

Many of these rules were amended to implement the United States trustee system in accordance with the 1986 Act. Since the provisions of the 1986 Act relating to the United States trustee system are not effective in cases in Alabama and North Carolina in which a bankruptcy administrator is serving, rules referring to United States trustees are at least partially inconsistent with the provisions of the Bankruptcy Code and title 28 of the United States Code effective in such cases.

In determining the applicability of these rules in cases in Alabama and North Carolina in which a United States trustee is not authorized to act, the following guidelines should be followed:

(1) The following rules do not apply because they are inconsistent with the provisions of the Code or title 28 in these cases: 1002(b), 1007(1), 1009(c), 2002(k), 2007.1(b), 2015(a)(6), 2020, 3015(b), 5005(b), 7004(b)(10), 9003(b), and 9034.

(2) The following rules are partially inconsistent with the provisions of the Code effective in these cases and, therefore, are applicable with the following modifications:

(a) *Rule 2001(a) and (c)*—The court, rather than the United States trustee, appoints the interim trustee.

(b) *Rule 2003*—The duties of the United States trustee relating to the meeting of creditors or equity security holders are performed by the officer determined in accordance with regulations of the Judicial Conference, guidelines of the Director of the Administrative Office, local rules or court orders.

(c) *Rule 2007*—The court, rather than the United States trustee, appoints committees in chapter 9 and chapter 11 cases.

(d) *Rule 2008*—The bankruptcy administrator, rather than the United States trustee, informs the trustee of how to qualify.

(e) *Rule 2009(c) and (d)*—The court, rather than the United States trustee, appoints interim trustees in chapter 7 cases and trustees in chapter 11, 12 and 13 cases.

(f) *Rule 2010*—The court, rather than the United States trustee, determines the amount and sufficiency of the trustee's bond.

(g) *Rule 5010*—The court, rather than the United States trustee, appoints the trustee when a case is reopened.

(3) All other rules are applicable because they are consistent with the provisions of the Code and title 28 effective in these cases, except that any reference to the United States trustee is not applicable and should be disregarded.

Many of the amendments to the rules are designed to give the United States trustee, a member of the Executive Branch, notice of certain developments and copies of petitions, schedules, pleadings, and other papers. In contrast, the bankruptcy administrator is an officer in the Judicial Branch and matters relating to notice of developments and access to documents filed in the clerk's office are governed by regulations of the Judicial Conference of the United States, guidelines of the Administrative Office of the United States Courts, local rules, and court orders. Also, requirements for disclosure of connections with the bankruptcy administrator in applications for employment of professional persons, restrictions on appointments of relatives of bankruptcy administrators, effects of erroneously filing papers with the bankruptcy administrator, and other matters not covered by these rules may be governed by regulations of the Judicial Conference, guidelines of the Director of the Administrative Office, local rules, and court orders.

This rule will cease to have effect if a United States trustee is authorized in every case in the districts in Alabama and North Carolina.

NOTES OF ADVISORY COMMITTEE ON RULES—1997  
AMENDMENT

Certain statutes that are not codified in title 11 or title 28 of the United States Code, such as §105 of the

Bankruptcy Reform Act of 1994, Pub. L. 103-394, 108 Stat. 4106, relate to bankruptcy administrators in the judicial districts of North Carolina and Alabama. This amendment makes it clear that the Bankruptcy Rules do not apply to the extent that they are inconsistent with these federal statutes.

*GAP Report on Rule 9035.* No changes to the published draft.

**Rule 9036. Notice by Electronic Transmission**

Whenever the clerk or some other person as directed by the court is required to send notice by mail and the entity entitled to receive the notice requests in writing that, instead of notice by mail, all or part of the information required to be contained in the notice be sent by a specified type of electronic transmission, the court may direct the clerk or other person to send the information by such electronic transmission. Notice by electronic means is complete on transmission.

(Added Apr. 22, 1993, eff. Aug. 1, 1993; amended Apr. 25, 2005, eff. Dec. 1, 2005.)

NOTES OF ADVISORY COMMITTEE ON RULES—1993

This rule is added to provide flexibility for banks, credit card companies, taxing authorities, and other entities that ordinarily receive notices by mail in a large volume of bankruptcy cases, to arrange to receive by electronic transmission all or part of the information required to be contained in such notices.

The use of electronic technology instead of mail to send information to creditors and interested parties will be more convenient and less costly for the sender and the receiver. For example, a bank that receives by mail, at different locations, notices of meetings of creditors pursuant to Rule 2002(a) in thousands of cases each year may prefer to receive only the vital information ordinarily contained in such notices by electronic transmission to one computer terminal.

The specific means of transmission must be compatible with technology available to the sender and the receiver. Therefore, electronic transmission of notices is permitted only upon request of the entity entitled to receive the notice, specifying the type of electronic transmission, and only if approved by the court.

Electronic transmission pursuant to this rule completes the notice requirements. The creditor or interested party is not thereafter entitled to receive the relevant notice by mail.

COMMITTEE NOTES ON RULES—2005 AMENDMENT

The rule is amended to delete the requirement that the sender of an electronic notice must obtain electronic confirmation that the notice was received. The amendment provides that notice is complete upon transmission. When the rule was first promulgated, confirmation of receipt of electronic notices was commonplace. In the current electronic environment, very few internet service providers offer the confirmation of receipt service. Consequently, compliance with the rule may be impossible, and the rule could discourage the use of electronic noticing.

Confidence in the delivery of email text messages now rivals or exceeds confidence in the delivery of printed materials. Therefore, there is no need for confirmation of receipt of electronic messages just as there is no such requirement for paper notices.

*Changes Made After Publication and Comment.* No changes since publication.

**Rule 9037. Privacy Protection For Filings Made with the Court**

(a) REDACTED FILINGS. Unless the court orders otherwise, in an electronic or paper filing made with the court that contains an individual's so-