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DATE: December 15, 2009  
TO: All Agents  
FROM: Nancy Koch  
RE: Amendments to Bankruptcy Rules – Time Deadlines

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Earlier this year, the U.S. Congress passed an act amending the Federal Rules of Bankruptcy Procedure (FRBP). Effective December 1, 2009, the time deadlines in the FRBP affecting certain transactions following a notice or court order have increased. These timelines have a significant effect on underwriting and settlements/closings.

Rule 6004 which provided for a 10 day stay following the entry of an order authorizing the use, sale or lease of property has been amended to increase the length of time of the stay to fourteen (14) days. Furthermore, pursuant to Rules 6004(a) and 2002(a), the notice of intent to sell must be mailed to interested parties twenty-one (21) days in advance (the rule previously provided for 20 days' notice).

Rule 8002 has been amended to increase the length of time available to file a notice of appeal from an order from ten (10) to fourteen (14) days following the entry of the judgment, order or decree of the Bankruptcy Court from which the appeal is being taken. Further, any other party may then file its own notice of appeal fourteen (14) days from the date of the first timely filed appeal. **In no case may any appeal period be lifted, avoided or shortened (see Rule 8019).** An additional twenty-one (21) day extension of time for filing a notice of appeal may be granted by the court, but only upon a showing of excusable neglect.

Rule 8017 has been amended to increase the length of time that any order, decree or judgment of the bankruptcy court is automatically stayed following its entry from ten (10) to fourteen (14) days. This applies to *any* order, decree or judgment entered on the court's docket. While the court may lift the Rule 8017 automatic stay, **it may not lift or suspend any corresponding appeal period.**

For the purpose of computing time, the time periods under the FRBP begin to run the day after the order is entered, and if the final day falls on a Saturday, Sunday or holiday, the final day of the time period rolls over to the next day the court is open (see Rule 9006).

From an underwriting standpoint, we must continue to observe the stay periods provided for by Rules 6004 and 8017 which have now been extended unless they are lifted by the court. In addition, parties must now wait 14 days, instead of 10 days, before they can proceed with the transfer of an interest in property affected by an appealable order, decree or judgment. **We cannot insure the transaction until the relevant appeal period has expired.**

As always, feel free to address any questions you may have on this or any matter to a member of our underwriting staff.