

UNITED STATES BANKRUPTCY COURT
for the
EASTERN DISTRICT OF VIRGINIA

**EXHIBIT 12 – AMENDED INTERIM BANKRUPTCY RULE 1020—
SMALL BUSINESS REORGANIZATION ACT OF 2019**



Effective April 22, 2020

(Ver. 4/22/20)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re)	
)	
Adoption of CARES)	Standing Order No. 20-16
Act Changes to Interim)	
Bankruptcy Rule 1020)	
)	

ORDER ADOPTING CHANGES TO INTERIM BANKRUPTCY RULE 1020

Interim Bankruptcy Rule 1020, pertaining to the Small Business Reorganization Act of 2019, was adopted as a local rule by the Court pursuant to Standing Order No. 20-2, which was entered on February 6, 2020, became effective February 19, 2020. (See Exhibit 12 following the Court’s Local Bankruptcy Rules.) Thereafter, on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed into law. Section 1113 of that law made several temporary changes to the Bankruptcy Code to provide financial assistance during the coronavirus pandemic. The Advisory Committee on Bankruptcy Rules recommended to the Judicial Conference Committee on Rules of Practice and Procedure (the “Rules Committee”) that amendments to Interim Rule 1020 be distributed to local courts as a local rule for adoption by each judicial district. This recommendation has been approved by the Rules Committee and the Judicial Conference Executive Committee, which acted on an expedited basis on behalf of the Judicial Conference. Local adoption of the temporary amendment to Interim Bankruptcy Rule 1020 assists in maintaining national uniformity in the administration of the Bankruptcy Code.

NOW THEREFORE, IT IS ORDERED that:

1. Pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the attached changes to Interim Rule 1020 are adopted in their entirety without change by the judges of this Court to be effective on the date of entry of this Order. All other provisions set forth in Standing Order No. 20-2 remain in full force and effect. For cases and proceedings not governed by the Small Business Reorganization Act of 2019, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and Standing Order No. 20-2—other than as to Interim Rule 1020, as amended, shall apply.
2. The **Committee Note** to Interim Rule 1020, as set forth, below, is incorporated by reference into this Order:

The interim rule is amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), Pub. L. No. 116-

136, 134 Stat. 281. That law provides a new definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.

3. Exhibit 12 following the Court’s Local Bankruptcy Rules is revised accordingly to incorporate Interim Rule 1020, as amended.

Attachment

FOR THE COURT:

/s/ Frank J. Santoro
FRANK J. SANTORO
Chief United States Bankruptcy Judge

Date: April 22, 2020

Attachment

1 **Rule 1020. Chapter 11 Reorganization Case for Small**
2 **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 Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), Pub. L. No. 116-136, 134 Stat. 281. That law provides a new definition of "debtor" for determining eligibility to proceed under subchapter V of chapter 11. Subdivision (a) of the rule is amended to reflect that change. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.