

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re)
)
Amended Interim Bankruptcy Rule 1020(a)) Standing Order 22-11
Due to Enactment of the Bankruptcy Threshold)
Adjustment and Technical Corrections Act of)
2022)

**ORDER ADOPTING AMENDED INTERIM BANKRUPTCY RULE 1020(a) DUE TO THE
ENACTMENT OF THE BANKRUPTCY THRESHOLD ADJUSTMENT AND TECHNICAL
CORRECTIONS ACT OF 2022**

Interim Bankruptcy Rule 1020(a) is amended as a result of the enactment of the Bankruptcy Threshold Adjustment and Technical Corrections (“BTATC”) Act of 2022, Pub. L. No. 117-151, 136 Stat.1298. As set forth in the Committee Note to the amended Interim Rule:


The Interim Rule is amended in response to the enactment of the Bankruptcy Threshold Adjustment and Technical Corrections Act (the “BTATC Act”), Pub. L. No. 117-151, ____ Stat. _____. The BTATC reinstates the definition of ‘debtor’ for determining eligibility to proceed under subchapter V of chapter 11 that was in effect from March 27, 2020 through March 27, 2022, under the Coronavirus Aid, Relief, and Economic Security [CARES] Act, Pub. L. No. 116-136, 134 Stat. 281, as amended. Subdivision (a) of the rule is amended to reflect that change. This Interim Rule will terminate two years after the date of enactment of the BTATC, unless the Act is extended.

The BTATC Act has the effect of restoring the \$7,500,000 limit retroactively for cases commenced on or after March 27, 2020. The Advisory Committee on Bankruptcy Rules is recommending that courts adopt Interim Rule 1020 as a local rule while the BTATC Act chapter 11 subchapter V debt limit is in effect. Local adoption of the temporary amendment to the Interim Rule assists in maintaining national uniformity in the administration of the Bankruptcy Code.

NOW THEREFORE, IT IS ORDERED that:

1. Interim Bankruptcy Rule 1020(a), as amended, hereby is adopted as a Local Rule of this Court, and shall terminate two years after the date of enactment of the BTATC Act, unless that Act is further extended.
2. Standing Order No. 20-2, adopting the pre-COVID 19 Interim Bankruptcy Rules, shall remain in effect until further order of the Court.
3. This Order shall be incorporated into Exhibit 12 following the Court’s Local Bankruptcy Rules.

FOR THE COURT:


FRANK J. SANTORO
Chief United States Bankruptcy Judge

Date: July 21, 2022

1 **Interim Rule 1020. Chapter 11 Reorganization Case for**
2 **Small Business Debtors or Debtors Under Subchapter V**

3 (a) ~~SMALL—BUSINESS—DEBTOR~~
4 DESIGNATION. In a voluntary chapter 11 case, the debtor
5 shall state in the petition whether the debtor is a small
6 business debtor or a debtor as defined in § 1182(1) of the
7 Code and, if the latter ~~so~~, whether the debtor elects to have
8 subchapter V of chapter 11 apply. In an involuntary chapter
9 11 case, the debtor shall file within 14 days after entry of the
10 order for relief a statement as to whether the debtor is a small
11 business debtor or a debtor as defined in § 1182(1) of the
12 Code and, if the latter ~~so~~, whether the debtor elects to have
13 subchapter V of chapter 11 apply. The status of the case as
14 a small business case or a case under subchapter V of chapter
15 11 shall be in accordance with the debtor's statement under
16 this subdivision, unless and until the court enters an order
17 finding that the debtor's statement is incorrect.

18 (b) OBJECTING TO DESIGNATION. The United
19 States trustee or a party in interest may file an objection to
20 the debtor's statement under subdivision (a) no later than 30
21 days after the conclusion of the meeting of creditors held
22 under § 341(a) of the Code, or within 30 days after any
23 amendment to the statement, whichever is later.

24 (c) PROCEDURE FOR OBJECTION OR
25 DETERMINATION. Any objection or request for a
26 determination under this rule shall be governed by Rule 9014
27 and served on: the debtor; the debtor’s attorney; the United
28 States trustee; the trustee; the creditors included on the list
29 filed under Rule 1007(d) or, if a committee has been
30 appointed under § 1102(a)(3), the committee or its
31 authorized agent; and any other entity as the court directs.

Committee Note

 The Interim Rule is amended in response to the enactment of the Bankruptcy Threshold Adjustment and Technical Correction Act (the “BTATC Act”), Pub. L. No. 117-151, ___ Stat. _____. The BTATC reinstates the definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11 that was in effect from March 27, 2020 through March 27, 2022, under the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281, as amended. Subdivision (a) of the rule is amended to reflect that change. This Interim Rule will terminate two years after the date of enactment of the BTATC, unless the Act is extended.