

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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re:

Administrative Order No. 738

Adoption of Amended Interim Bankruptcy Rule
1020, Chapter 11 Reorganization Case for Small
Business Debtors or Debtors Under Subchapter V

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WHEREAS, on June 21, 2022, the Bankruptcy Threshold Adjustment and Technical Corrections Act (BTATC Act), Pub. L. No. 117-151(2022) was signed into law; and

WHEREAS, the BTATC Act temporarily increases the debt threshold in subchapter V of chapter 11 and chapter 13 of title 11 of the United States Code and makes technical corrections to the Bankruptcy Administration Improvement Act of 2020 (BAIA); and

WHEREAS, the Advisory Committee on Bankruptcy Rules recommends that courts adopt Interim Rule 1020 as a local rule while the BTATC Act subchapter V limit is in effect; and

WHEREAS, Interim Rule 1020 was revised to implement the CARES Act debt limit from March 27, 2020, to March 27, 2022, when the relevant CARES Act provisions expired; and

WHEREAS, the BTATC Act restores the \$7,500,000 limit retroactively for cases commenced on or after March 27, 2020, which sunsets two years after the date of enactment of the BTATC Act and Interim Rule 1020 having been amended accordingly.

NOW, therefore, it is ORDERED that the amended Interim Rule 1020 attached hereto is adopted in its entirety by the Judges of this Court, effective immediately, and it is further

ORDERED the Interim Rule shall remain in effect until further Order of this Court.

Dated: Central Islip, New York
August 3, 2022

Hon. Alan S. Trust

Honorable Alan S. Trust
Chief United States Bankruptcy Judge

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.