

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
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In re )  
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 ) Administrative Order  
ORDER REGARDING INTERIM ) FLMB-2013-1  
BANKRUPTCY RULE 1007-1 )  
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**ORDER ADOPTING INTERIM RULE 1007-1  
AND ADOPTING CONFORMING AMENDMENTS**

On October 20, 2008, Congress enacted the *National Guard and Reservists Debt Relief Act of 2008*, which provides a temporary exclusion for certain members of the National Guard and Reservists from the means test in Chapter 7 bankruptcy case. The Act, which now applies through December 18, 2015, is provided for in 11 U.S.C. § 707(2)(D)(ii) of the Bankruptcy Code. To clarify the Act's effect, the Executive Committee of the Judicial Conference of the United States adopted Interim Rule 1007-1 to set forth the time required to comply with the means test after the temporary exclusion expires.

On December 12, 2012, Congress amended Bankruptcy Rule 1007 to clarify an inconsistency in the time limit to file a list of creditors in an involuntary bankruptcy. Bankruptcy Rule 1007(c) affects Interim Rule 7001-1 and those parties affected by the *National Guard and Reservists Debt Relief Act* because it fixes the time required to file schedules, statements, and other documents with the Court, which become effective after the temporary exclusion of the Act expires. To provide further guidance to those parties affected by *National Guard and Reservists Debt Relief Act*, it is:

**ORDERED:**

Interim Bankruptcy Rule 1007-1 is adopted, effective December 12, 2012, and shall remain in effect until further order of this Court. A copy of the current Interim Rule 1007-1 is attached as Exhibit A.

DONE AND ORDERED in Orlando, Florida on January 15, 2013.



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KAREN S. JENNEMANN  
Chief United States Bankruptcy Judge  
Middle District of Florida

**Interim Rule 1007-I.<sup>1</sup> Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion<sup>2</sup>**

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(b) SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS REQUIRED.

\* \* \* \* \*

(4) Unless either: (A) § 707(b)(2)(D)(i) applies, or (B) § 707(b)(2)(D)(ii) applies and the exclusion from means testing granted therein extends beyond the period specified by Rule 1017(e), an individual debtor in a chapter 7 case shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the current monthly income exceeds the median family income for the applicable state and household size, the information, including calculations, required by § 707(b), prepared as prescribed by the appropriate Official Form.

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<sup>1</sup>Interim Rule 1007-I was adopted by the bankruptcy courts to implement the National Guard and Reservists Debt Relief Act of 2008, Public Law No: 110-438. The Act, which provides a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces, applies to bankruptcy cases commenced in the three-year period beginning December 19, 2008.

<sup>2</sup> Incorporates time amendments to Rule 1007 which took effect on December 1, 2009.

15           (c) TIME LIMITS. In a voluntary case, the schedules,  
16 statements, and other documents required by subdivision (b)(1), (4),  
17 (5), and (6) shall be filed with the petition or within 14 days  
18 thereafter, except as otherwise provided in subdivisions (d), (e), (f),  
19 (h), and (n) of this rule. In an involuntary case, the list in subdivision  
20 (a)(2), and the schedules, statements, and other documents required  
21 by subdivision (b)(1) shall be filed by the debtor within 14 days of  
22 the entry of the order for relief. In a voluntary case, the documents  
23 required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall  
24 be filed with the petition. Unless the court orders otherwise, a debtor  
25 who has filed a statement under subdivision (b)(3)(B), shall file the  
26 documents required by subdivision (b)(3)(A) within 14 days of the  
27 order for relief. In a chapter 7 case, the debtor shall file the statement  
28 required by subdivision (b)(7) within 45 days after the first date set  
29 for the meeting of creditors under § 341 of the Code, and in a chapter  
30 11 or 13 case no later than the date when the last payment was made  
31 by the debtor as required by the plan or the filing of a motion for a  
32 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court  
33 may, at any time and in its discretion, enlarge the time to file the  
34 statement required by subdivision (b)(7). The debtor shall file the  
35 statement required by subdivision (b)(8) no earlier than the date of  
36 the last payment made under the plan or the date of the filing of a

37 motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b)  
38 of the Code. Lists, schedules, statements, and other documents filed  
39 prior to the conversion of a case to another chapter shall be deemed  
40 filed in the converted case unless the court directs otherwise. Except  
41 as provided in § 1116(3), any extension of time to file schedules,  
42 statements, and other documents required under this rule may be  
43 granted only on motion for cause shown and on notice to the United  
44 States trustee, any committee elected under § 705 or appointed under  
45 § 1102 of the Code, trustee, examiner, or other party as the court may  
46 direct. Notice of an extension shall be given to the United States  
47 trustee and to any committee, trustee, or other party as the court may  
48 direct.

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50 (n) TIME LIMITS FOR, AND NOTICE TO, DEBTORS  
51 TEMPORARILY EXCLUDED FROM MEANS TESTING.

52 (1) An individual debtor who is temporarily excluded from  
53 means testing pursuant to § 707(b)(2)(D)(ii) of the Code shall file any  
54 statement and calculations required by subdivision (b)(4) no later  
55 than 14 days after the expiration of the temporary exclusion if the  
56 expiration occurs within the time specified by Rule 1017(e) for filing  
57 a motion pursuant to § 707(b)(2).

58                   (2) If the temporary exclusion from means testing under §  
59                   707(b)(2)(D)(ii) terminates due to the circumstances specified in  
60                   subdivision (n)(1), and if the debtor has not previously filed a  
61                   statement and calculations required by subdivision (b)(4), the clerk  
62                   shall promptly notify the debtor that the required statement and  
63                   calculations must be filed within the time specified in subdivision  
64                   (n)(1).

#### COMMITTEE NOTE

This rule is amended to take account of the enactment of the National Guard and Reservists Debt Relief Act of 2008, which amended § 707(b)(2)(D) of the Code to provide a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces. This exclusion applies to qualifying debtors while they remain on active duty or are performing a homeland defense activity, and for a period of 540 days thereafter. For some debtors initially covered by the exclusion, the protection from means testing will expire while their chapter 7 cases are pending, and at a point when a timely motion to dismiss under § 707(b)(2) can still be filed. Under the amended rule, these debtors are required to file the statement and calculations required by subdivision (b)(4) no later than 14 days after the expiration of their exclusion.

Subdivisions (b)(4) and (c) are amended to relieve debtors qualifying for an exclusion under § 707(b)(2)(D)(ii) from the obligation to file a statement of current monthly income and required calculations within the time period specified in subdivision (c).

Subdivision (n)(1) is added to specify the time for filing of the information required by subdivision (b)(4) by a debtor who initially qualifies for the means test exclusion under § 707(b)(2)(D)(ii), but whose exclusion expires during the time that a motion to dismiss under § 707(b)(2) may still be made under Rule 1017(e). If, upon the expiration of the temporary exclusion, a debtor has not already filed the required statement and

calculations, subdivision (n)(2) directs the clerk to provide prompt notice to the debtor of the time for filing as set forth in subdivision (n)(1).

## SERVICE LIST

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