

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

IN RE:

**EXTENSION OF
AMENDMENT TO INTERIM
BANKRUPTCY RULE 1020**

No. 2021-02

GENERAL ORDER

By general order entered January 23, 2020, the court adopted interim rules to implement the changes mandated by the Small Business Reorganization Act of 2019, that created the new subchapter V of chapter 11. The enactment of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) on March 27, 2020, provides a new definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11. To implement this change, the Advisory Committee on Bankruptcy Rules, with the approval of the Committee on Rules of Practice and Procedure and the Executive Committee acting on an expedited basis on behalf of the Judicial Conference, recommended that amendments to Interim Rule 1020 be distributed to local courts for adoption. On April 23, 2020, the court adopted the attached amendment to Interim Rule 1020 until one year after the effective date of the CARES Act, anticipating that the definition of “debtor” in 11 U.S.C. § 1182(1) would revert to its prior version.

On March 27, 2021, the amendment was extended to March 27, 2022 by the COVID-19 Bankruptcy Relief Extension Act of 2021, Pub. L. 117-5, 135 Stat. 249 (Mar. 27, 2021). Accordingly, the court extends its adoption of the amendment to Interim Rule 1020 until expiration of the amendment or the adoption of a final version of Rule 1020.

ENTERED: May 4, 2021

s/ Shelley D. Rucker
SHELLEY D. RUCKER
Chief United States Bankruptcy Judge

s/ Suzanne H. Bauknight
SUZANNE H. BAUKNIGHT
United States Bankruptcy Judge

s/ Nicholas W. Whittenburg
NICHOLAS W. WHITTENBURG
United States Bankruptcy Judge

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.