

# Amendments to the Federal Rules of Bankruptcy and Criminal Procedure

## Effective December 1, 2012



On April 23, 2012, the Supreme Court approved the following rule amendments, which were approved by the Judicial Conference at its September 2011 session:

Bankruptcy Rules 1007, 2015, 3001, 7054, and 7056

The amendments were transmitted to Congress in accordance with the Rules Enabling Act, and will take effect on December 1, 2012, unless Congress enacts legislation to the contrary.

For further information regarding rule changes, please visit the U.S. Court Rulemaking page located at [www.uscourts.gov/RulesAndPolicies/FederalRulemaking/Overview.aspx](http://www.uscourts.gov/RulesAndPolicies/FederalRulemaking/Overview.aspx).

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# Summary of Amendments to Federal Rules of Bankruptcy Procedure

## Amendments Published for Comment

[Bankruptcy Rule 3001](#) – Rule 3001(c)(1) is amended to provide an exception as to documentation of claims governed under new paragraph 3001(c)(3). The proposed new paragraph (3) requires that claims based on an open-end or revolving consumer credit agreement, such as credit card debt, provide the following information:

- (i) the name of the entity from whom the creditor purchased the account;
- (ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;
- (iii) the date of an account holder's last transaction;
- (iv) the date of the last payment on the account; and
- (v) the date on which the account was charged to profit and loss.

Further, on written request by a party in interest, a holder of a claim based on an open-end or revolving consumer credit agreement must also provide, within 30 days of the request, a copy of the writing on which the claim is based.

[Bankruptcy Rule 7054](#) - The proposed amendment for adversary proceedings was to provide a more reasonable period for a response and to conform to the 2009 time-computation amendments, which changed 5-day periods in the rules to 7-day periods. The changes are also intended to make these periods consistent with Civil Rule 54(a)-(c).

This proposed amendment to subdivision (b) of Rule 7054 provides a more reasonable amount of time for a party to respond to a prevailing party's bill of costs by extending the deadline from 1 day to 14 days. In order to conform to the 2009 time computation amendments, the amendment also extends, from 5 days to 7 days, the time to seek a court review of costs taxed by the clerk.

[Bankruptcy Rule 7056](#) - Rule 7056 makes Civil Rule 56 applicable in adversary proceedings. The proposed amendment is to base the default deadline on the scheduled hearing date, rather than the close of discovery, requiring a summary judgment motion to be filed 30 days before the initial date set for an evidentiary hearing on any issue for which summary judgment is sought, unless a local rule or court order sets a different deadline.

Rule 7056 makes Fed. R. Civ. P. 56 applicable in adversary proceedings. Under Rule 9014(c), Rule 7056 also applies in contested matters unless the court directs otherwise. Civil Rule 56 was amended in December 2010 to impose a default deadline for filing a motion for summary judgment of 30 days from the close of discovery. Because hearings in bankruptcy cases sometimes occur shortly after the close of discovery, the amendment to Rule 7056 provides an exception by setting a default deadline for filing a summary judgment motion of 30 days before the initial date set for an evidentiary hearing.

## **Technical and Conforming Amendments**

[Bankruptcy Rule 1007\(c\)](#) - The proposed amendment to Rule 1007(c) is a technical and conforming amendment eliminating an inconsistent and redundant reference to Rule 1007(a)(2), which was recently amended to reduce the time for filing the list of creditors from 14 to 7 days.

[Bankruptcy Rule 2015\(a\)](#) - The proposed amendment to Rule 2015(a) is a technical and conforming amendment correcting the pre-2005 reference to 11 U.S.C. § 704(8) to § 704(a)(8). The propose amendment changes the reference to the pre-2005 § 704(8) to § 704(a)(8).

The proposed amendment to Rule 2015(a) is a technical and conforming amendment correcting an erroneous reference to § 704(8), which was broken into subdivisions by the 2005 Amendments to the Code. The propose amendment corrects a pre-2005 reference from § 704(8) to § 704(a)(8).

[Bankruptcy Rule 3001\(c\)\(1\)](#) – The proposed amendment to 3001(c)(1) is a technical amendment removing the option of filing with a proof of claim the original of a writing on which a claim is based. The amendment is to conform with the instructions to Official Form B10 (Proof of Claim), which direct the claimant not to “send original documents, as attachments may be destroyed after scanning.”

**Proposed Amendments (redline) to the  
Federal Rules of Bankruptcy Procedure\***

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**Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits**

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(c) TIME LIMITS. In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, ~~the list in subdivision (a)(2), and the~~ schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days ~~of~~ after the entry of the order for relief.

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**COMMITTEE NOTE**

**Subdivision (c).** In subdivision (c), the time limit for a debtor in an involuntary case to file the list required by subdivision (a)(2) is deleted as unnecessary. Subdivision (a)(2) provides that the list must be filed within seven days after the entry of the order for relief. The other change to subdivision (c) is stylistic.

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Because this amendment is being made to conform to an amendment to Rule 1007(a)(2) that took effect on December 1, 2010, final approval is sought without publication.

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

**Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status**

1 (a)TRUSTEE OR DEBTOR IN POSSESSION. A trustee  
2 or debtor in possession shall:

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4 (3) file the reports and summaries required by  
5 § 704(a)(8) of the Code, which shall include a statement, if  
6 payments are made to employees, of the amounts of  
7 deductions for all taxes required to be withheld or paid for  
8 and in behalf of employees and the place where these  
9 amounts are deposited;

10 \* \* \* \* \*

**COMMITTEE NOTE**

**Subdivision (a)(3).** Subdivision (a)(3) is amended to correct the reference to § 704. The 2005 amendments to the Code expanded § 704 and created subsections within it. The provision that was previously § 704(8) became § 704(a)(8). The other change to (a)(3) is stylistic.

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Final approval of this technical amendment is sought without publication.

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**Rule 3001. Proof of Claim**<sup>\*\*1</sup>

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(c) SUPPORTING INFORMATION.

(1) *Claim Based on a Writing.* Except for a claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate a copy of the writing shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

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(3) *Claim Based on an Open-End or Revolving Consumer Credit Agreement.*

(A) When a claim is based on an open-end or revolving consumer credit agreement — except one for which a security interest is claimed in the debtor’s real property — a statement shall be filed with the proof of claim, including all of the following information that applies to the account:

(i) the name of the entity from whom

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<sup>1 \*\*</sup> Incorporates amendments that are taking effect on December 1, 2011, if Congress takes no action otherwise.

21 the creditor purchased the account;  
22 (ii) the name of the entity to whom the  
23 debt was owed at the time of an account holder's last  
24 transaction on the account;  
25 (iii) the date of an account holder's last  
26 transaction;  
27 (iv) the date of the last payment on the  
28 account; and  
29 (v) the date on which the account was  
30 charged to profit and loss.  
31 (B) On written request by a party in interest,  
32 the holder of a claim based on an open-end or revolving  
33 consumer credit agreement shall, within 30 days after the  
34 request is sent, provide the requesting party a copy of the  
35 writing specified in paragraph (1) of this subdivision.

### COMMITTEE NOTE

**Subdivision (c).** Subdivision (c) is amended in several respects. The former requirement in paragraph (1) to file an original or duplicate of a supporting document is amended to reflect the current practice of filing only copies. The proof of claim form instructs claimants not to file the original of a document because it may be destroyed by the clerk's office after scanning.

Subdivision (c) is further amended to add paragraph (3). Except with respect to claims secured by a security interest in the debtor's real property (such as a home equity line of credit), paragraph (3) specifies information that must be provided in support of a claim based on an open-end or revolving consumer credit agreement (such as an agreement underlying the issuance of a credit card). Because a claim of this type may have been sold one or more times prior to the debtor's bankruptcy, the debtor may not recognize the name of the person filing the proof of claim. Disclosure of the information required by paragraph (3) will assist the debtor in associating the claim with a known account. It will also

provide a basis for assessing the timeliness of the claim. The date, if any, on which the account was charged to profit and loss (“charge-off” date) under subparagraph (A)(v) should be determined in accordance with applicable standards for the classification and account management of consumer credit. A proof of claim executed and filed in accordance with subparagraph (A), as well as the applicable provisions of subdivisions (a), (b), (c)(2), and (e), constitutes prima facie evidence of the validity and amount of the claim under subdivision (f).

of subdivision (c) is not applicable. A party in interest, however, may obtain the writing on which an open-end or revolving consumer credit claim is based by requesting in writing that documentation from the holder of the claim. The holder of the claim must provide the documentation within 30 days after the request is sent. The court, for cause, may extend or reduce that time period under Rule 9006.

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### **Changes Made After Publication**

Subdivision (c)(1). The requirement for the attachment of a writing on which a claim is based was changed to require that a copy, rather than the original or a duplicate, of the writing be provided.

Subdivision (c)(3). An exception to subparagraph (A) was added for open-end or revolving consumer credit agreements that are secured by the debtor's real property.

A time limit of 30 days for responding to a written request under subparagraph (B) was added.

Committee Note. A statement was added to clarify that if a proof of claim complies with subdivision (c)(3)(A), as well as with subdivisions (a), (b), (c)(2), and (e), it constitutes prima facie evidence of the validity and amount of the claim under subdivision (f).

Other changes. Stylistic changes were also made to the rule.

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## Rule 7054. Judgments; Costs

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(b) COSTS. The court may allow costs to the prevailing party except when a statute of the United States or these rules otherwise provides. Costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on ~~one day's~~ 14 days' notice; on motion served within ~~five~~ seven days thereafter, the action of the clerk may be reviewed by the court.

### COMMITTEE NOTE

**Subdivision (b).** Subdivision (b) is amended to provide more time for a party to respond to the prevailing party's bill of costs. The former rule's provision of one day's notice was unrealistically short. The change to 14 days conforms to the change made to Civil Rule

54(d). Extension from five to seven days of the time for serving a motion for court review of the clerk's action implements changes in connection with the December 1, 2009, amendment to Rule 9006(a) and the manner by which time is computed under the rules. Throughout the rules, deadlines have been amended in the following manner:

- 5-day periods became 7-day periods.
  - 10-day periods became 14-day periods.
  - 15-day periods became 14-day periods.
  - 20-day periods became 21-day periods.
  - 25-day periods became 28-day periods.
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## Changes Made After Publication

No changes were made after publication.

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### Rule 7056. Summary Judgment

1           Rule 56 F.R.Civ.P. applies in adversary proceedings.,     -

2           except that any motion for summary judgment must be made

3           at least 30 days before the initial date set for an evidentiary

4           hearing on any issue for which summary judgment is sought,

5           unless a different time is set by local rule or the court orders

6           otherwise.

### COMMITTEE NOTE

The only exception to complete adoption of Rule 56 F.R.Civ.P. involves the default deadline for filing a summary judgment motion. Rule 56(c)(1)(A) makes the default deadline 30 days after the close of all discovery. Because in bankruptcy cases hearings can occur shortly after the close of discovery, a default deadline based on the scheduled hearing date, rather than the close of discovery, is adopted. As with Rule 56(c)(1), the deadline can be altered either by local rule or court order.

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## Changes Made After Publication

No changes were made after publication.

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