

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: :  
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ADOPTION OF TEMPORARY AMENDMENT :  
TO INTERIM BANKRUPTCY RULE 1020 : General Order M-546  
CORRESPONDING TO THE CORONAVIRUS :  
AID, RELIEF, AND ECONOMIC SECURITY :  
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”)<sup>1</sup> 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 to provide financial assistance during the coronavirus crisis;

WHEREAS, further amendments to Interim Rule 1020 are now required to account for the CARES Act.

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, the attached amendment to Interim Rule 1020 (“Amended Interim Rule 1020”) is adopted in its entirety without modification by the Judges of this Court to be effective as of the date of this Order; it is further

ORDERED that Amended Interim Rule 1020 shall remain in effect until further order of this Court.

Dated: April 23, 2020  
New York, NY

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

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<sup>1</sup> 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.

## 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.