

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: :
 :
EXTENSION OF TEMPORARY AMENDMENT : Superseding General Order M-546
TO INTERIM BANKRUPTCY RULE 1020 :
PURSUANT TO THE COVID-19 : General Order M-567
BANKRUPTCY RELIEF EXTENSION ACT :
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WHEREAS, by General Order M-535, dated January 16, 2020, the Court adopted the Interim Amendments to the Federal Rules of Bankruptcy Procedure (the “Interim Amendments”)¹ to implement the changes mandated by the Small Business Reorganization Act of 2019;

WHEREAS, the Interim Amendments included modifications to Rule 1020 of the Federal Rules of Bankruptcy Procedure (as modified, “Interim Rule 1020”);

WHEREAS, on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed into law, and section 1113 of that legislation made several temporary changes to the Bankruptcy Code with a sunset date of March 27, 2021;

WHEREAS, by General Order M-546, dated April 23, 2020, the Court adopted further amendments to Interim Rule 1020 (“Amended Interim Rule 1020”)² corresponding to certain Bankruptcy Code amendments in the CARES Act; and

WHEREAS, on March 27, 2021, the COVID-19 Bankruptcy Relief Extension Act of 2021 (“Extension Act”) was signed into law and extended the CARES Act’s bankruptcy-related amendments for an additional year.

NOW, THEREFORE, IT IS ORDERED that Amended Interim Rule 1020 shall remain in effect until the expiration of the revised sunset date set forth in the Extension Act.

Dated: March 30, 2021
New York, NY

/s/ Cecelia G. Morris
CECELIA G. MORRIS
Chief United States Bankruptcy Judge

¹ Adoption of the Interim Amendments was necessary because amendments to the Federal Rules of Bankruptcy Procedure involve a three-year process under the Rules Enabling Act, 28 U.S.C. §§ 2071-77.

² A copy of Amended Interim Rule 1020 is annexed hereto.

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.