NOTICE TO INDIVIDUAL CONSUMER DEBTOR
CERTIFICATION OF NOTICE TO INDIVIDUAL CONSUMER DEBTOR

Clerks may use Form B201A to give individual consumer debtors the notice required by section 342(b) of the Code (11 U.S.C. § 342(b)) or to respond to general inquiries from the public. Form B201B may be used to certify that the debtor has received the required notice if the certification is not made on the Voluntary Petition, Official Form B1.

Form B201A serves as a pre-printed information sheet on the purposes of chapters 7, 11, 12, and 13 of the Bankruptcy Code, the costs and benefits to the debtor of a case under each chapter, the types of services available from credit counseling agencies, and warnings about the penalties for bankruptcy crimes and the Attorney General's examination of information supplied in connection with a bankruptcy case.

The form states that joint debtors who list the same mailing address on the bankruptcy petition will generally receive a single copy of each notice mailed from the bankruptcy court in a jointly-addressed envelope, unless the debtors request that each spouse receive a separate copy of all notices. Form B201A includes warnings about the December 1, 2009, amendments to the Federal Rules of Bankruptcy Procedure which changed a number of filing deadlines. The form also advises debtors that Fed. R. Bankr. P. 4002 requires the debtor to notify the court of any changes in the debtor's address.

Section 342(b) provides:

> Before the commencement of a case (under the Bankruptcy Code) by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing –
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> (1) a brief description of –
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> (A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of these chapters; and
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> (B) the types of services available from credit counseling agencies; and
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> (2) statements specifying that –
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> (A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under (the Bankruptcy Code) shall be subject to fine, imprisonment, or both; and

> (B) all information supplied by a debtor in connection with a case under (the Bankruptcy Code) is subject to examination by the Attorney General.

In addition to the clerk's responsibility to provide the section 342(b) notice to individual debtors with primary consumer debts, section 521(a)(1)(B)(iii)(I) requires that the attorney for an individual consumer debtor or the bankruptcy petition preparer who prepared the petition certify that the attorney or petition preparer delivered the clerk's section 342(b) notice to the debtor. If the debtor does not have an attorney or a petition preparer, section 521(a)(1)(B)(iii)(II) requires that the individual consumer debtor certify that the debtor received and read the notice.

The section 342(b) certifications required by section 521(a)(1)(B)(iii) for the debtor or a petition preparer are included in their signature blocks on page 3 of the petition. The section 342(b) certification required by section 521(a)(1)(B)(iii) for the attorney for the debtor is set out separately in Exhibit B on page 2 of the petition.

If the attorney, petition preparer, or debtor does not certify (by signing the appropriate section of the petition) that the debtor has received the section 342(b) notice, the debtor must file a separate certification. If needed because there's no certification on the petition, the separate certification must be filed in a chapter 7, chapter 11, or chapter 13 case within 15 days after the filing of the petition which commenced the case, or within any additional time set by the court. Form B201B includes a caption for filing and spaces for such a stand-alone certification by a petition preparer or the debtor. If the required certification hasn't been filed either as part of the petition or separately by the deadline, the United States trustee may file a motion to dismiss the case under section 707(a)(3), 1112(e), or 1307(c)(9) of the Bankruptcy Code. In chapter 12 cases, the certification should be filed in a timely manner.

Although there is no specific requirement that Form B201A itself be filed, the form should be attached to Form B201B if a separate certification is needed. The debtor may file a signed copy of Form B201B with Form B201A attached with the petition in order to avoid questions about whether the notice has been given.