

Appendix A1

**PROPOSED AMENDMENTS TO THE FEDERAL  
RULES OF BANKRUPTCY PROCEDURE\***

1 **Rule 2002. Notices to Creditors, Equity Security**  
2 **Holders, Administrators in Foreign**  
3 **Proceedings, Persons Against Whom**  
4 **Provisional Relief is Sought in Ancillary**  
5 **and Other Cross-Border Cases, United**  
6 **States, and United States Trustee**

7 (a) TWENTY-ONE-DAY NOTICES TO PARTIES  
8 IN INTEREST. Except as provided in subdivisions (h), (i),  
9 (l), (p), and (q) of this rule, the clerk, or some other person  
10 as the court may direct, shall give the debtor, the trustee, all  
11 creditors and indenture trustees at least 21 days' notice by  
12 mail of:

13 \* \* \* \* \*

14 (7) the time fixed for filing proofs of claims  
15 pursuant to Rule 3003(c);~~and~~

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

16 (8) the time fixed for filing objections and the  
17 hearing to consider confirmation of a chapter 12 plan;  
18 and

19 (9) the time fixed for filing objections to  
20 confirmation of a chapter 13 plan.

21 (b) TWENTY-EIGHT-DAY NOTICES TO  
22 PARTIES IN INTEREST. Except as provided in  
23 subdivision (l) of this rule, the clerk, or some other person  
24 as the court may direct, shall give the debtor, the trustee, all  
25 creditors and indenture trustees not less than 28 days'  
26 notice by mail of the time fixed

27 (1) for filing objections and the hearing to  
28 consider approval of a disclosure statement or, under  
29 §1125(f), to make a final determination whether the  
30 plan provides adequate information so that a separate  
31 disclosure statement is not necessary;~~and~~

32 (2) for filing objections and the hearing to  
33 consider confirmation of a chapter 9, or chapter 11, or  
34 chapter 13 plan; and  
35 (3) for the hearing to consider confirmation of  
36 a chapter 13 plan.

37 \* \* \* \* \*

#### Committee Note

Subdivisions (a) and (b) are amended and reorganized to alter the provisions governing notice under this rule in chapter 13 cases. Subdivision (a)(9) is added to require at least 21 days' notice of the time for filing objections to confirmation of a chapter 13 plan. Subdivision (b)(3) is added to provide separately for 28 days' notice of the date of the confirmation hearing in a chapter 13 case. These amendments conform to amended Rule 3015, which governs the time for presenting objections to confirmation of a chapter 13 plan. Other changes are stylistic.

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#### Changes Made After Publication and Comment

None.

#### Summary of Public Comment

Summaries of the comments submitted in response to the publication of these rule amendments are set forth in Appendix B.

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1     **Rule 3002. Filing Proof of Claim or Interest**

2           (a) NECESSITY FOR FILING. ~~An~~ A secured  
3     ~~creditor.~~ unsecured creditor, or an equity security holder  
4     must file a proof of claim or interest for the claim or  
5     interest to be allowed, except as provided in Rules 1019(3),  
6     3003, 3004, and 3005. A lien that secures a claim against  
7     the debtor is not void due only to the failure of any entity to  
8     file a proof of claim.

9           (b) PLACE OF FILING. A proof of claim or  
10    interest shall be filed in accordance with Rule 5005.

11          (c) TIME FOR FILING. In a voluntary chapter 7  
12    ~~liquidation case,~~ chapter 12 ~~family—farmer's—debt~~  
13    ~~adjustment case,~~ or chapter 13 ~~individual's—debt~~  
14    ~~adjustment case,~~ a proof of claim is timely filed if it is filed  
15    not later than 90/70 days after the order for relief under that  
16    chapter or the date of the order of conversion to a case  
17    under chapter 12 or chapter 13. In an involuntary chapter 7

18 case, a proof of claim is timely filed if it is filed not later  
19 than 90 days after the order for relief under that chapter is  
20 entered, the first date set for the meeting of creditors called  
21 under § 341(a) of the Code, except as follows: But in all  
22 these cases, the following exceptions apply:

23 \* \* \* \* \*

24 (6) ~~If notice of the time to file a proof of claim~~  
25 ~~has been mailed to a creditor at a foreign address, or~~ On  
26 motion filed by the creditor before or after the  
27 expiration of the time to file a proof of claim, the  
28 court may extend the time by not more than 60 days  
29 from the date of the order granting the motion. The  
30 motion may be granted if the court finds that the  
31 ~~notice was insufficient under the circumstances to~~  
32 ~~give the creditor a reasonable time to file a proof of~~  
33 ~~claim~~

34           (A) the notice was insufficient under the  
35           circumstances to give the creditor a reasonable  
36           time to file a proof of claim because the debtor  
37           failed to timely file the list of creditors' names  
38           and addresses required by Rule 1007(a); or

39           (B) the notice was insufficient under the  
40           circumstances to give the creditor a reasonable  
41           time to file a proof of claim, and the notice was  
42           mailed to the creditor at a foreign address.

43           (7) A proof of claim filed by the holder of a  
44           claim that is secured by a security interest in the  
45           debtor's principal residence is timely filed if:

46           (A) the proof of claim, together with the  
47           attachments required by Rule 3001(c)(2)(C), is  
48           filed not later than 70 days after the order for  
49           relief is entered; and

50                    (B) any attachments required by  
51                    Rule 3001(c)(1) and (d) are filed as a supplement  
52                    to the holder's claim not later than 120 days after  
53                    the order for relief is entered.

#### **Committee Note**

Subdivision (a) is amended to clarify that a creditor, including a secured creditor, must file a proof of claim in order to have an allowed claim. The amendment also clarifies, in accordance with § 506(d), that the failure of a secured creditor to file a proof of claim does not render the creditor's lien void. The inclusion of language from § 506(d) is not intended to effect any change of law with respect to claims subject to setoff under § 553. The amendment preserves the existing exceptions to this rule under Rules 1019(3), 3003, 3004, and 3005. Under Rule 1019(3), a creditor does not need to file another proof of claim after conversion of a case to chapter 7. Rule 3003 governs the filing of a proof of claim in chapter 9 and chapter 11 cases. Rules 3004 and 3005 govern the filing of a proof of claim by the debtor, trustee, or another entity if a creditor does not do so in a timely manner.

Subdivision (c) is amended to alter the calculation of the bar date for proofs of claim in chapter 7, chapter 12, and chapter 13 cases. The amendment changes the time for filing a proof of claim in a voluntary chapter 7 case, a chapter 12 case, or a chapter 13 case from 90 days after the



§ 341 meeting of creditors to 70 days after the petition date. If a case is converted to chapter 12 or chapter 13, the 70-day time for filing runs from the order of conversion. If a case is converted to chapter 7, Rule 1019(2) provides that a new time period for filing a claim commences under Rule 3002. In an involuntary chapter 7 case, a 90-day time for filing applies and runs from the entry of the order for relief.

Subdivision (c)(6) is amended to expand the exception to the bar date for cases in which a creditor received insufficient notice of the time to file a proof of claim. The amendment provides that the court may extend the time to file a proof of claim if the debtor fails to file a timely list of names and addresses of creditors as required by Rule 1007(a). The amendment also clarifies that if a court grants a creditor's motion under this rule to extend the time to file a proof of claim, the extension runs from the date of the court's decision on the motion.

Subdivision (c)(7) is added to provide a two-stage deadline for filing mortgage proofs of claim secured by an interest in the debtor's principal residence. Those proofs of claim must be filed with the appropriate Official Form mortgage attachment within ~~60~~ days of the order for relief. The claim will be timely if any additional documents evidencing the claim, as required by Rule 3001(c)(1) and (d), are filed within 120 days of the order for relief. The order for relief is the commencement of the case upon filing a petition, except in an involuntary case. See § 301 and § 303(h). The confirmation of a plan within the 120-day period set forth in subdivision (c)(7)(B) does not prohibit an objection to any proof of claim.

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### Changes Made After Publication and Comment

- The deadline in subsection (c) for filing a proof of claim in a voluntary chapter 7, 12, or 13 case was changed from 60 days to 70 days.
- The phrase “under that chapter” was added after “order for relief” in two places in subdivision (c).
- The Committee Note was changed accordingly.

### **Summary of Public Comment**

Summaries of the comments submitted in response to the publication of these rule amendments are set forth in Appendix B.

1     **Rule 3007. Objections to Claims**

2             (a) ~~OBJECTIONS TO CLAIMS~~ TIME AND  
3     MANNER OF SERVICE.

4             (1) Time of Service. An objection to the allowance  
5     of a claim and a notice of objection that substantially  
6     conforms to the appropriate Official Form shall be in  
7     ~~writing and filed;~~ and served at least 30 days before  
8     any scheduled hearing on the objection or any  
9     deadline for the claimant to request a hearing. A copy  
10    of the objection with notice of the hearing thereon  
11    shall be mailed or otherwise delivered to the claimant,  
12    the debtor or debtor in possession, and the trustee at  
13    least 30 days prior to the hearing.

14            (2) Manner of Service.

15            (A) The objection and notice shall be served  
16    on a claimant by first-class mail to the person  
17    most recently designated on the claimant's  
18    original or amended proof of claim as the person

19 to receive notices, at the address so indicated;

20 and

21 (i) if the objection is to a  
22 claim of the United States, or any of  
23 its officers or agencies, in the  
24 manner provided for service of a  
25 summons and complaint by Rule  
26 7004(b)(4) or (5); or

27 (ii) if the objection is to a  
28 claim of an insured depository  
29 institution, in the manner provided  
30 by Rule 7004(h).

31 (B) Service of the objection and notice shall  
32 also be made by first-class mail or other  
33 permitted means on the debtor or debtor in  
34 possession, the trustee, and, if applicable, the  
35 entity filing the proof of claim under Rule 3005.

36 \* \* \* \* \*

### **Committee Note**

Subdivision (a) is amended to specify the manner in which an objection to a claim and notice of the objection must be served. **It clarifies that Rule 7004 does not apply to the service of most claim objections.** Instead, a claimant must be served by first-class mail addressed to the person that the claimant most recently designated on its proof of claim to receive notices, at the address so indicated. If, however, the claimant is the United States, an officer or agency of the United States, or an insured depository institution, service must also be made according to the method prescribed by the appropriate provision of Rule 7004. The service methods for the depository institutions are statutorily mandated, and the size and dispersal of the decision-making and litigation authority of the federal government necessitate service on the appropriate United States attorney's office and the Attorney General, as well as the person designated on the proof of claim.

As amended, subdivision (a) no longer requires that a hearing be scheduled or held on every objection. The rule requires the objecting party to provide notice and an opportunity for a hearing on the objection, but, by deleting from the subdivision references to "the hearing," it permits local practices that require a claimant to timely request a hearing or file a response in order to obtain a hearing. The official notice form served with a copy of the objection will inform the claimant of any actions it must take. However, while a local rule may require the claimant to respond to the objection to a proof of claim, the court will still need to determine if the claim is valid, even if the claimant does not file a response to a claim objection or request a hearing.

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### **Changes Made After Publication and Comment**

- Subdivision (a) was divided into two paragraphs that separately address time of service and manner of service.
- A requirement of service on an entity that files a proof of claim under Rule 3005 was added to subdivision (a)(2)(B).

### **Summary of Public Comment**

Summaries of the comments submitted in response to the publication of these rule amendments are set forth in Appendix B.

1 **Rule 3012. ~~Valuation—of—Security~~Determining the**  
2 **Amount of Secured and Priority Claims**

3 ~~The court may determine the value of a claim secured~~  
4 ~~by a lien on property in which the estate has an interest on~~  
5 ~~motion of any party in interest and after a hearing on notice~~  
6 ~~to the holder of the secured claim and any other entity as~~  
7 ~~the court may direct.~~

8 (a) DETERMINATION OF AMOUNT OF CLAIM.

9 On request by a party in interest and after notice—to the  
10 holder of the claim and any other entity the court  
11 designates—and a hearing, the court may determine

12 (1) the amount of a secured claim under §  
13 506(a) of the Code, or

14 (2) the amount of a claim entitled to priority  
15 under § 507 of the Code.

16 (b) REQUEST FOR DETERMINATION: HOW

17 MADE. Except as provided in subdivision (c), a request to

18 determine the amount of a secured claim may be made by  
19 motion, in a claim objection, or in a plan filed in a  
20 chapter 12 or chapter 13 case. When the request is made in  
21 a chapter 12 or chapter 13 plan, the plan shall be served on  
22 the holder of the claim and any other entity the court  
23 designates in the manner provided for service of a  
24 summons and complaint by Rule 7004. A request to  
25 determine the amount of a claim entitled to priority may be  
26 made only by motion after a claim is filed or in a claim  
27 objection.

28 (c) CLAIMS OF GOVERNMENTAL UNITS. A  
29 request to determine the amount of a secured claim of a  
30 governmental unit may be made only by motion or in a  
31 claim objection after the governmental unit files a proof of  
32 claim or after the time for filing one under Rule 3002(c)(1)  
33 has expired.

#### **Committee Note**



This rule is amended and reorganized.

Subdivision (a) provides, in keeping with the former version of this rule, that a party in interest may seek a determination of the amount of a secured claim. The amended rule provides that the amount of a claim entitled to priority may also be determined by the court.

Subdivision (b) is added to provide that a request to determine the amount of a secured claim may be made in a chapter 12 or chapter 13 plan, as well as by a motion or a claim objection. When the request is made in a plan, the plan must be served on the holder of the claim and any other entities the court designates according to Rule 7004. Secured claims of governmental units are not included in this subdivision and are governed by subdivision (c). The amount of a claim entitled to priority may be determined through a motion or a claim objection.

Subdivision (c) clarifies that a determination under this rule with respect to a secured claim of a governmental unit may be made only by motion or in a claim objection, but not until the governmental unit has filed a proof of claim or its time for filing a proof of claim has expired.

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#### **Changes Made After Publication and Comment**

None.

#### **Summary of Public Comment**

Summaries of the comments submitted in response to the publication of these rule amendments are set forth in Appendix B.

**Rule 3015. Filing, Objection to Confirmation, Effect of Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case**

(a) FILING A CHAPTER 12 PLAN. The debtor may file a chapter 12 plan with the petition. If a plan is not filed with the petition, it shall be filed within the time prescribed by § 1221 of the Code.

(b) FILING A CHAPTER 13 PLAN. The debtor may file a chapter 13 plan with the petition. If a plan is not filed with the petition, it shall be filed within 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct. If a case is converted to chapter 13, a plan shall be filed within 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct.

(c) DATING. ~~Every proposed plan and any modification thereof shall be dated.~~ FORM OF CHAPTER

13 PLAN. If there is an Official Form for a plan filed in a chapter 13 case, that form must be used unless a Local Form has been adopted in compliance with Rule 3015.1. With either the Official Form or a Local Form, a nonstandard provision is effective only if it is included in a section of the form designated for nonstandard provisions and is also identified in accordance with any other requirements of the form. As used in this rule and the Official Form or a Local Form, "nonstandard provision" means a provision not otherwise included in the Official or Local Form or deviating from it.

(d) ~~NOTICE AND COPIES.~~ If the plan ~~The plan or a summary of the plan shall be~~ is not included with the ~~each~~ notice of the hearing on confirmation mailed under ~~pursuant to Rule 2002, the debtor shall serve the plan on the trustee and all creditors when it is filed with the court.~~ If required by the court, the debtor shall furnish a sufficient

~~number of copies to enable the clerk to include a copy of the plan with the notice of the hearing.~~

(e) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall forthwith transmit to the United States trustee a copy of the plan and any modification thereof filed under ~~pursuant to~~ subdivision (a) or (b) of this rule.

(f) OBJECTION TO CONFIRMATION; DETERMINATION OF GOOD FAITH IN THE ABSENCE OF AN OBJECTION. An objection to confirmation of a plan shall be filed and served on the debtor, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee, ~~before confirmation of the plan at least seven days before the date set for the hearing on confirmation, unless the court orders otherwise.~~ An objection to confirmation is governed by Rule 9014. If no objection is timely filed, the court may determine that the plan has been proposed in

good faith and not by any means forbidden by law without receiving evidence on such issues.

(g) EFFECT OF CONFIRMATION. Upon the confirmation of a chapter 12 or chapter 13 plan:

(1) any determination in the plan made under Rule 3012 about the amount of a secured claim is binding on the holder of the claim, even if the holder files a contrary proof of claim or the debtor schedules that claim, and regardless of whether an objection to the claim has been filed; and

(2) any request in the plan to terminate the stay imposed by § 362(a), § 1201(a), or § 1301(a) is granted.

(g)(h) MODIFICATION OF PLAN AFTER CONFIRMATION. A request to modify a plan pursuant to under § 1229 or § 1329 of the Code shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court

may direct, shall give the debtor, the trustee, and all creditors not less than 21 days' notice by mail of the time fixed for filing objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee. A copy of the proposed modification, or a summary thereof, shall be included with the notice. ~~If required by the court, the proponent shall furnish a sufficient number of copies of the proposed modification, or a summary thereof, to enable the clerk to include a copy with each notice.~~ Any objection to the proposed modification shall be filed and served on the debtor, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee. An objection to a proposed modification is governed by Rule 9014.

#### **Committee Note**

This rule is amended and reorganized.

Subdivision (c) is amended to require use of an Official Form if one is adopted for chapter 13 plans unless a Local Form has been adopted consistent with Rule 3015.1. Subdivision (c) also provides that nonstandard provisions in a chapter 13 plan must be set out in the section of the Official or Local Form specifically designated for such provisions and must be identified in the manner required by the Official or Local Form.

Subdivision (d) is amended to ensure that the trustee and creditors are served with the plan before confirmation. Service may be made either at the time the plan is filed or with the notice under Rule 2002 of the hearing to consider confirmation of the plan.

Subdivision (f) is amended to require service of an objection to confirmation at least seven days before the hearing to consider confirmation of a plan, unless the court orders otherwise.

Subdivision (g) is amended to set out two effects of confirmation. Subdivision (g)(1) provides that the amount of a secured claim under § 506(a) may be determined through a chapter 12 or chapter 13 plan in accordance with Rule 3012. That determination, unlike the amount of any current installment payments or arrearages, controls over a contrary proof of claim, without the need for a claim objection under Rule 3007, and over the schedule submitted by the debtor under § 521(a). The amount of a secured claim of a governmental unit, however, may not be determined through a chapter 12 or chapter 13 plan under Rule 3012. Subdivision (g)(2) provides for termination of



the automatic stay under §§ 362, 1201, and 1301 as requested in the plan.

Subdivision (h) was formerly subdivision (g). It is redesignated and is amended to reflect that often the party proposing a plan modification is responsible for serving the proposed modification on other parties. The option to serve a summary of the proposed modification has been retained. Unless required by another rule, service under this subdivision does not need to be made in the manner provided for service of a summons and complaint by Rule 7004.

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#### **Changes Made After Publication and Comment**

- The phrase “unlike the amount of any current installment payments or arrearages” was added to the paragraph of the Committee Note that discusses Rule 3015(g)

#### **Summary of Public Comment**

Summaries of the comments submitted in response to the publication of these rule amendments are set forth in Appendix B.

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1 **Rule 3015.1. Requirements for a Local Form for Plans**  
2 **Filed in a Chapter 13 Case**

3 Notwithstanding Rule 9029(a)(1), a district may  
4 require that a Local Form for a plan filed in a chapter 13  
5 case be used instead of an Official Form adopted for that  
6 purpose if the following conditions are satisfied:

7 (a) a single Local Form is adopted for the district  
8 after public notice and an opportunity for public comment;

9 (b) each paragraph is numbered and labeled in  
10 boldface type with a heading stating the general subject  
11 matter of the paragraph;

12 (c) the Local Form includes an initial paragraph for  
13 the debtor to indicate that the plan does or does not:

14 (1) contain any nonstandard provision;

15 (2) limit the amount of a secured claim based on  
16 a valuation of the collateral for the claim; or

17 (3) avoid a security interest or lien;

18        (d) the Local Form contains separate paragraphs  
19        for:

20                (1) curing any default and maintaining payments  
21                on a claim secured by the debtor's principal residence;

22                (2) paying a domestic-support obligation;

23                (3) paying a claim described in the final  
24                paragraph of § 1325(a) of the Bankruptcy Code; and

25                (4) surrendering property that secures a claim  
26                with a request that the stay under §§ 362(a) and  
27                1301(a) be terminated as to the surrendered collateral;  
28                and

29        (e) the Local Form contains a final paragraph for:

30                (1) the placement of nonstandard provisions, as  
31                defined in Rule 3015(c), along with a statement that  
32                any nonstandard provision placed elsewhere in the  
33                plan is void; and

34                (2) certification by the debtor's attorney or by  
35                an unrepresented debtor that the plan contains no

36 nonstandard provision other than those set out in the  
37 final paragraph.

### **Committee Note**

This rule is new. It sets out features required for all Local Forms for plans in chapter 13 cases. If a Local Form does not comply with this rule, it may not be used in lieu of the Official Chapter13 Plan Form. *See* Rule 3015(c).

Under the rule only one Local Form may be adopted in a district. The rule does not specify the method of adoption, but it does require that adoption of a Local Form be preceded by a public notice and comment period.

To promote consistency among Local Forms and clarity of content of chapter 13 plans, the rule prescribes several formatting and disclosure requirements. Paragraphs in such a form must be numbered and labeled in bold type, and the form must contain separate paragraphs for the cure and maintenance of home mortgages, payment of domestic support obligations, treatment of secured claims covered by the “hanging paragraph” of § 1325(a), and surrender of property securing a claim. Whether those portions of the Local Form are used in a given chapter 13 case will depend on the debtor’s individual circumstances.

The rule requires that a Local Form begin with a paragraph for the debtor to call attention to the fact

that the plan contains a nonstandard provision; limits the amount of a secured claim based on a valuation of the collateral, as authorized by Rule 3012(b); or avoids a lien, as authorized by Rule 4003(d).

The last paragraph of a Local Form must be for the inclusion of any nonstandard provisions, as defined by Rule 3015(c), and must include a statement that nonstandard provisions placed elsewhere in the plan are void. This part gives the debtor the opportunity to propose provisions that are not otherwise in, or that deviate from, the Local Form. The form must also require a certification by the debtor's attorney or unrepresented debtor that there are no nonstandard provisions other than those placed in the final paragraph.

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#### **Changes Made After Publication and Comment**

- References to Bankruptcy Code §§ 362(a) and 1301(a) were added to subsection (d)(4);
- References to Rules 3012(b) and 4003(d) were added to what is now the penultimate paragraph of the Committee Note; and
- The last paragraph of the Committee Note was subdivided and the sentence “This part gives the debtor the opportunity to propose provisions that are not otherwise in, or that deviate from, the Local Form.” was added to what is now the final paragraph.

#### **Summary of Public Comment**

Summaries of the comments submitted in response to the publication of these rule amendments are set forth in Appendix B.