

**EXCERPT FROM THE
REPORT OF THE JUDICIAL CONFERENCE
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES:**

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FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Bankruptcy Rules submitted proposed amendments to Rules 1007, 2003, 2009, 2016, and new Rule 7007.1 and amendments to Official Forms 1, 5, and 17 with a recommendation that they be approved and transmitted to the Judicial Conference. The amendments and new rule were circulated to the bench and bar for comment in August 2001. The scheduled January 2002 public hearing was canceled because no one requested to testify.

The advisory committee also submitted proposed amendments to Rules 1005, 1007, and 2002, and revisions to Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19, which arose from recent related Judicial Conference action, with a recommendation that they be approved and transmitted to the Judicial Conference. These rules amendments and forms revisions are consistent with recommendations approved by the Judicial Conference that documents in bankruptcy cases should be made generally available electronically with the proviso that the "Bankruptcy Code and Rules should be amended as necessary to allow the court to collect a debtor's full Social Security number but display only the last four digits" (JCUS-SEP 01, p. 50). The amendments were circulated to the bench and bar for comment in January 2002. The scheduled April 2002 public hearing was canceled because no one requested to testify. The advisory committee, however, held a meeting of selected experts and experienced lawyers and discussed the issues arising from the proposals.

The proposed amendment to Rule 1007(a) (Lists, Schedules, and Statements; Time Limits) requires a corporate debtor at the beginning of a case to disclose information regarding its owners, if the owners also are corporations, to assist a judge in making judicial disqualification decisions.

The proposed amendments to Rule 2003 (Meeting of Creditors or Equity Security Holders) and Rule 2009 (Trustees for Estates When Joint Administration Ordered) reflect the enactment of a new subchapter V of chapter 7 of the Bankruptcy Code, which makes multilateral clearing organizations eligible for bankruptcy relief and authorizes the Federal Reserve Board to designate the trustee or alternative trustees for the case.

Rule 2016 (Compensation for Services Rendered and Reimbursement of Expenses) would be amended to implement amendments made to 11 U.S.C. § 110(h)(1) governing disclosure of compensation paid to a bankruptcy petition preparer.

New Rule 7007.1 (Corporate Ownership Statement) would require parties in adversary proceedings to disclose corporate entities that own 10% or more of the stock of the party to provide the court with some of the information necessary to make judicial disqualification decisions. It is modeled on similar disclosure provisions in the Appellate, Civil, and Criminal Rules.

Official Form 1 (Voluntary Petition) would be revised to add a check box for designating a clearing-bank case filed under subchapter V of chapter 7 of the Bankruptcy Code. Official Form 5 (Involuntary Petition) and Official Form 17 (Notice of Appeal) would be revised to give notice to child-support creditors and their representatives that no filing fee is imposed for either type of action if the statutory form detailing the child-support debt is also filed.

Rules 1005, 1007 (c) and (f), and 2002 would be amended to implement the recently adopted Judicial Conference policy protecting the privacy of debtors filing for relief. The

advisory committee received considerable comment on the amendment originally proposed to Rule 1005 that would have restricted the debtor's social security number on the caption of the petition to the last four digits. The number of persons bearing the same surname, first name, and last four digits of a social security number is significant. Organizations that search large databases that depend on accurate identifications of individuals objected to the proposal because it would likely result in misidentifications, requiring them to develop costly alternative and redundant means of identification.

The Department of Justice, Department of the Treasury, and Internal Revenue Service asserted that the proposal would hamper criminal investigations in a wide range of criminal activity, including investigations of individuals who use false social security numbers. The institutional private creditors were concerned that the greater likelihood of misidentification could lead to inadvertent violations of the automatic stay and the discharge injunction, which would adversely affect their business. Credit reporting agencies also objected to the proposal because it would eliminate a primary source of information.

The advisory committee concluded that creditors were entitled to receive the debtor's full social security number. Law enforcement agencies would also have access to the full social security number. But consistent with the Judicial Conference policy protecting a debtor's privacy, the committee decided to limit the disclosure of the full social security number to the general public.

Rule 1005 (Caption of Petition) requires a debtor to list all names used in the six years preceding the petition's filing. The proposed amendments require the debtor to include in the caption appropriate numerical identifiers, except that only the last four digits of the social security number may be used. This will permit creditors who have the debtor's social security number to conduct an electronic search with that information.

Rule 1007(c) and (f) (Lists, Schedules, and Statements; Time Limits) would be amended to require a debtor to submit a verified statement of the debtor's full social security number. The statement would be submitted to the clerk of court, but it would not be filed in the case nor become a part of the case file that would be available to the public either through Internet access or by a search of the paper records at the court.

Rule 2002 (Notices to Creditors, Equity Security Holders, United States, and United States Trustee) would be amended to require the clerk of court to include a debtor's full social security number on the § 341 notice sent to creditors. The full number would be included only on the notices sent to the creditors and not on the copy of the notice that becomes part of the court record.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference approve the proposed amendments to Bankruptcy Rules 1005, 1007, 2002, 2003, 2009, 2016, and new Rule 7007.1 and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

The proposed revisions of Bankruptcy Official Forms 1, 5, and 17 conform to statutory changes concerning multilateral clearing banks and child-support creditors. Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19 would also be amended to implement the privacy-related amendments to Rules 1005, 1007, and 2002 by restricting the display of a debtor's social security number to the last four digits. In addition, the revisions add an explicit reference to § 110 of the Bankruptcy Code, which continues to require the disclosure of the full social security number of a bankruptcy petition preparer.

Recommendation: That the Judicial Conference:

(a) approve the proposed revisions to Bankruptcy Official Forms 1, 5, and 17 relating to multilateral clearing banks and child-support creditors to take effect on December 1, 2002; and

(b) approve the proposed privacy-related revisions to Bankruptcy Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, 17, and 19 to take effect on December 1, 2003.

The proposed amendments to the Federal Rules of Bankruptcy Procedure and the revisions to the Official Forms are in Appendix A with an excerpt from the advisory committee report.

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