them by class or category. For example, it may be sufficient to identify the subjects of the injunction as ''all creditors of the debtor.''

Changes Made After Publication and Comments. The word ''highlighted'' in the parenthesis was replaced with ''underlined'' because highlighted documents are difficult to scan electronically for inclusion in the clerks' files. The Committee Note was revised to put in a more prominent position the statement that the validity and effect of any injunction provided for in a plan are substantive matters beyond the scope of the rules. Other stylistic changes were made to the Committee Note.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (b) is amended to recognize that, in 2005, § 1125(f)(1) was added to the Code to provide that the plan proponent in a small business case need not file a disclosure statement if the plan itself includes adequate information and the court finds that a separate disclosure statement is unnecessary. If the plan is intended to provide adequate information in a small business case, it may be conditionally approved as a disclosure statement under Rule 3017.1 and is subject to all other rules applicable to disclosure statements in small business cases.

Subdivision (d) is added to the rule to implement § 433 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 which requires the promulgation of Official Forms for plans and disclosure statements in small business cases. Section 1125(f)(2) of the Code provides that the court may approve a disclosure statement submitted on the appropriate Official Form or on a standard form approved by the court. The rule takes no position on whether a court may require a local standard form disclosure statement or plan of reorganization in lieu of the Official Forms.

Other amendments are stylistic.

Changes Made After Publication. No changes were made after publication.

Rule 3017. Court Consideration of Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case

(a) HEARING ON DISCLOSURE STATEMENT AND OBJECTIONS. Except as provided in Rule 3017.1, after a disclosure statement is filed in accordance with Rule 3016(b), the court shall hold a hearing on at least 25 days' notice to the debtor, creditors, equity security holders and other parties in interest as provided in Rule 2002 to consider the disclosure statement and any objections or modifications thereto. The plan and the disclosure statement shall be mailed with the notice of the hearing only to the debtor, any trustee or committee appointed under the Code, the Securities and Exchange Commission, and any party in interest who requests in writing a copy of the statement or plan. Objections to the disclosure statement shall be filed and served on the debtor, the trustee, any committee appointed under the Code, and any other entity designated by the court, at any time before the disclosure statement is approved or by an earlier date as the court may fix. In a chapter 11 reorganization case, every notice, plan, disclosure statement, and objection required to be served or mailed pursuant to this subdivision shall be transmitted to the United States trustee within the time provided in this subdivision.

(b) DETERMINATION ON DISCLOSURE STATEMENT. Following the hearing the court shall determine whether the disclosure statement should be approved.

(c) DATES FIXED FOR VOTING ON PLAN AND CONFIRMATION. On or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests may accept or reject the plan and may fix a date for the hearing on confirmation.

(d) TRANSMISSION AND NOTICE TO UNITED STATES TRUSTEE, CREDITORS, AND EQUITY SECURITY HOLDERS. Upon approval of a disclosure statement,—[1] except to the extent that the court orders otherwise with respect to one or more unimpaired classes of creditors or equity security holders—the debtor in possession, trustee, proponent of the plan, or clerk as the court orders shall mail to all creditors and equity security holders, and in a chapter 11 reorganization case shall transmit to the United States trustee,

(1) the plan or a court-approved summary of the plan;

(2) the disclosure statement approved by the court;

(3) notice of the time within which acceptances and rejections of the plan may be filed; and

(4) any other information as the court may direct, including any court opinion approving the disclosure statement or a court-approved summary of the opinion.

In addition, notice of the time fixed for filing objections and the hearing on confirmation shall be mailed to all creditors and equity security holders in accordance with Rule 2002(b), and a form of ballot conforming to the appropriate Official Form shall be mailed to creditors and equity security holders entitled to vote on the plan. If the court opinion is not transmitted or only a summary of the plan is transmitted, the court opinion or the plan shall be provided on request of a party in interest at the plan proponent's expense. If the court orders that the disclosure statement and the plan or a summary of the plan shall not be mailed to any unimpaired class, notice that the class is designated in the plan as unimpaired and notice of the name and address of the person from whom the plan or summary of the plan and disclosure statement may be obtained upon request and at the plan proponent's expense, shall be mailed to members of the unimpaired class together with the notice of the time fixed for filing objections to and the hearing on confirmation. For the purposes of this subdivision, creditors and equity security holders shall include holders of stock, bonds, debentures, notes, and other securities of record on the date the order approving the disclosure statement is entered or another date fixed by the court, for cause, after notice and a hearing.

(e) TRANSMISSION TO BENEFICIAL HOLDERS OF SECURITIES. At the hearing held pursuant to subdivision (a) of this rule, the court shall consider the procedures for transmitting the documents and information required by subdivision (d) of this rule to beneficial holders of stock, bonds, debentures, notes, and other securities, determine the adequacy of the procedures, and enter any orders the court deems appropriate.

(f) NOTICE AND TRANSMISSION OF DOCUMENTS TO ENTITIES SUBJECT TO AN INJUNCTION UNDER A

[1] So in original. The comma probably should not appear.

PLAN. If a plan provides for an injunction against conduct not otherwise enjoined under the Code and an entity that would be subject to the injunction is not a creditor or equity security holder, at the hearing held under Rule 3017(a), the court shall consider procedures for providing the entity with:

(1) at least 25 days' notice of the time fixed for filing objections and the hearing on confirmation of the plan containing the information described in Rule 2002(c)(3); and

(2) to the extent feasible, a copy of the plan and disclosure statement.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 23, 2001, eff. Dec. 1, 2001.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Rule 10–303 which dealt with the approval of a Chapter X plan by the court. There is no requirement for plan approval in a chapter 9 or 11 case under the Code but there is the requirement that a disclosure statement containing adequate financial information be approved by the court after notice and a hearing before votes on a plan are solicited. Section 1125(b) of the Code is made applicable in chapter 9 cases by §901(a). It is also applicable in railroad reorganization cases under subchapter IV of chapter 11; see §1161 of the Code.

Subdivision (a) of this rule provides for the hearing on the disclosure statement. Thus, a hearing would be required in all cases; whether it may be ex parte would depend on the circumstances of the case, but a mere absence of objections would not eliminate the need for a hearing; see §102(1) of the Code.

No provision similar to former Rule 10–303(f) is included. That subdivision together with former Rule 10–304 prohibited solicitation of votes until after entry of an order approving the plan. Section 1125(b) of the Code explicitly provides that votes on a plan may not be solicited until a disclosure statement approved by the court is transmitted. Pursuant to the change in rulemaking power, a comparable provision in this rule is unnecessary. 28 U.S.C. §2075.

Copies of the disclosure statement and plan need not be mailed with the notice of the hearing or otherwise transmitted prior to the hearing except with respect to the parties explicitly set forth in the subdivision.

It should be noted that, by construction, the singular includes the plural. Therefore, the phrase ''plan or plans'' or ''disclosure statement or statements'' has not been used although the possibility of multiple plans and statements is recognized.

Subdivision (d) permits the court to require a party other than the clerk of the bankruptcy court to bear the responsibility for transmitting the notices and documents specified in the rule when votes on the plan are solicited. Ordinarily the person responsible for such mailing will be the proponent of the plan. In rare cases the clerk may be directed to mail these documents, particularly when the trustee would have the responsibility but there is insufficient money in the estate to enable the trustee to perform this task.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (d). Section 1125(c) of the Code requires that the entire approved disclosure statement be provided in connection with voting on a plan. The court is authorized by §1125(c) to approve different disclosure statements for different classes. Although the rule does not permit the mailing of a summary of the disclosure statement in place of the approved disclosure statement, the court may approve a summary of the disclosure statement to be mailed with the complete disclosure statement to those voting on the plan.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to enable the United States trustee to monitor and comment with regard to chapter 11 disclosure statements and plans. The United States trustee does not perform these functions in a chapter 9 municipal debt adjustment case. See 28 U.S.C. §586(a)(3)(B).

Subdivision (d) is amended to give the court the discretion to direct that one or more unimpaired classes shall not receive disclosure statements, plans, or summaries of plans. Members of unimpaired classes are not entitled to vote on the plan. Although disclosure statements enable members of unimpaired classes to make informed judgments as to whether to object to confirmation because of lack of feasibility or other grounds, in an unusual case the court may direct that disclosure statements shall not be sent to such classes if to do so would not be feasible considering the size of the unimpaired classes and the expense of printing and mailing. In any event, all creditors are entitled to notice of the time fixed for filing objections and notice of the hearing to consider confirmation of the plan pursuant to Rule 2002(b) and the requirement of such notice may not be excused with respect to unimpaired classes. The amendment to subdivision (d) also ensures that the members of unimpaired classes who do not receive such documents will have sufficient information so that they may request these documents in advance of the hearing on confirmation. The amendment to subdivision (d) is not intended to give the court the discretion to dispense with the mailing of the plan and disclosure statement to governmental units holding claims entitled to priority under §507(a)(7) because they may not be classified. See §1123(a)(1).

The words ''with the court'' in subdivision (a) are deleted as unnecessary. See Rules 5005(a) and 9001(3). Reference to the Official Form number in subdivision (d) is deleted in anticipation of future revision and renumbering of the Official Forms.

Subdivision (e) is designed to ensure that appropriate measures are taken for the plan, disclosure statement, ballot and other materials which are required to be transmitted to creditors and equity security holders under this rule to reach the beneficial holders of securities held in nominee name. Such measures may include orders directing the trustee or debtor in possession to reimburse the nominees out of the funds of the estate for the expenses incurred by them in distributing materials to beneficial holders. In most cases, the plan proponent will not know the identities of the beneficial holders and therefore it will be necessary to rely on the nominal holders of the securities to distribute the plan materials to the beneficial owners.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

Subdivision (a) is amended to provide that it does not apply to the extent provided in new Rule 3017.1, which applies in small business cases.

Subdivision (d) is amended to provide flexibility in fixing the record date for the purpose of determining the holders of securities who are entitled to receive documents pursuant to this subdivision. For example, if there may be a delay between the oral announcement of the judge's order approving the disclosure statement and entry of the order on the court docket, the court may fix the date on which the judge orally approves the disclosure statement as the record date so that the parties may expedite preparation of the lists necessary to facilitate the distribution of the plan, disclosure statement, ballots, and other related documents.

The court may set a record date pursuant to subdivision (d) only after notice and a hearing as provided in §102(1) of the Code. Notice of a request for an order fixing the record date may be included in the notice of the hearing to consider approval of the disclosure statement mailed pursuant to Rule 2002(b).

If the court fixes a record date pursuant to subdivision (d) with respect to the holders of securities, and

the holders are impaired by the plan, the judge also should order that the same record date applies for the purpose of determining eligibility for voting pursuant to Rule 3018(a).

Other amendments to this rule are stylistic.

GAP Report on Rule 3017. No changes to the published draft.

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Subdivision (f) is added to assure that entities whose conduct would be enjoined under a plan, rather than by operation of the Code, and who will not receive the documents listed in subdivision (d) because they are neither creditors nor equity security holders, are provided with adequate notice of the proposed injunction. It does not address any substantive law issues relating to the validity or effect of any injunction provided under a plan, or any due process or other constitutional issues relating to notice. These issues are beyond the scope of these rules and are left for judicial determination.

This rule recognizes the need for adequate notice to subjects of an injunction, but that reasonable flexibility under the circumstances may be required. If a known and identifiable entity would be subject to the injunction, and the notice, plan, and disclosure statement could be mailed to that entity, the court should require that they be mailed at the same time that the plan, disclosure statement and related documents are mailed to creditors under Rule 3017(d). If mailing notices and other documents is not feasible because the entities subject to the injunction are described in the plan and disclosure statement by class or category and they cannot be identified individually by name and address, the court may require that notice under Rule 3017(f)(1) be published.

Changes Made After Publication and Comments. No changes were made in the text of the proposed amendments since publication. The Committee Note was revised to put in a more prominent position the statement that the rule does not address related substantive law issues which are beyond the scope of the rules.

Rule 3017.1. Court Consideration of Disclosure Statement in a Small Business Case

(a) CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT. In a small business case, the court may, on application of the plan proponent or on its own initiative, conditionally approve a disclosure statement filed in accordance with Rule 3016. On or before conditional approval of the disclosure statement, the court shall:

(1) fix a time within which the holders of claims and interests may accept or reject the plan;

(2) fix a time for filing objections to the disclosure statement;

(3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and

(4) fix a date for the hearing on confirmation.

(b) APPLICATION OF RULE 3017. Rule 3017(a), (b), (c), and (e) do not apply to a conditionally approved disclosure statement. Rule 3017(d) applies to a conditionally approved disclosure statement, except that conditional approval is considered approval of the disclosure statement for the purpose of applying Rule 3017(d).

(c) FINAL APPROVAL.

(1) *Notice*. Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Rule 2002 and may be combined with notice of the hearing on confirmation of the plan.

(2) *Objections*. Objections to the disclosure statement shall be filed, transmitted to the United States trustee, and served on the debtor, the trustee, any committee appointed under the Code and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix.

(3) *Hearing*. If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

(Added Apr. 11, 1997, eff. Dec. 1, 1997; amended Apr. 23, 2008, eff. Dec. 1, 2008.)

NOTES OF ADVISORY COMMITTEE ON RULES—1997

This rule is added to implement §1125(f) that was added to the Code by the Bankruptcy Reform Act of 1994.

The procedures for electing to be considered a small business are set forth in Rule 1020. If the debtor is a small business and has elected to be considered a small business, §1125(f) permits the court to conditionally approve a disclosure statement subject to final approval after notice and a hearing. If a disclosure statement is conditionally approved, and no timely objection to the disclosure statement is filed, it is not necessary for the court to hold a hearing on final approval.

GAP Report on Rule 3017.1. No change to the published draft.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Section 101 of the Code, as amended in 2005, defines a ''small business case'' and ''small business debtor,'' and eliminates any need to elect that status. Therefore, the reference in the rule to an election is deleted.

As provided in the amendment to Rule 3016(b), a plan intended to provide adequate information in a small business case under §1125(f)(1) may be conditionally approved and is otherwise treated as a disclosure statement under this rule.

Changes Made After Publication. No changes were made after publication.

Rule 3018. Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case

(a) ENTITIES ENTITLED TO ACCEPT OR REJECT PLAN; TIME FOR ACCEPTANCE OR REJECTION. A plan may be accepted or rejected in accordance with §1126 of the Code within the time fixed by the court pursuant to Rule 3017. Subject to subdivision (b) of this rule, an equity security holder or creditor whose claim is based on a security of record shall not be entitled to accept or reject a plan unless the equity security holder or creditor is the holder of record of the security on the date the order approving the disclosure statement is entered or on another date fixed by the court, for cause, after notice and a hearing. For cause shown, the court after notice and hearing may permit a creditor or equity security holder to change or withdraw an acceptance or rejection. Notwithstanding objection to a claim or interest, the court after notice and hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan.

(b) ACCEPTANCES OR REJECTIONS OBTAINED BEFORE PETITION. An equity security holder or creditor whose claim is based on a security of record who accepted or rejected the plan before