AMENDMENTS TO FEDERAL RULES OF BANKRUPTCY PROCEDURE

The following amendments to the Federal Rules of Bankruptcy Procedure were prescribed by the Supreme Court of the United States on April 26, 1999, pursuant to 28 U. S. C. § 2075, and were reported to Congress by THE CHIEF JUSTICE on the same date. For the letter of transmittal, see *post*, p. 1170. The Judicial Conference report referred to in that letter is not reproduced herein.

Note that under 28 U. S. C. § 2075, such amendments shall take effect no earlier than December 1 of the year in which they are transmitted to Congress unless otherwise provided by law.

For earlier publication of the Federal Rules of Bankruptcy Procedure and amendments thereto, see, *e. g.*, 461 U. S. 973, 471 U. S. 1147, 480 U. S. 1077, 490 U. S. 1119, 500 U. S. 1017, 507 U. S. 1075, 511 U. S. 1169, 514 U. S. 1145, 517 U. S. 1263, and 520 U. S. 1285.

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LETTER OF TRANSMITTAL

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C.

APRIL 26, 1999

To the Senate and House of Representatives of the United States of America in Congress Assembled:

By direction of the Supreme Court of the United States, I have the honor to submit to the Congress the amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2075 of Title 28, United States Code.

Accompanying these rules are excerpts from the report of the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

(Signed) WILLIAM H. REHNQUIST
Chief Justice of the United States

SUPREME COURT OF THE UNITED STATES

APRIL 26, 1999

ORDERED:

1. That the Federal Rules of Bankruptcy Procedure be, and they hereby are, amended by including therein amendments to Bankruptcy Rules 1017, 1019, 2002, 2003, 3020, 3021, 4001, 4004, 4007, 6004, 6006, 7001, 7004, 7062, 9006, and 9014.

[See *infra*, pp. 1173–1181.]

2. That the foregoing amendments to the Federal Rules of Bankruptcy Procedure shall take effect on December 1, 1999, and shall govern in all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Bankruptcy Procedure in accordance with the provisions of Section 2075 of Title 28, United States Code.

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 1017. Dismissal or conversion of case; suspension.

(*a*) *Voluntary dismissal; dismissal for want of prosecution or other cause.*—Except as provided in §§ 707(a)(3), 707(b), 1208(b), and 1307(b) of the Code, and in Rule 1017(b), (c), and (e), a case shall not be dismissed on motion of the petitioner, for want of prosecution or other cause, or by consent of the parties, before a hearing on notice as provided in Rule 2002. For the purpose of the notice, the debtor shall file a list of creditors with their addresses within the time fixed by the court unless the list was previously filed. If the debtor fails to file the list, the court may order the debtor or another entity to prepare and file it.

(*b*) *Dismissal for failure to pay filing fee.*

(1) If any installment of the filing fee has not been paid, the court may, after a hearing on notice to the debtor and the trustee, dismiss the case.

(2) If the case is dismissed or closed without full payment of the filing fee, the installments collected shall be distributed in the same manner and proportions as if the filing fee had been paid in full.

(*c*) *Dismissal of voluntary Chapter 7 or Chapter 13 case for failure to timely file list of creditors, schedules, and statement of financial affairs.*—The court may dismiss a voluntary chapter 7 or chapter 13 case under § 707(a)(3) or § 1307(c)(9) after a hearing on notice served by the United States trustee on the debtor, the trustee, and any other entities as the court directs.

(*d*) *Suspension.*—The court shall not dismiss a case or suspend proceedings under § 305 before a hearing on notice as provided in Rule 2002(a).

(*e*) *Dismissal of an individual debtor's Chapter 7 case for substantial abuse.*—The court may dismiss an individual debtor's case for substantial abuse under § 707(b) only on motion by the United States trustee or on the court's own motion and after a hearing on notice to the debtor, the trustee, the United States trustee, and any other entities as the court directs.

(1) A motion to dismiss a case for substantial abuse may be filed by the United States trustee only within 60 days after the first date set for the meeting of creditors under § 341(a), unless, before the time has expired, the court for cause extends the time for filing the motion. The United States trustee shall set forth in the motion all matters to be submitted to the court for its consideration at the hearing.

(2) If the hearing is set on the court's own motion, notice of the hearing shall be served on the debtor no later than 60 days after the first date set for the meeting of creditors under § 341(a). The notice shall set forth all matters to be considered by the court at the hearing.

(*f*) *Procedure for dismissal, conversion, or suspension.*

(1) Rule 9014 governs a proceeding to dismiss or suspend a case, or to convert a case to another chapter, except under §§ 706(a), 1112(a), 1208(a) or (b), or 1307(a) or (b).

(2) Conversion or dismissal under §§ 706(a), 1112(a), 1208(b), or 1307(b) shall be on motion filed and served as required by Rule 9013.

(3) A chapter 12 or chapter 13 case shall be converted without court order when the debtor files a notice of conversion under §§ 1208(a) or 1307(a). The filing date of the notice becomes the date of the conversion order for the purposes of applying § 348(c) and Rule 1019. The clerk shall promptly transmit a copy of the notice to the United States trustee.

Rule 1019. Conversion of a Chapter 11 reorganization case, Chapter 12 family farmer's debt adjustment case, or Chapter 13 individual's debt adjustment case to a Chapter 7 liquidation case.

When a chapter 11, chapter 12, or chapter 13 case has been converted or reconverted to a chapter 7 case:

(*1*) *Filing of lists, inventories, schedules, statements.*

. . . . .

(B) If a statement of intention is required, it shall be filed within 30 days after entry of the order of conversion or before the first date set for the meeting of creditors, whichever is earlier. The court may grant an extension of time for cause only on written motion filed, or oral request made during a hearing, before the time has expired. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

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(*6*) *Postpetition claims; preconversion administrative expenses; notice.*—A request for payment of an administrative expense incurred before conversion of the case is timely filed under § 503(a) of the Code if it is filed before conversion or a time fixed by the court. If the request is filed by a governmental unit, it is timely if it is filed before conversion or within the later of a time fixed by the court or 180 days after the date of the conversion. A claim of a kind specified in § 348(d) may be filed in accordance with Rules 3001(a)–(d) and 3002. Upon the filing of the schedule of unpaid debts incurred after commencement of the case and before conversion, the clerk, or some other person as the court may direct, shall give notice to those entities listed on the schedule of the time for filing a request for payment of an administrative expense and, unless a notice of insufficient assets to pay a dividend is mailed in accordance with Rule 2002(e), the time for filing a claim of a kind specified in § 348(d).

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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) 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:

(1) the meeting of creditors under § 341 or § 1104(b) of the Code;

. . . . .

(4) in a chapter 7 liquidation, a chapter 11 reorganization case, or a chapter 12 family farmer debt adjustment case, the hearing on the dismissal of the case or the conversion of the case to another chapter, unless the hearing is under § 707(a)(3) or § 707(b) or is on dismissal of the case for failure to pay the filing fee;

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(*f*) *Other notices.*—Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, all creditors, and indenture trustees notice by mail of:

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(2) the dismissal or the conversion of the case to another chapter, or the suspension of proceedings under § 305;

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Rule 2003. Meeting of creditors or equity security holders.

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(*d*) *Report of election and resolution of disputes in a Chapter 7 case.*

(*1*) *Report of undisputed election.*—In a chapter 7 case, if the election of a trustee or a member of a creditors' committee is not disputed, the United States trustee shall promptly file a report of the election, including the name and address

of the person or entity elected and a statement that the election is undisputed.

(*2*) *Disputed election.*—If 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. No later than the date on which the report is filed, the United States trustee shall mail a copy of the report to any party in interest that has made a request to receive a copy of the report. Pending disposition by the court of a disputed election for trustee, the interim trustee shall continue in office. Unless a motion for the resolution of the dispute is filed no later than 10 days after the United States trustee files a report of a disputed election for trustee, the interim trustee shall serve as trustee in the case.

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Rule 3020. Deposit; confirmation of plan in a Chapter 9 municipality or a Chapter 11 reorganization case.

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(*e*) *Stay of confirmation order.*—An order confirming a plan is stayed until the expiration of 10 days after the entry of the order, unless the court orders otherwise.

Rule 3021. Distribution under plan.

Except as provided in Rule 3020(e), after a plan is confirmed, distribution shall be made to creditors whose claims have been allowed, to interest holders whose interests have not been disallowed, and to indenture trustees who have filed claims under Rule 3003(c)(5) that have been allowed. For purposes of this rule, creditors include holders of bonds, debentures, notes, and other debt securities, and interest holders include the holders of stock and other equity securities, of record at the time of commencement of distribution, unless a different time is fixed by the plan or the order confirming the plan.

Rule 4001. Relief from automatic stay; prohibiting or conditioning the use, sale, or lease of property; use of cash collateral; obtaining credit; agreements.

(*a*) *Relief from stay; prohibiting or conditioning the use, sale, or lease of property.*

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(*3*) *Stay of order.*—An order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 10 days after the entry of the order, unless the court orders otherwise.

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Rule 4004. Grant or denial of discharge.

(*a*) *Time for filing complaint objecting to discharge; notice of time fixed.*—In a chapter 7 liquidation case a complaint objecting to the debtor's discharge under § 727(a) of the Code shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). In a chapter 11 reorganization case, the complaint shall be filed no later than the first date set for the hearing on confirmation. At least 25 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k), and to the trustee and the trustee's attorney.

(*b*) *Extension of time.*—On motion of any party in interest, after hearing on notice, the court may for cause extend the time to file a complaint objecting to discharge. The motion shall be filed before the time has expired.

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Rule 4007. Determination of dischargeability of a debt.

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(*c*) *Time for filing complaint under § 523(c) in a Chapter 7 liquidation, Chapter 11 reorganization, or Chapter 12 family farmer's debt adjustment case; notice of time fixed.*—A complaint to determine the dischargeability of a debt

under § 523(c) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). The court shall give all creditors no less than 30 days' notice of the time so fixed in the manner provided in Rule 2002. On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

(*d*) *Time for filing complaint under § 523(c) in a Chapter 13 individual's debt adjustment case; notice of time fixed.*—On motion by a debtor for a discharge under § 1328(b), the court shall enter an order fixing the time to file a complaint to determine the dischargeability of any debt under § 523(c) and shall give no less than 30 days' notice of the time fixed to all creditors in the manner provided in Rule 2002. On motion of any party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

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Rule 6004. Use, sale, or lease of property.

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(*g*) *Stay of order authorizing use, sale, or lease of property.*—An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise.

Rule 6006. Assumption, rejection or assignment of an executory contract or unexpired lease.

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(*d*) *Stay of order authorizing assignment.*—An order authorizing the trustee to assign an executory contract or unexpired lease under § 365(f) is stayed until the expiration of 10 days after the entry of the order, unless the court orders otherwise.

Rule 7001. Scope of rules of Part VII.

An adversary proceeding is governed by the rules of this Part VII. The following are adversary proceedings:

(1) a proceeding to recover money or property, other than a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under § 554(b) or § 725 of the Code, Rule 2017, or Rule 6002;

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

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

(4) a proceeding to object to or revoke a discharge;

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

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

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

(8) a proceeding to subordinate any allowed claim or interest, except when a chapter 9, chapter 11, chapter 12, or chapter 13 plan provides for subordination;

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

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

Rule 7004. Process; service of summons, complaint.

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(*e*) *Summons: time limit for service within the United States.*—Service made under Rule 4(e), (g), (h)(1), (i), or (j)(2) F. R. Civ. P. shall be by delivery of the summons and complaint within 10 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 10 days after the

summons is issued. If a summons is not timely delivered or mailed, another summons shall be issued and served. This subdivision does not apply to service in a foreign country.

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Rule 7062. Stay of proceedings to enforce a judgment.

Rule 62 F. R. Civ. P. applies in adversary proceedings.

Rule 9006. Time.

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(*b*) *Enlargement.*

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(*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.

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Rule 9014. Contested matters.

In a contested matter in a case under the Code not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought. No response is required under this rule unless the court orders an answer to a motion. The motion shall be served in the manner provided for service of a summons and complaint by Rule 7004, and, unless the court otherwise directs, the following rules shall apply: 7021, 7025, 7026, 7028–7037, 7041, 7042, 7052, 7054–7056, 7064, 7069, and 7071. The court may at any stage in a particular matter direct that one or more of the other rules in Part VII shall apply. An entity that desires to perpetuate testimony may proceed in the same manner as provided in Rule 7027 for the taking of a deposition before an adversary proceeding. The clerk shall give notice to the parties of the entry of any order directing that additional rules of Part VII are applicable or that certain of the rules of Part VII are not applicable. The notice shall be given within such time as is necessary to afford the parties a reasonable opportunity to comply with the procedures made applicable by the order.