UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	
	:	
RE-ADOPTION OF TEMPORARY AMENDMENT TO INTERIM BANKRUPTCY RULE 1020 CORRESPONDING TO THE BANKRUPTCY THRESHOLD ADJUSTMENT AND TECHNICAL CORRECTIONS ACT	:	General Order M-591
	:	

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") to implement the changes mandated by the Small Business Reorganization Act of 2019 while similar rule changes were being considered under the normal Rules Enabling Act process;

WHEREAS, the Interim Amendments included modifications to Rule 1020 of the Federal Rules of Bankruptcy Procedure (as modified, "Interim Rule 1020") to, among other things, accommodate the filing of small business cases under Subchapter V of Chapter 11 ("Subchapter V");

WHEREAS, on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") was signed into law and included a Bankruptcy Code amendment to the definition of the term "debtor" for determining eligibility to proceed under Subchapter V which would sunset one year after the enactment of the CARES Act;

WHEREAS, the Court, by General Order M-546, dated April 23, 2020, adopted further amendments to Interim Rule 1020 (as amended, "Amended Interim Rule 1020") to accommodate the CARES Act amendment to the definition of "debtor" under Subchapter V;

WHEREAS, on March 27, 2021, the COVID-19 Bankruptcy Relief Extension Act of 2021 ("Extension Act") was signed into law and extended, among others, the CARES Act's amendment to the definition of "debtor" under Subchapter V for an additional year;

WHEREAS, the Court, by General Order M-567, dated March 30, 2021, extended its adoption of Amended Interim Rule 1020 until the new sunset date set forth in the Extension Act;

WHEREAS, on March 27, 2022, the amendment to the definition of "debtor" under Subchapter V lapsed pursuant to the sunset date in the Extension Act, and the Court's adoption of Amended Interim Rule 1020 under General Order M-567 also lapsed;

WHEREAS, on June 21, 2022, the Bankruptcy Threshold Adjustment and Technical Corrections Act ("Corrections Act") was signed into law and reinstated the prior CARES-Act amendment to the definition of "debtor" under Subchapter V for a period of two years; and

WHEREAS, under the Corrections Act, such amendment also applies retroactively to pending cases commenced in the time period between March 27, 2020 and June 21, 2022.

NOW, THEREFORE, IT IS ORDERED that, 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, Amended Interim Rule 1020, as attached hereto, is adopted in its entirety until the earlier of June 21, 2024 or further order of this Court; and

IT IS FURTHER ORDERED that Amended Interim Rule 1020 applies retroactively to pending cases commenced in the time period between March 27, 2020 and June 21, 2022.

Dated: June 29, 2022
New York, NY

/s/ Martin Glenn
MARTIN GLENN
Chief United States Bankruptcy Judge

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

(a) ~~SMALL BUSINESS~~ 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 ~~so~~, whether the debtor elects to have 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 ~~so~~, 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 an 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 OBJECTION 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 creditors 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.