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OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
WASHINGTON, D.C. 20544

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**TO: Hon. Lee H. Rosenthal, Chair  
Standing Committee on Rules of Practice and Procedure**

**FROM: Hon. Laura Taylor Swain, Chair  
Advisory Committee on Bankruptcy Rules**

**DATE: December 11, 2007 (Revised June 16, 2008)**

**RE: Report of the Advisory Committee on Bankruptcy Rules**

**I. Introduction**

The Advisory Committee on Bankruptcy Rules met on September 6-7, 2007, in Jackson, Wyoming.

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The Committee recommends Standing Committee approval for publication of preliminary drafts of proposed amendments to four Rules.

\* \* \* \* \*

**II. Action Items**

- A. Preliminary Draft of Proposed Amendments to Bankruptcy Rules 1007, 1019, 4004, and 7001.

The Advisory Committee recommends that the Standing Committee approve the following draft of proposed amendments to the Bankruptcy Rules for publication for comment.

1. *Synopsis of Preliminary Draft of Proposed Amendments to Bankruptcy Rules.*
  - a. **Rule 1007** is amended in subdivision (a) to shorten the time for the debtor to file a list of creditors after the entry of an order for relief in an involuntary case. Subdivision (c) of the rule is amended to extend the time for individual debtors in chapter 7 to file the statement of completion of a course in personal financial management.
  - b. **Rule 1019** is amended by redesignating subdivision (2) as subdivision (2)(A), and adding a new subdivision (2)(B). Subdivision (2)(B) provides that a new time period to object to a claim of exemption arises when a case is converted to chapter 7 from chapter 11, 12, or 13. The new time period does not arise, however, if the conversion occurs more than one year after the first order confirming a plan, even if the plan was subsequently modified. A new objection period also does not arise if the case was previously pending under chapter 7 and the objection period had expired in the prior chapter 7 case.
  - c. **Rule 4004** is amended to include a new deadline in subdivision (a) for the filing of motions (rather than complaints) under Rule 7001(b) objecting to a debtor's discharge under §§ 727(a)(8), (a)(9), and 1328(f). Subdivision (c)(1) is amended because of the proposed addition of subdivision (b) to Rule 7001. Subparagraph (c)(1)(B) directs the court not to grant a discharge if a motion or complaint objecting to discharge has been filed unless the objection has been decided in the debtor's favor. Finally, subdivision (c)(4) is added to the rule. It directs the court in chapter 11 and 13 cases to withhold the entry of the discharge if the debtor has not filed with the court a statement of completion of a course concerning personal financial management as required by Rule 1007(b)(7).
  - d. **Rule 7001** is amended by adding subdivision (b) to the rule, and redesignating the text of the existing rule as subdivision (a). Subdivision (b) and the amendment to subdivision (a)(4) direct that objections to discharge under §§ 727(a)(8), (a)(9), and § 1328(f) be commenced by motion rather than by complaint. This amendment corresponds to the proposed amendment to Rule 4004.
2. *Text of Preliminary Draft of Proposed Amendments to Bankruptcy Rules (on next page).*



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13 (b)(1), (4), (5), and (6) shall be filed with the petition or  
14 within 15 days thereafter, except as otherwise provided in  
15 subdivisions (d), (e), (f), and (h) of this rule. In an  
16 involuntary case, the list in subdivision (a)(2), and the  
17 schedules, statements, and other documents required by  
18 subdivision (b)(1) shall be filed by the debtor within 15 days  
19 of the entry of the order for relief. In a voluntary case, the  
20 documents required by paragraphs (A), (C), and (D) of  
21 subdivision (b)(3) shall be filed with the petition. Unless the  
22 court orders otherwise, a debtor who has filed a statement  
23 under subdivision (b)(3)(B), shall file the documents required  
24 by subdivision (b)(3)(A) within 15 days of the order for relief.  
25 In a chapter 7 case, the debtor shall file the statement required  
26 by subdivision (b)(7) within ~~45~~ 60 days after the first date set  
27 for the meeting of creditors under § 341 of the Code, and in  
28 a chapter 11 or 13 case no later than the date when the last  
29 payment was made by the debtor as required by the plan or

30 the filing of a motion for a discharge under § 1141(d)(5)(B)  
31 or § 1328(b) of the Code. The court may, at any time and in  
32 its discretion, enlarge the time to file the statement required  
33 by subdivision (b)(7). The debtor shall file the statement  
34 required by subdivision (b)(8) no earlier than the date of the  
35 last payment made under the plan or the date of the filing of  
36 a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or  
37 1328(b) of the Code. Lists, schedules, statements, and other  
38 documents filed prior to the conversion of a case to another  
39 chapter shall be deemed filed in the converted case unless the  
40 court directs otherwise. Except as provided in § 1116(3), any  
41 extension of time to file schedules, statements, and other  
42 documents required under this rule may be granted only on  
43 motion for cause shown and on notice to the United States  
44 trustee, any committee elected under § 705 or appointed under  
45 § 1102 of the Code, trustee, examiner, or other party as the  
46 court may direct. Notice of an extension shall be given to the

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47 United States trustee and to any committee, trustee, or other  
48 party as the court may direct.

49 \* \* \* \* \*

**COMMITTEE NOTE**

**Subdivision (a)(2).** Subdivision (a)(2) is amended to shorten the time for a debtor to file a list of the creditors included on the various schedules filed or to be filed in the case. This list provides the information necessary for the clerk to provide notice of the § 341 meeting of creditors in a timely manner.

**Subdivision (c).** Subdivision (c) is amended to provide additional time for individual debtors in chapter 7 to file the statement of completion of a course in personal financial management. This change is made in conjunction with an amendment to Rule 5009 requiring the clerk to provide notice to debtors of the consequences of not filing the statement in a timely manner.



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13 objecting to discharge, or a complaint to obtain a  
14 determination of the dischargeability of any debt, or any  
15 extension thereof, expired in the original chapter 7 case.

16 (B) A new time period for filing an objection to a claim  
17 of exemptions shall commence under Rule 4003(b) after  
18 conversion of a case to chapter 7 unless:

19 (i) the case was converted to chapter 7 more than  
20 one year after the entry of the first order confirming a plan  
21 under chapter 11, 12, or 13; or

22 (ii) the case was previously pending in chapter 7  
23 and the time to object to a claimed exemption had expired in  
24 the original chapter 7 case.

25 \* \* \* \* \*

**COMMITTEE NOTE**

**Subdivision (2).** Subdivision (2) is redesignated as subdivision (2)(A), and a new subdivision (2)(B) is added to the rule. Subdivision (2)(B) provides that a new time period to object to a claim of exemption arises when a case is converted to chapter 7 from chapter 11, 12, or 13. The new time period does not arise, however,

if the conversion occurs more than one year after the first order confirming a plan, even if the plan was subsequently modified. A new objection period also does not arise if the case was previously pending under chapter 7 and the objection period had expired in the prior chapter 7 case.

**RULE 4004. Grant or Denial of Discharge\*\*\*\***

1           (a) ~~TIME FOR FILING COMPLAINT OBJECTING~~  
 2           TO DISCHARGE; NOTICE OF TIME FIXED. In a chapter  
 3           7 ~~liquidation~~ case, a complaint, or a motion under Rule  
 4           7001(b), objecting to the debtor's discharge under § 727(a) of  
 5           the Code shall be filed no later than 60 days after the first date  
 6           set for the meeting of creditors under § 341(a). In a chapter  
 7           11 ~~reorganization~~ case, the complaint shall be filed no later  
 8           than the first date set for the hearing on confirmation. In a  
 9           chapter 13 case, a motion objecting to a debtor's discharge  
 10          under § 1328(f) shall be filed no later than 60 days after the

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\*\*\*\*Incorporates amendments approved by the Judicial Conference that are due to take effect on December 1, 2008, if the Supreme Court approves and if Congress takes no action otherwise.

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11 first date set for the meeting of creditors under § 341(a). At  
12 least ~~25~~ 28 days' notice of the time so fixed shall be given to  
13 the United States trustee and all creditors as provided in Rule  
14 2002(f) and (k) and to the trustee and the trustee's attorney.

15 \* \* \* \* \*

16 (c) GRANT OF DISCHARGE.

17 (1) In a chapter 7 case, on expiration of the ~~time~~  
18 times fixed for ~~filing a complaint~~ objecting to discharge and  
19 ~~the time fixed~~ for filing a motion to dismiss the case under  
20 Rule 1017(e), the court shall forthwith grant the discharge  
21 unless:

22 (A) the debtor is not an individual;

23 (B) a complaint, or a motion under Rule  
24 7001(b), objecting to the discharge has been filed and not  
25 decided in the debtor's favor;

26 (C) the debtor has filed a waiver under  
27 § 727(a)(10);

28 (D) a motion to dismiss the case under § 707

29 is pending;

30 (E) a motion to extend the time for filing a

31 complaint objecting to the discharge is pending;

32 (F) a motion to extend the time for filing a

33 motion to dismiss the case under Rule 1017(e)(1) is pending;

34 (G) the debtor has not paid in full the filing

35 fee prescribed by 28 U.S.C. § 1930(a) and any other fee

36 prescribed by the Judicial Conference of the United States

37 under 28 U.S.C. § 1930(b) that is payable to the clerk upon

38 the commencement of a case under the Code, unless the court

39 has waived the fees under 28 U.S.C. § 1930(f);

40 (H) the debtor has not filed with the court a

41 statement of completion of a course concerning personal

42 financial management as required by Rule 1007(b)(7);

43 (I) a motion to delay or postpone discharge

44 under § 727(a)(12) is pending;

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45 (J) a motion to enlarge the time to file a  
46 reaffirmation agreement under Rule 4008(a) is pending;

47 (K) a presumption has arisen under § 524(m)  
48 that a reaffirmation agreement is an undue hardship; or

49 (L) a motion is pending to delay discharge,  
50 because the debtor has not filed with the court all tax  
51 documents required to be filed under § 521(f).

52 \* \* \* \* \*

53 (4) In a chapter 11 case in which the debtor is an  
54 individual, or in a chapter 13 case, the court shall not grant a  
55 discharge if the debtor has not filed any required statement of  
56 completion of a course concerning personal financial  
57 management under Rule 1007(b)(7).

58 \* \* \* \* \*

**COMMITTEE NOTE**

**Subdivision (a).** Subdivision (a) is amended to include a new deadline for the filing of motions under Rule 7001(b) objecting to a debtor's discharge under §§ 727(a)(8), (a)(9), and 1328(f). These

sections establish time limits on the issuance of discharges in successive bankruptcy cases by the same debtor. The period for providing notice of the deadline is also changed from 25 days to 28 days.

**Subdivision (c).** Subdivision (c)(1) is amended because a corresponding amendment to Rule 7001(b) directs certain objections to discharge to be brought by motion rather than by complaint. Subparagraph (c)(1)(B) directs the court not to grant a discharge if a motion or complaint objecting to discharge has been filed unless the objection has been decided in the debtor's favor.

Subdivision (c)(4) is new. It directs the court in chapter 11 and 13 cases to withhold the entry of the discharge if the debtor has not filed with the court a statement of completion of a course concerning personal financial management as required by Rule 1007(b)(7).

#### **RULE 7001. SCOPE OF RULES OF PART VII**

- 1            **(a) ADVERSARY PROCEEDINGS.** An adversary  
2            proceeding is governed by the rules of this Part VII. The  
3            following are adversary proceedings:
- 4                    (1) a proceeding to recover money or property,  
5            other than a proceeding to compel the debtor to deliver  
6            property to the trustee, or a proceeding under § 554(b) or  
7            § 725 of the Code, Rule 2017, or Rule 6002;

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8                   (2) a proceeding to determine the validity,  
9                   priority, or extent of a lien or other interest in property, other  
10                  than a proceeding under Rule 4003(d);

11                  (3) a proceeding to obtain approval pursuant to  
12                  § 363(h) for the sale of both the interest of the estate and of a  
13                  co-owner in property;

14                  (4) a proceeding to object to or revoke a  
15                  discharge, except as provided in subdivision (b);

16                  (5) a proceeding to revoke an order of  
17                  confirmation of a chapter 11, chapter 12, or chapter 13 plan;

18                  (6) a proceeding to determine the dischargeability  
19                  of a debt;

20                  (7) a proceeding to obtain an injunction or other  
21                  equitable relief, except when a chapter 9, chapter 11, chapter  
22                  12, or chapter 13 plan provides for the relief;

23                  (8) a proceeding to subordinate any allowed claim  
24                  or interest, except when a chapter 9, chapter 11, chapter 12,

25 or chapter 13 plan provides for subordination;

26 (9) a proceeding to obtain a declaratory judgment  
27 relating to any of the foregoing; or

28 (10) a proceeding to determine a claim or cause of  
29 action removed under 28 U.S.C. § 1452.

30 (b) MOTIONS OBJECTING TO DISCHARGE. An  
31 objection to discharge under §§ 727(a)(8), (a)(9), or 1328(f),  
32 is commenced by motion and governed by Rule 9014.

#### COMMITTEE NOTE

**Subdivision (b).** Subdivision (b) is added to the rule, and the text of the existing rule is redesignated as subdivision (a). Subdivision (b) and the amendment to subdivision (a)(4) direct that objections to discharge under §§ 727(a)(8), (a)(9), and § 1328(f) be commenced by motion rather than by complaint. Objections to discharge on these grounds typically present issues more easily resolved than other objections to discharge. In appropriate cases, however, the court may, under Rule 9014(c), order that additional provisions of Part VII of the rules apply to these matters.

Other changes are stylistic.

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