

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).

To the extent that paragraph (3) applies to a claim, paragraph (1) 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.

*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.

REFERENCES IN TEXT

The United States Warehouse Act, referred to in subd. (g), is Part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, as amended, which is classified generally to chapter 10 (§241 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 241 of Title 7 and Tables.

AMENDMENT BY PUBLIC LAW

1984—Subd. (g). Pub. L. 98-353 added subd. (g).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

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

(a) **NECESSITY FOR FILING.** An unsecured creditor or an equity security holder must file a proof of claim or interest for the claim or interest to be allowed, except as provided in Rules 1019(3), 3003, 3004, and 3005.

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

(c) **TIME FOR FILING.** In a chapter 7 liquidation, chapter 12 family farmer's debt adjustment, or chapter 13 individual's debt adjustment case, a proof of claim is timely filed if it is filed not later than 90 days after the first date set for the meeting of creditors called under §341(a) of the Code, except as follows:

(1) A proof of claim filed by a governmental unit, other than for a claim resulting from a

tax return filed under §1308, is timely filed if it is filed not later than 180 days after the date of the order for relief. A proof of claim filed by a governmental unit for a claim resulting from a tax return filed under §1308 is timely filed if it is filed no later than 180 days after the date of the order for relief or 60 days after the date of the filing of the tax return. The court may, for cause, enlarge the time for a governmental unit to file a proof of claim only upon motion of the governmental unit made before expiration of the period for filing a timely proof of claim.

(2) In the interest of justice and if it will not unduly delay the administration of the case, the court may extend the time for filing a proof of claim by an infant or incompetent person or the representative of either.

(3) An unsecured claim which arises in favor of an entity or becomes allowable as a result of a judgment may be filed within 30 days after the judgment becomes final if the judgment is for the recovery of money or property from that entity or denies or avoids the entity's interest in property. If the judgment imposes a liability which is not satisfied, or a duty which is not performed within such period or such further time as the court may permit, the claim shall not be allowed.

(4) A claim arising from the rejection of an executory contract or unexpired lease of the debtor may be filed within such time as the court may direct.

(5) If notice of insufficient assets to pay a dividend was given to creditors under Rule 2002(e), and subsequently the trustee notifies the court that payment of a dividend appears possible, the clerk shall give at least 90 days' notice by mail to creditors of that fact and of the date by which proofs of claim must be filed.

(6) If notice of the time to file a proof of claim has been mailed to a creditor at a foreign address, on motion filed by the creditor before or after the expiration of the time, the court may extend the time by not more than 60 days if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 23, 2008, eff. Dec. 1, 2008.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

*Subdivision (a)* of this rule is substantially a restatement of the general requirement that claims be proved and filed. The exceptions refer to Rule 3003 providing for the filing of claims in chapter 9 and 11 cases, and to Rules 3004 and 3005 authorizing claims to be filed by the debtor or trustee and the filing of a claim by a contingent creditor of the debtor.

A secured claim need not be filed or allowed under §502 or §506(d) unless a party in interest has requested a determination and allowance or disallowance under §502.

*Subdivision (c)* is adapted from former Bankruptcy Rule 302(e) but changes the time limits on the filing of claims in chapter 7 and 13 cases from six months to 90 days after the first date set for the meeting of creditors. The special rule for early filing by a secured creditor in a chapter 13 case, in former Rule 13-302(e)(1) is not continued.

Although the claim of a secured creditor may have arisen before the petition, a judgment avoiding the security interest may not have been entered until after the time for filing claims has expired. Under Rule 3002(c)(3) the creditor who did not file a secured claim may nevertheless file an unsecured claim within the time prescribed. A judgment does not become final for the purpose of starting the 30 day period provided for by paragraph (3) until the time for appeal has expired or, if an appeal is taken, until the appeal has been disposed of. *In re Tapp*, 61 F. Supp. 594 (W.D. Ky. 1945).

Paragraph (1) is derived from former Bankruptcy Rule 302(e). The governmental unit may move for an extension of the 90 day period. Pursuant to §501(c) of the Code, if the government does not file its claim within the proper time period, the debtor or trustee may file on its behalf. An extension is not needed by the debtor or trustee because the right to file does not arise until the government's time has expired.

Paragraph (4) is derived from former chapter rules. (See, e.g., Rule 11-33(a)(2)(B). In light of the reduced time it is necessary that a party with a claim arising from the rejection of an executory contract have sufficient time to file that claim. This clause allows the court to fix an appropriate time.

Paragraph (5) of subdivision (c) is correlated with the provision in Rule 2002(e) authorizing notification to creditors of estates from which no dividends are anticipated. The clause permits creditors who have refrained from filing claims after receiving notification to be given an opportunity to file when subsequent developments indicate the possibility of a dividend. The notice required by this clause must be given in the manner provided in Rule 2002. The information relating to the discovery of assets will usually be obtained by the clerk from the trustee's interim reports or special notification by the trustee.

Provision is made in Rule 2002(a) and (h) for notifying all creditors of the fixing of a time for filing claims against a surplus under paragraph (6). This paragraph does not deal with the distribution of the surplus. Reference must also be made to §726(a)(2)(C) and (3) which permits distribution on late filed claims.

Paragraph (6) is only operative in a chapter 7 case. In chapter 13 cases, the plan itself provides the distribution to creditors which is not necessarily dependent on the size of the estate.

#### NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

*Subdivision (a)* is amended by adding a reference to Rule 1019(4). Rule 1019(4) provides that claims actually filed by a creditor in a chapter 11 or 13 case shall be treated as filed in a superseding chapter 7 case. Claims deemed filed in a chapter 11 case pursuant to §1111(a) of the Code are not considered as filed in a superseding chapter 7 case. The creditor must file a claim in the superseding chapter 7 case.

#### NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

*Subdivision (a)* is amended to conform to the renumbering of subdivisions of Rule 1019. Subdivision (c) is amended to include chapter 12 cases. Subdivision (c)(4) is amended to clarify that it includes a claim arising from the rejection of an unexpired lease.

#### NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

The amendments are designed to conform to §§502(b)(9) and 726(a) of the Code as amended by the Bankruptcy Reform Act of 1994.

The Reform Act amended §726(a)(1) and added §502(b)(9) to the Code to govern the effects of a tardily filed claim. Under §502(b)(9), a tardily filed claim must be disallowed if an objection to the proof of claim is filed, except to the extent that a holder of a tardily filed claim is entitled to distribution under §726(a)(1), (2), or (3).

The phrase “in accordance with this rule” is deleted from Rule 3002(a) to clarify that the effect of filing a proof of claim after the expiration of the time prescribed in Rule 3002(c) is governed by §502(b)(9) of the Code, rather than by this rule.

Section 502(b)(9) of the Code provides that a claim of a governmental unit shall be timely filed if it is filed “before 180 days after the date of the order for relief” or such later time as the Bankruptcy Rules provide. To avoid any confusion as to whether a governmental unit's proof of claim is timely filed under §502(b)(9) if it is filed on the 180th day after the order for relief, paragraph (1) of subdivision (c) provides that a governmental unit's claim is timely if it is filed not later than 180 days after the order for relief.

References to “the United States, a state, or subdivision thereof” in paragraph (1) of subdivision (c) are changed to “governmental unit” to avoid different treatment among foreign and domestic governments.

*GAP Report on Rule 3002.* After publication of the proposed amendments, the Bankruptcy Reform Act of 1994 amended sections 726 and 502(b) of the Code to clarify the rights of creditors who tardily file a proof of claim. In view of the Reform Act, proposed new subdivision (d) of Rule 3002 has been deleted from the proposed amendments because it is no longer necessary. In addition, subdivisions (a) and (c) have been changed after publication to clarify that the effect of tardily filing a proof of claim is governed by §502(b)(9) of the Code, rather than by this rule.

The amendments to §502(b) also provide that a governmental unit's proof of claim is timely filed if it is filed before 180 days after the order for relief. Proposed amendments to Rule 3002(c)(1) were added to the published amendments to conform to this statutory change and to avoid any confusion as to whether a claim by a governmental unit is timely if it is filed on the 180th day.

The committee note has been re-written to explain the rule changes designed to conform to the Reform Act.

#### COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (c)(1) is amended to reflect the addition of §1308 to the Bankruptcy Code in 2005. This provision requires that chapter 13 debtors file tax returns during the pendency of the case, and imposes bankruptcy-related consequences if debtors fail to do so. Subdivision (c)(1) provides additional time for governmental units to file a proof of claim for tax obligations with respect to tax returns filed during the pendency of a chapter 13 case. The amendment also allows the governmental unit to move for additional time to file a proof of claim prior to expiration of the applicable filing period.

Subdivision (c)(5) of the rule is amended to set a new period for providing notice to creditors that they may file a proof of claim in a case in which they were previously informed that there was no need to file a claim. Under Rule 2002(e), if it appears that there will be no distribution to creditors, the creditors are notified of this fact and are informed that if assets are later discovered and a distribution is likely that a new notice will be given to the creditors. This second notice is prescribed by Rule 3002(c)(5). The rule is amended to direct the clerk to give at least 90 days' notice of the time within which creditors may file a proof of claim. Setting the deadline in this manner allows the notices being sent to creditors to be more accurate regarding the deadline than was possible under the prior rule. The rule previously began the 90 day notice period from the time of the mailing of the notice, a date that could vary and generally would not even be known to the creditor. Under the amended rule, the notice will identify a specific bar date for filing proofs of claim thereby being more helpful to the creditors.

Subdivision (c)(6) is added to give the court discretion to extend the time for filing a proof of claim for a creditor who received notice of the time to file the claim at a foreign address, if the court finds that the notice was not sufficient, under the particular circum-

stances, to give the foreign creditor a reasonable time to file a proof of claim. This amendment is designed to comply with §1514(d), added to the Code by the 2005 amendments, and requires that the rules and orders of the court provide such additional time as is reasonable under the circumstances for foreign creditors to file claims in cases under all chapters of the Code.

Other changes are stylistic.

*Changes Made After Publication.* Subdivision (c)(1) was amended to allow governmental units to move for an enlargement of the time to file a proof of claim. The Committee Note was amended to describe this addition to the rule.

**Rule 3002.1. Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence**

(a) IN GENERAL. This rule applies in a chapter 13 case to claims that are (1) secured by a security interest in the debtor's principal residence, and (2) provided for under §1322(b)(5) of the Code in the debtor's plan.

(b) NOTICE OF PAYMENT CHANGES. The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice of any change in the payment amount, including any change that results from an interest rate or escrow account adjustment, no later than 21 days before a payment in the new amount is due.

(c) NOTICE OF FEES, EXPENSES, AND CHARGES. The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice itemizing all fees, expenses, or charges (1) that were incurred in connection with the claim after the bankruptcy case was filed, and (2) that the holder asserts are recoverable against the debtor or against the debtor's principal residence. The notice shall be served within 180 days after the date on which the fees, expenses, or charges are incurred.

(d) FORM AND CONTENT. A notice filed and served under subdivision (b) or (c) of this rule shall be prepared as prescribed by the appropriate Official Form, and filed as a supplement to the holder's proof of claim. The notice is not subject to Rule 3001(f).

(e) DETERMINATION OF FEES, EXPENSES, OR CHARGES. On motion of the debtor or trustee filed within one year after service of a notice under subdivision (c) of this rule, the court shall, after notice and hearing, determine whether payment of any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law to cure a default or maintain payments in accordance with §1322(b)(5) of the Code.

(f) NOTICE OF FINAL CURE PAYMENT. Within 30 days after the debtor completes all payments under the plan, the trustee shall file and serve on the holder of the claim, the debtor, and debtor's counsel a notice stating that the debtor has paid in full the amount required to cure any default on the claim. The notice shall also inform the holder of its obligation to file and serve a response under subdivision (g). If the debtor contends that final cure payment has been made and all plan payments have been completed, and the trustee does not timely file and serve the notice required by this subdivision, the debtor may file and serve the notice.

(g) RESPONSE TO NOTICE OF FINAL CURE PAYMENT. Within 21 days after service of the notice

under subdivision (f) of this rule, the holder shall file and serve on the debtor, debtor's counsel, and the trustee a statement indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default on the claim, and (2) whether the debtor is otherwise current on all payments consistent with §1322(b)(5) of the Code. The statement shall itemize the required cure or postpetition amounts, if any, that the holder contends remain unpaid as of the date of the statement. The statement shall be filed as a supplement to the holder's proof of claim and is not subject to Rule 3001(f).

(h) DETERMINATION OF FINAL CURE AND PAYMENT. On motion of the debtor or trustee filed within 21 days after service of the statement under subdivision (g) of this rule, the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required postpetition amounts.

(i) FAILURE TO NOTIFY. If the holder of a claim fails to provide any information as required by subdivision (b), (c), or (g) of this rule, the court may, after notice and hearing, take either or both of the following actions:

(1) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless; or

(2) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.

(Added Apr. 26, 2011, eff. Dec. 1, 2011.)

COMMITTEE NOTES ON RULES—2011

This rule is new. It is added to aid in the implementation of §1322(b)(5), which permits a chapter 13 debtor to cure a default and maintain payments on a home mortgage over the course of the debtor's plan. It applies regardless of whether the trustee or the debtor is the disbursing agent for postpetition mortgage payments.

In order to be able to fulfill the obligations of §1322(b)(5), a debtor and the trustee have to be informed of the exact amount needed to cure any prepetition arrearage, *see* Rule 3001(c)(2), and the amount of the postpetition payment obligations. If the latter amount changes over time, due to the adjustment of the interest rate, escrow account adjustments, or the assessment of fees, expenses, or other charges, notice of any change in payment amount needs to be conveyed to the debtor and trustee. Timely notice of these changes will permit the debtor or trustee to challenge the validity of any such charges, if appropriate, and to adjust postpetition mortgage payments to cover any undisputed claimed adjustment. Compliance with the notice provision of the rule should also eliminate any concern on the part of the holder of the claim that informing a debtor of a change in postpetition payment obligations might violate the automatic stay.

*Subdivision (a).* Subdivision (a) specifies that this rule applies only in a chapter 13 case to claims secured by a security interest in the debtor's principal residence.

*Subdivision (b).* Subdivision (b) requires the holder of a claim to notify the debtor, debtor's counsel, and the trustee of any postpetition change in the mortgage payment amount at least 21 days before the new payment amount is due.

*Subdivision (c).* Subdivision (c) requires an itemized notice to be given, within 180 days of incurrence, of any postpetition fees, expenses, or charges that the holder of the claim asserts are recoverable from the debtor or against the debtor's principal residence. This might in-