:

(1) fix a time within which the holders of claims and interests may accept or reject the plan;

(2) fix a time for filing objections to the disclosure statement;

(3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and

(4) fix a date for the hearing on confirmation.

(b) APPLICATION OF RULE 3017. Rule 3017(a), (b), (c), and (e) do not apply to a conditionally approved

19 disclosure statement. Rule (d) applies to a conditionally
20 approved disclosure statement, except that conditional
21 approval is considered approval of the disclosure statement
22 for the purpose of applying Rule 3017(d).

23 (c) FINAL APPROVAL.

24 (1) *Notice*. Notice of the time fixed for filing
25 objections and the hearing to consider final approval of the
26 disclosure statement shall be given in accordance with Rule
27 2002 and may be combined with notice of the hearing on
28 confirmation of the plan.

29 (2) *Objections*. Objections to the disclosure statement
30 shall be filed, transmitted to the United States trustee, and
31 served on the debtor, the trustee, any committee appointed
32 under the Code and any other entity designated by the court
33 at any time before final approval of the disclosure statement
34 or by an earlier date as the court may fix.

35 (3) *Hearing*. If a timely objection to the disclosure

36 statement is filed, the court shall hold a hearing to consider
37 final approval before or combined with the hearing on
38 confirmation of the plan.

COMMITTEE NOTE

Section 101 of the Code, as amended in 2005, defines a "small business case" and "small business debtor,"and eliminates any need to elect that status. Therefore, the reference in the rule to an election is deleted.

As provided in the amendment to Rule 3016(b), a plan intended to provide adequate information in a small business case under § 1125(f)(1) may be conditionally approved and is otherwise treated as a disclosure statement under this rule.

[The amendment to Rule 3017.1 relates to § 437 of the 2005 Act, which deletes language in the Code that requires an election to be treated as a small business debtor.]

Rule 3019. Modification of Accepted Plan Before <u>or After</u> Confirmation in a Chapter 9 Municipality or Chapter 11 Reorganization Case

1 <u>(a)</u> In a chapter 9 or chapter 11 case, after a plan has been
2 accepted and before its confirmation, the proponent may file
3 a modification of the plan. If the court finds after hearing on
4 notice to the trustee, any committee appointed under the Code

5 and any other entity designated by the court that the proposed
6 modification does not adversely change the treatment of the
7 claim of any creditor or the interest of any equity security
8 holder who has not accepted in writing the modification, it
9 shall be deemed accepted by all creditors and equity security
10 holders who have previously accepted the plan.

11 (b) If the debtor is an individual, a request to modify the
12 plan under § 1127(e) of the Code shall identify the proponent
13 and shall be filed together with the proposed modification.
14 The clerk, or some other person as the court may direct, shall
15 give the debtor, the trustee, and all creditors not less than 20
16 days' notice by mail of the time fixed for filing objections
17 and, if an objection is filed, the hearing to consider the
18 proposed modification, unless the court orders otherwise with
19 respect to creditors who are not affected by the proposed
20 modification. A copy of the notice shall be transmitted to the
21 United States trustee. A copy of the proposed modification

22 shall be included with the notice. Any objection to the
23 proposed modification shall be filed and served on the debtor,
24 the trustee, and any other entity designated by the court, and
25 shall be transmitted to the United States trustee. An objection
26 to a proposed modification is governed by Rule 9014.

COMMITTEE NOTE

Section 1127 was amended in 2005 to provide for modification of a confirmed plan in a chapter 11 case of an individual debtor. The rule is amended to establish the procedure for filing and objecting to a proposed modification of a confirmed plan.

[The amendments to Rule 3019 relate to § 321(e) of the 2005 Act]

Rule 5003. Records Kept by the Clerk

1 * * * * *

2 (e) REGISTER OF MAILING ADDRESSES OF
3 FEDERAL AND STATE GOVERNMENTAL UNITS AND
4 CERTAIN TAXING AUTHORITIES. The United States or
5 the state or territory in which the court is located may file a
6 statement designating its mailing address. The United States,

7 state, territory, or local governmental unit responsible for the
8 collection of taxes within the district in which the case is
9 pending may file a statement designating an address for
10 service of requests under § 505(b) of the Code, and the
11 designation shall describe where further information
12 concerning additional requirements for filing such requests
13 may be found. The clerk shall keep, in the form and manner
14 as the Director of the Administrative Office of the United
15 States Courts may prescribe, a register that includes ~~there~~ the
16 addresses designated under this subdivision, but the clerk is
17 not required to include in the register more than one mailing
18 address for each department, agency, or instrumentality of the
19 United States or the state or territory. If more than one
20 address for a department, agency, or instrumentality is
21 included in the register, the clerk shall also include
22 information that would enable a user of the register to
23 determine the circumstances when each address is applicable,

24 and mailing notice to only one applicable address is sufficient
25 to provide effective notice. The clerk shall update the register
26 annually, effective January 2 of each year. The mailing
27 address in the register is conclusively presumed to be a proper
28 address for the governmental unit, but the failure to use that
29 mailing address does not invalidate any notice that is
30 otherwise effective under applicable law.
31 * * * * *

COMMITTEE NOTE

The rule is amended to implement the addition of § 505(b)(1) to the Code in 2005, which allows taxing authorities to designate addresses to use for the service of a request under that subsection.

[The amendments to Rule 5003 relate to § 703 of the 2005 Act]

Rule 6004. Use, Sale, or Lease of Property

1 * * * * *
2 (g) SALE OF PERSONALLY IDENTIFIABLE
3 INFORMATION.

4 (1) *Motion*. A motion for authority to sell or lease
5 personally identifiable information under § 363(b)(1)(B) shall
6 include a request for an order directing the United States
7 trustee to appoint a consumer privacy ombudsman under §
8 332. The motion shall be governed by Rule 9014 and shall be
9 served on any committee elected under § 705 or appointed
10 under § 1102 of the Code, or if the case is a chapter 9
11 municipality case or a chapter 11 reorganization case and no
12 committee of unsecured creditors has been appointed under
13 § 1102, on the creditors included on the list of creditors filed
14 under Rule 1007(d), and on such other entities as the court
15 may direct. The motion shall be transmitted to the United
16 States trustee.
17 (2) *Appointment*. If a consumer privacy ombudsman
18 is appointed under § 332, no later than 5 days before the
19 hearing on the motion under § 363(b)(1)(B), the United States
20 trustee shall file a report certifying the appointment, including

21 the name and address of the person appointed. The United
22 States trustee's report shall be accompanied by a verified
23 statement of the person appointed setting forth the person's
24 connections with the debtor, creditors, any other party in
25 interest, their respective attorneys and accountants, the United
26 States trustee, or any person employed in the office of the
27 United States trustee.

28 ~~(g)~~ (h) STAY OF ORDER AUTHORIZING USE, SALE,
29 OR LEASE OF PROPERTY. An order authorizing the use,
30 sale, or lease of property other than cash collateral is stayed
31 until the expiration of 10 days after entry of the order, unless
32 the court orders otherwise.

COMMITTEE NOTE

This rule is amended to implement §§ 332 and 363(b)(1)(B), which were added to the Code in 2005.

[The amendments to Rule 6004(g) relate to § 231 of the 2005 Act]

Rule 9006. Time

(b) ENLARGEMENT.

(1) In General. Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

(2) Enlargement Not Permitted. The court may not enlarge the time for taking action under Rules 1007(d), 2003(a) and (d), 7052, 9023, and 9024.

(3) Enlargement Limited. The court may enlarge the

17 time for taking action under Rules 1006(b)(2), 1007(c),
18 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 8002 and 9033,
19 only to the extent and under the conditions stated in those
20 rules.

COMMITTEE NOTE

Section 1116(3) of the Code, as amended in 2005, places specific limits on the time for filing schedules and a statement of affairs in small business cases. The rule is amended to recognize that extensions of time for filing these documents are governed by Rule 1007(c), which is amended to recognize restrictions on expanding the time to file these documents in small business cases.

[The amendment to Rule 9006 relates to § 436 of the 2005 Act]