

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA**

IN THE MATTER OF	§	
	§	GENERAL ORDER 2022-2
ADOPTION OF AMENDMENTS TO	§	
INTERIM BANKRUPTCY RULE 1020	§	
TO IMPLEMENT THE BTATC ACT	§	

**GENERAL ORDER ADOPTING AMENDMENTS TO INTERIM BANKRUPTCY RULE
1020 TO IMPLEMENT BANKRUPTCY THRESHOLD ADJUSTMENT AND
TECHNICAL CORRECTIONS ACT**

By General Orders effective January 10, 2020 and April 24, 2020, this Court adopted Interim Bankruptcy Rules approved by the Committee on Rules of Practice and Procedure to facilitate uniform implementation of the changes mandated by the Small Business Reorganization Act of 2019 (“SBRA”) and the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

On June 21, 2022, the Bankruptcy Threshold Adjustment and Technical Corrections Act (“BTATC Act”) was signed into law; the changes to the Bankruptcy Code made by the BTATC Act are temporary and will sunset two years after the date of enactment of the BTATC Act. The BTATC Act made several temporary changes to the Bankruptcy Code affecting cases filed under Subchapter V of Chapter 11 and made those changes effective retroactively to March 27, 2022. The BTATC Act also made several temporary changes to the Bankruptcy Code affecting chapter 13 cases; however, those changes are not effective retroactively to March 27, 2022. Certain of those changes necessitate corresponding amendments to Interim Bankruptcy Rule 1020. The Committee on Rules of Practice and Procedure approved the amendments to Interim Rule 1020, and the Judicial Conference authorized distribution to courts for adoption locally to facilitate implementation of the changes mandated by the BTATC Act.

NOW THEREFORE, 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 amendments identified below to Interim Rule 1020 are hereby adopted in their entirety without change by this Court effective retroactively to cases filed under Subchapter V of Chapter 11 and commenced on or after March 27, 2020. Those amendments to Interim Rule 1020 shall remain in effect until two years after the enactment of the BTATC Act.

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

(a) Debtor Designation. In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor or a debtor as defined in § 1182(1) of the Code and, if the latter, whether the debtor elects to have the subchapter V of chapter 11 apply. In an involuntary chapter 11 case, the debtor shall file within 14 days after entry of the order for relief a statement as to whether the debtor is a small business debtor or a debtor as defined in § 1182(1) of the Code and, if the latter, whether the debtor elects to have subchapter V of chapter 11 apply. The status of the case as a small business case or a case under subchapter V of chapter 11 shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters and order finding that the debtor's statement is incorrect.

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

(c) Procedure for Objecting or Determination. Any objection or request for a determination under this rule shall be governed by Rule 9014 and served on: the debtor; the debtor's attorney; the United States trustee; the trustee; the creditor included on the list filed under Rule 1007(d) or, if a committee has been appointed under § 1102(a)(3), the committee or its 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.

Thus, done and signed this 6th day of October 2022.



JOHN W. KOLWE
UNITED STATES BANKRUPTCY JUDGE