



# Trust Industry Brief

## Amendments to Court of Chancery Rules 101 and 104

On October 31, 2012, Chancellor Leo E. Strine, Jr. signed Amendments to Rules 101 and 104, to be effective as of December 1, 2012.

The Amendments to Rule 101 clarify which documents must be filed as exhibits to a consent petition in the Court of Chancery. First, amended Rule 101(a)(1) makes it clear that a copy of the current trust must be included. Second, amended Rule 101(a)(3) provides that a blacklined version of the proposed modified trust must also be included (under the prior version of Rule 101, the party submitting the consent petition could include a blacklined version “or other appropriate document”). Finally, new Rule 101(a)(4) provides that a clean version of the trust, showing how the modified trust will read if the consent petition is granted, must also be included.

Amended Rule 104(a) provides that a separate order must be submitted for each request in the consent petition. Rule 104(a) now expressly prohibits proposed orders for multiple individuals, beneficiaries, or other interested parties and requires a separate proposed order to be submitted with the consent petition for each individual, beneficiary or interested party. An additional fee will be charged for each additional proposed order equal to the filing fee for one proposed order.

Amended Rule 104(b) provides that Rules 100 through 104, which outline the requirements for modifying trusts by consent, shall apply to “any matter before the Court of Chancery in which the relief sought includes a modification of a trust, whether by means of a consent petition, civil action, court approved settlement or otherwise.” This amendment has the effect of expanding Rules 100 through 104 to cover contested litigation.

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