

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
www.flsb.uscourts.gov

In re:

Administrative Order 12-01

Order Clarifying Status of
Adoption of Interim Bankruptcy
Rule 1007-I

Interim Bankruptcy Rule 1007-I implemented the National Guard and Reservists Debt Relief Act of 2008, which provided to certain members of the National Guard and Reservists a temporary exclusion from the means test requirements in bankruptcy cases and originally applied only to cases commenced in the three year period beginning on December 19, 2008 effective date of the Act.

On December 13, 2011, the President signed the National Guard and Reservist Debt Relief Extension Act of 2011, Pub. L. No. 112-64, extending the means test exclusion period for an additional four years.

Interim Bankruptcy Rule 1007-I is currently in effect in this court under Administrative Order 10-6. Accordingly, it is **ORDERED** that:

1. Interim Bankruptcy Rule 1007-I shall remain adopted by this court through the extended December 18, 2015 terminal date and, without further order, through any future extension of this Act. A copy of current Interim Bankruptcy Rule 1007-I is attached as Exhibit A.
2. This Order supersedes and replaces Administrative Order 10-06.

ORDERED in the Southern District of Florida on January 9, 2012.



PAUL G. HYMAN, JR.
Chief United States Bankruptcy Judge

c: All SD Bankruptcy Judges
Clerk of Court

14

* * * * *

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
20 subdivision (a)(2), and the schedules, statements, and other
21 documents required by subdivision (b)(1) shall be filed by the
22 debtor within 14 days of the entry of the order for relief. In a
23 voluntary case, the documents required by paragraphs (A), (C), and
24 (D) of subdivision (b)(3) shall be filed with the petition. Unless
25 the court orders otherwise, a debtor who has filed a statement under
26 subdivision (b)(3)(B), shall file the documents required by
27 subdivision (b)(3)(A) within 14 days of the order for relief. In a
28 chapter 7 case, the debtor shall file the statement required by
29 subdivision (b)(7) within 60 days after the first date set for the
30 meeting of creditors under § 341 of the Code, and in a chapter 11 or
31 13 case no later than the date when the last payment was made by
32 the debtor as required by the plan or the filing of a motion for a
33 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The
34 court may, at any time and in its discretion, enlarge the time to file
35 the statement required by subdivision (b)(7). The debtor shall file
36 the statement required by subdivision (b)(8) no earlier than the date

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

50

* * * * *

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

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

59 (2) If the temporary exclusion from means testing under

60 § 707(b)(2)(D)(ii) terminates due to the circumstances specified in
61 subdivision (n)(1), and if the debtor has not previously filed a
62 statement and calculations required by subdivision (b)(4), the clerk
63 shall promptly notify the debtor that the required statement and
64 calculations must be filed within the time specified in subdivision
65 (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).