

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

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

IT APPEARING the Bankruptcy Threshold Adjustment and Technical Corrections Act ("BTATC Act") enacted into law on June 21, 2022 made several temporary changes to the bankruptcy code effective retroactively to cases commenced on or after March 27, 2020, and sunsets on June 21, 2024, unless it is extended; and

IT FURTHER APPEARING the changes made by the BTATC Act necessitate corresponding amendments to Interim Bankruptcy Rule 1020, the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States approved the amendments to Interim Bankruptcy Rule 1020, and the Judicial Conference authorized distribution to the courts for adoption as a local rule to facilitate implementation of the changes mandated by the BTATC Act; and for cause shown; now, therefore,

IT IS HEREBY ORDERED, pursuant to 28 U.S.C. § 2071, Fed.R.Civ.P. 83, and Fed.R.Bankr.P. 9029, the attached amendments to Interim Bankruptcy Rule 1020 of the Federal Rules of Bankruptcy Procedure are adopted in their entirety without change in this district effective retroactively to cases commenced on or after March 27, 2020, and shall remain in effect until June 21, 2024, or until further order of this Court.

So ordered: December 7, 2022.

BY THE COURT:



Charles L. Nail Jr.
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.