

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS**

GENERAL ORDER 20-1

**ADOPTION OF INTERIM BANKRUPTCY RULES
AND INTERIM LOCAL RULE AMENDMENTS
PERTAINING TO SMALL BUSINESS REORGANIZATION ACT OF 2019**

In recognition of the enactment of the Small Business Reorganization Act of 2019 (the “Act”) and the fact that the mandated effective date of that Act has not provided sufficient time to promulgate amendments to the Federal Rules of Bankruptcy Procedure with appropriate public notice and comment; and in recognition that the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States has prepared Interim Bankruptcy Rules designed to implement the substantive and procedural changes mandated by the Act and has recommended adoption of the Interim Bankruptcy Rules by the authority granted to local bankruptcy courts to adopt local rules pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure, and in recognition that certain immediate amendments to the Local Bankruptcy Rules are necessary to provide procedural guidance for those cases to be governed by the Act,

IT IS THEREFORE ORDERED that the Interim Bankruptcy Rules, as promulgated by the Advisory Committee on Bankruptcy Rules and approved by the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, and attached hereto as *Exhibit A*, are hereby **ADOPTED** in their entirety without change, as a subset of the Local Rules of Bankruptcy Procedure, to become effective on February 19, 2020, until such time as this General Order is rescinded. For cases and

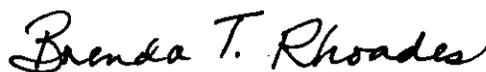
proceedings not governed by the Act, the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Procedure, without reference to the subset of Interim Bankruptcy Rules, shall apply.

IT IS FURTHER ORDERED that certain amendments to the Local Rules of Bankruptcy Procedure pertaining to the implementation of the Act, attached hereto as Exhibit B, are hereby **ADOPTED** on an interim basis, to become effective on February 19, 2020, until such time as such changes can be tested and thereafter submitted and approved under normal procedures.

SIGNED this the 18th day of February, 2020.



BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE



BRENDA T. RHOADES
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

INTERIM AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE¹

1 **Rule 1007. Lists, Schedules, Statements, and Other**

2 **Documents; Time Limits**

3 * * * * *

4 (b) SCHEDULES, STATEMENTS, AND OTHER

5 DOCUMENTS REQUIRED.

6 * * * * *

7 (5) An individual debtor in a chapter 11 case

8 (unless under subchapter V) shall file a statement of

9 current monthly income, prepared as prescribed by

10 the appropriate Official Form.

11 * * * * *

¹ These interim bankruptcy rules (the Interim Rules) have been prepared by the Advisory Committee on Bankruptcy Rules and approved by the Judicial Conference of the United States to be adopted as local rules by the Bankruptcy Courts to implement the procedural and substantive changes to the Bankruptcy Code made by the Small Business Reorganization Act of 2019. The Interim Rules will be withdrawn after similar amendments can be made to the Rules of Bankruptcy Procedure under the normal Rules Enabling Act process. New material is underlined in red; matter to be omitted is lined through.

12 (h) INTERESTS ACQUIRED OR ARISING
13 AFTER PETITION. If, as provided by § 541(a)(5) of the
14 Code, the debtor acquires or becomes entitled to acquire any
15 interest in property, the debtor shall within 14 days after the
16 information comes to the debtor's knowledge or within such
17 further time the court may allow, file a supplemental
18 schedule in the chapter 7 liquidation case, chapter 11
19 reorganization case, chapter 12 family farmer's debt
20 adjustment case, or chapter 13 individual debt adjustment
21 case. If any of the property required to be reported under
22 this subdivision is claimed by the debtor as exempt, the
23 debtor shall claim the exemptions in the supplemental
24 schedule. ~~The This duty to file a supplemental schedule in~~
25 ~~accordance with this subdivision continues~~ even after the
26 case is closed, except for property acquired after an order is
27 entered: notwithstanding the closing of the case, except that
28 ~~the schedule need not be filed in a chapter 11, chapter 12, or~~

29 ~~chapter 13 case with respect to property acquired after entry~~
30 ~~of the order~~

31 (1) confirming a chapter 11 plan (other than one
32 confirmed under § 1191(b)); or

33 (2) discharging the debtor in a chapter 12 case, or a
34 chapter 13 case, or a case under subchapter V of
35 chapter 11 in which the plan is confirmed under
36 § 1191(b).

37 * * * * *

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. As amended, subdivision (b)(5) of the rule includes an exception for subchapter V cases. Because Code § 1129(a)(15) is inapplicable to such cases, there is no need for an individual debtor in a subchapter V case to file a statement of current monthly income.

Subdivision (h) is amended to provide that the duty to file a supplemental schedule under the rule terminates upon confirmation of the plan in a subchapter V case, unless the plan is confirmed under § 1191(b), in which case it terminates upon discharge as provided in § 1192.

1 **Rule 1020. ~~Small Business~~ Chapter 11 Reorganization**

2 **Case for Small Business Debtors**

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 and, if so, whether the debtor elects to have

7 subchapter V of chapter 11 apply. In an involuntary chapter

8 11 case, the debtor shall file within 14 days after entry of the

9 order for relief a statement as to whether the debtor is a small

10 business debtor and, if so, whether the debtor elects to have

11 subchapter V of chapter 11 apply. ~~Except as provided in~~

12 ~~subdivision (c), the~~ The status of the case as a small business

13 case or a case under subchapter V of chapter 11 shall be in

14 accordance with the debtor's statement under this

15 subdivision, unless and until the court enters an order finding

16 that the debtor's statement is incorrect.

17 (b) OBJECTING TO DESIGNATION. ~~Except as~~

18 ~~provided in subdivision (c), the~~ The United States trustee or

19 a party in interest may file an objection to the debtor's
20 statement under subdivision (a) no later than 30 days after
21 the conclusion of the meeting of creditors held under
22 § 341(a) of the Code, or within 30 days after any amendment
23 to the statement, whichever is later.

24 ~~(e) — APPOINTMENT OF COMMITTEE OF~~
25 ~~UNSECURED CREDITORS. If a committee of unsecured~~
26 ~~creditors has been appointed under § 1102(a)(1), the case~~
27 ~~shall proceed as a small business case only if, and from the~~
28 ~~time when, the court enters an order determining that the~~
29 ~~committee has not been sufficiently active and~~
30 ~~representative to provide effective oversight of the debtor~~
31 ~~and that the debtor satisfies all the other requirements for~~
32 ~~being a small business. A request for a determination under~~
33 ~~this subdivision may be filed by the United States trustee or~~
34 ~~a party in interest only within a reasonable time after the~~
35 ~~failure of the committee to be sufficiently active and~~
36 ~~representative. The debtor may file a request for a~~

37 ~~determination at any time as to whether the committee has~~
38 ~~been sufficiently active and representative.~~

39 (d~~c~~) PROCEDURE FOR OBJECTION OR
40 DETERMINATION. Any objection or request for a
41 determination under this rule shall be governed by Rule 9014
42 and served on: the debtor; the debtor’s attorney; the United
43 States trustee; the trustee; the creditors included on the list
44 filed under Rule 1007(d) or, if any a committee has been
45 appointed under § 1102(a)(3), the committee or its
46 authorized agent, ~~or, if no committee of unsecured creditors~~
47 ~~has been appointed under § 1102, the creditors included on~~
48 ~~the list filed under Rule 1007(d);~~ and any other entity as the
49 court directs.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (“SBRA”), Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. The title and subdivision (a) of the rule are amended to include that option and to require a small business debtor to state in its voluntary petition, or in a statement filed within 14 days after the order for relief is

entered in an involuntary case, whether it elects to proceed under subchapter V. The rule does not address whether the court, on a case-by-case basis, may allow a debtor to make an election to proceed under subchapter V after the times specified in subdivision (a) or, if it can, under what conditions.

Former subdivision (c) of the rule is deleted because the existence or level of activity of a creditors' committee is no longer a criterion for small-business-debtor status. The SBRA eliminated that portion of the definition of "small business debtor" in § 101(51D) of the Code.

Former subdivision (d) is redesignated as subdivision (c), and the list of entities to be served is revised to reflect that in most small business and subchapter V cases there will not be a committee of creditors.

1 **Rule 2009. Trustees for Estates When Joint**
2 **Administration Ordered**

3 (a) ELECTION OF SINGLE TRUSTEE FOR
4 ESTATES BEING JOINTLY ADMINISTERED. If the
5 court orders a joint administration of two or more estates
6 under Rule 1015(b), creditors may elect a single trustee for
7 the estates being jointly administered, unless the case is
8 under subchapter V of chapter 7 or subchapter V of chapter
9 11 of the Code.

10 (b) RIGHT OF CREDITORS TO ELECT
11 SEPARATE TRUSTEE. Notwithstanding entry of an order
12 for joint administration under Rule 1015(b), the creditors of
13 any debtor may elect a separate trustee for the estate of the
14 debtor as provided in § 702 of the Code, unless the case is
15 under subchapter V of chapter 7 or subchapter V of chapter
16 11.

17 (c) APPOINTMENT OF TRUSTEES FOR
18 ESTATES BEING JOINTLY ADMINISTERED.

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* * * * *

20

(2) *Chapter 11 Reorganization Cases.* If the

21

appointment of a trustee is ordered or is required by

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the Code, the United States trustee may appoint one

23

or more trustees for estates being jointly

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administered in chapter 11 cases.

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* * * * *

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. In a case under that subchapter, § 1183 of the Code requires the United States trustee to appoint a trustee, so there will be no election. Accordingly, subdivisions (a) and (b) of the rule are amended to except cases under subchapter V from their coverage. Subdivision (c)(2), which addresses the appointment of trustees in jointly administered chapter 11 cases, is amended to make it applicable to cases under subchapter V.

1 **Rule 2012. Substitution of Trustee or Successor**

2 **Trustee; Accounting**

3 (a) TRUSTEE. If a trustee is appointed in a chapter
4 11 case (other than under subchapter V), or the debtor is
5 removed as debtor in possession in a chapter 12 case or in a
6 case under subchapter V of chapter 11, the trustee is
7 substituted automatically for the debtor in possession as a
8 party in any pending action, proceeding, or matter.

9 * * * * *

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (a) of the rule is amended to include any case under that subchapter in which the debtor is removed as debtor in possession under § 1185 of the Code.

1 **Rule 2015. Duty to Keep Records, Make Reports, and**
2 **Give Notice of Case or Change of Status**

3 (a) TRUSTEE OR DEBTOR IN POSSESSION. A
4 trustee or debtor in possession shall:

5 (1) in a chapter 7 liquidation case and, if the
6 court directs, in a chapter 11 reorganization case
7 (other than under subchapter V), file and transmit to
8 the United States trustee a complete inventory of the
9 property of the debtor within 30 days after qualifying
10 as a trustee or debtor in possession, unless such an
11 inventory has already been filed;

12 (2) keep a record of receipts and the
13 disposition of money and property received;

14 (3) file the reports and summaries required by
15 § 704(a)(8) of the Code, which shall include a
16 statement, if payments are made to employees, of the
17 amounts of deductions for all taxes required to be

12 INTERIM RULES OF BANKRUPTCY PROCEDURE

18 withheld or paid for and in behalf of employees and
19 the place where these amounts are deposited;

20 (4) as soon as possible after the
21 commencement of the case, give notice of the case to
22 every entity known to be holding money or property
23 subject to withdrawal or order of the debtor,
24 including every bank, savings or building and loan
25 association, public utility company, and landlord
26 with whom the debtor has a deposit, and to every
27 insurance company which has issued a policy having
28 a cash surrender value payable to the debtor, except
29 that notice need not be given to any entity who has
30 knowledge or has previously been notified of the
31 case;

32 (5) in a chapter 11 reorganization case (other
33 than under subchapter V), on or before the last day
34 of the month after each calendar quarter during
35 which there is a duty to pay fees under 28 U.S.C.

36 § 1930(a)(6), file and transmit to the United States
37 trustee a statement of any disbursements made
38 during that quarter and of any fees payable under 28
39 U.S.C. § 1930(a)(6) for that quarter; and

40 (6) in a chapter 11 small business case, unless
41 the court, for cause, sets another reporting interval,
42 file and transmit to the United States trustee for each
43 calendar month after the order for relief, on the
44 appropriate Official Form, the report required by
45 § 308. If the order for relief is within the first 15 days
46 of a calendar month, a report shall be filed for the
47 portion of the month that follows the order for relief.
48 If the order for relief is after the 15th day of a
49 calendar month, the period for the remainder of the
50 month shall be included in the report for the next
51 calendar month. Each report shall be filed no later
52 than 21 days after the last day of the calendar month
53 following the month covered by the report. The

54 obligation to file reports under this subparagraph
55 terminates on the effective date of the plan, or
56 conversion or dismissal of the case.

57 (b) TRUSTEE, DEBTOR IN POSSESSION, AND
58 DEBTOR IN A CASE UNDER SUBCHAPTER V OF
59 CHAPTER 11. In a case under subchapter V of chapter 11,
60 the debtor in possession shall perform the duties prescribed
61 in (a)(2)–(4) and, if the court directs, shall file and transmit
62 to the United States trustee a complete inventory of the
63 debtor’s property within the time fixed by the court. If the
64 debtor is removed as debtor in possession, the trustee shall
65 perform the duties of the debtor in possession prescribed in
66 this subdivision (b). The debtor shall perform the duties
67 prescribed in (a)(6).

68 (~~b~~c) CHAPTER 12 TRUSTEE AND DEBTOR IN
69 POSSESSION. In a chapter 12 family farmer’s debt
70 adjustment case, the debtor in possession shall perform the
71 duties prescribed in clauses (2)–(4) of subdivision (a) of this

72 rule and, if the court directs, shall file and transmit to the
73 United States trustee a complete inventory of the property of
74 the debtor within the time fixed by the court. If the debtor is
75 removed as debtor in possession, the trustee shall perform
76 the duties of the debtor in possession prescribed in this
77 ~~paragraph~~ subdivision (c).

78 ~~(e)~~ CHAPTER 13 TRUSTEE AND
79 DEBTOR.

80 (1) *Business Cases*. In a chapter 13
81 individual's debt adjustment case, when the debtor is
82 engaged in business, the debtor shall perform the
83 duties prescribed by clauses (2)–(4) of subdivision
84 (a) of this rule and, if the court directs, shall file and
85 transmit to the United States trustee a complete
86 inventory of the property of the debtor within the
87 time fixed by the court.

88 (2) *Nonbusiness Cases*. In a chapter 13
89 individual's debt adjustment case, when the debtor is

90 not engaged in business, the trustee shall perform the
91 duties prescribed by clause (2) of subdivision (a) of
92 this rule.

93 ~~(d)~~ FOREIGN REPRESENTATIVE. In a case in
94 which the court has granted recognition of a foreign
95 proceeding under chapter 15, the foreign representative shall
96 file any notice required under § 1518 of the Code within 14
97 days after the date when the representative becomes aware
98 of the subsequent information.

99 ~~(e)~~ TRANSMISSION OF REPORTS. In a chapter
100 11 case the court may direct that copies or summaries of
101 annual reports and copies or summaries of other reports shall
102 be mailed to the creditors, equity security holders, and
103 indenture trustees. The court may also direct the publication
104 of summaries of any such reports. A copy of every report or
105 summary mailed or published pursuant to this subdivision
106 shall be transmitted to the United States trustee.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (b) is amended to prescribe the duties of a debtor in possession, trustee, and debtor in a subchapter V case. Those cases are excepted from subdivision (a) because, unlike other chapter 11 cases, there will generally be both a trustee and a debtor in possession. Subdivision (b) also reflects that § 1187 of the Code prescribes reporting duties for the debtor in a subchapter V case.

Former subdivisions (b), (c), (d), and (e) are redesignated (c), (d), (e), and (f) respectively.

1 **Rule 3010. Small Dividends and Payments in Cases**
2 **Under Chapter 7 Liquidation, Subchapter V of Chapter**
3 **11, Chapter 12 Family Farmer's Debt Adjustment, and**
4 **Chapter 13 Individual's Debt Adjustment Cases**

5 * * * * *

6 (b) CASES UNDER SUBCHAPTER V OF
7 CHAPTER 11, CHAPTER 12, AND CHAPTER 13
8 CASES. In a case under subchapter V of chapter 11, chapter
9 12, or chapter 13, ease no payment in an amount less than
10 \$15 shall be distributed by the trustee to any creditor unless
11 authorized by local rule or order of the court. Funds not
12 distributed because of this subdivision shall accumulate and
13 shall be paid whenever the accumulation aggregates \$15.
14 Any funds remaining shall be distributed with the final
15 payment.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter

V of chapter 11. To avoid the undue cost and inconvenience of distributing small payments, the title and subdivision (b) are amended to include subchapter V cases.

1 **Rule 3011. Unclaimed Funds in Cases Under Chapter 7**
2 **~~Liquidation,~~ Subchapter V of Chapter 11, Chapter 12**
3 **~~Family Farmer's Debt Adjustment,~~ and Chapter 13**
4 **~~Individual's Debt Adjustment Cases~~**

5 The trustee shall file a list of all known names and
6 addresses of the entities and the amounts which they are
7 entitled to be paid from remaining property of the estate that
8 is paid into court pursuant to § 347(a) of the Code.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. The rule is amended to include such cases because § 347(a) of the Code applies to them.

1 **Rule 3014. Election Under § 1111(b) by Secured**
2 **Creditor in Chapter 9 Municipality or Chapter 11**
3 **Reorganization Case**

4 An election of application of § 1111(b)(2) of the
5 Code by a class of secured creditors in a chapter 9 or 11 case
6 may be made at any time prior to the conclusion of the
7 hearing on the disclosure statement or within such later time
8 as the court may fix. If the disclosure statement is
9 conditionally approved pursuant to Rule 3017.1, and a final
10 hearing on the disclosure statement is not held, the election
11 of application of § 1111(b)(2) may be made not later than the
12 date fixed pursuant to Rule 3017.1(a)(2) or another date the
13 court may fix. In a case under subchapter V of chapter 11 in
14 which § 1125 of the Code does not apply, the election may
15 be made not later than a date the court may fix. The election
16 shall be in writing and signed unless made at the hearing on
17 the disclosure statement. The election, if made by the

- 18 majorities required by § 1111(b)(1)(A)(i), shall be binding
19 on all members of the class with respect to the plan.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Because there generally will not be a disclosure statement in a subchapter V case, *see* § 1181(b) of the Code, the rule is amended to provide a deadline for making an election under § 1111(b) in such cases that is set by the court.

1 **Rule 3016. Filing of Plan and Disclosure Statement in a**
2 **Chapter 9 Municipality or Chapter 11 Reorganization**
3 **Case**

4 (a) IDENTIFICATION OF PLAN. Every proposed
5 plan and any modification thereof shall be dated and, in a
6 chapter 11 case, identified with the name of the entity or
7 entities submitting or filing it.

8 (b) DISCLOSURE STATEMENT. In a chapter 9 or
9 11 case, a disclosure statement, if required under § 1125 of
10 the Code, or evidence showing compliance with § 1126(b)
11 shall be filed with the plan or within a time fixed by the
12 court, unless the plan is intended to provide adequate
13 information under § 1125(f)(1). If the plan is intended to
14 provide adequate information under § 1125(f)(1), it shall be
15 so designated, and Rule 3017.1 shall apply as if the plan is a
16 disclosure statement.

17 * * * * *

18 (d) STANDARD FORM SMALL BUSINESS
19 DISCLOSURE STATEMENT AND PLAN. In a small
20 business case or a case under subchapter V of chapter 11, the
21 court may approve a disclosure statement and may confirm
22 a plan that conform substantially to the appropriate Official
23 Forms or other standard forms approved by the court.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (b) of the rule is amended to reflect that under § 1181(b) of the Code, § 1125 does not apply to subchapter V cases (and thus a disclosure statement is not required) unless the court for cause orders otherwise. Subdivision (d) is amended to include subchapter V cases as ones in which Official Forms are available for a reorganization plan and, when required, a disclosure statement.

1 **Rule 3017.1. Court Consideration of Disclosure**
2 **Statement in a Small Business Case or in a Case Under**
3 **Subchapter V of Chapter 11**

4 (a) CONDITIONAL APPROVAL OF
5 DISCLOSURE STATEMENT. In a small business case or
6 in a case under subchapter V of chapter 11 in which the court
7 has ordered that § 1125 applies, the court may, on
8 application of the plan proponent or on its own initiative,
9 conditionally approve a disclosure statement filed in
10 accordance with Rule 3016. On or before conditional
11 approval of the disclosure statement, the court shall:

- 12 (1) fix a time within which the holders of claims and
13 interests may accept or reject the plan;
14 (2) fix a time for filing objections to the disclosure
15 statement;
16 (3) fix a date for the hearing on final approval of the
17 disclosure statement to be held if a timely objection
18 is filed; and

19 (4) fix a date for the hearing on confirmation.

20 * * * * *

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. The title and subdivision (a) of the rule are amended to cover such cases when the court orders that § 1125 of the Code applies.

1 **Rule 3017.2. Fixing of Dates by the Court in Subchapter**
2 **V Cases in Which There Is No Disclosure Statement**

3 In a case under subchapter V of chapter 11 in which
4 § 1125 does not apply, the court shall:

5 (a) fix a time within which the holders of claims
6 and interests may accept or reject the plan;

7 (b) fix a date on which an equity security holder
8 or creditor whose claim is based on a security must
9 be the holder of record of the security in order to be
10 eligible to accept or reject the plan;

11 (c) fix a date for the hearing on confirmation; and

12 (d) fix a date for transmission of the plan, notice
13 of the time within which the holders of claims and
14 interests may accept or reject the plan, and notice of
15 the date for the hearing on confirmation.

Committee Note

The rule is added in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter

V of chapter 11. Because there generally will not be a disclosure statement in a subchapter V case, *see* § 1181(b) of the Code, the rule is added to authorize the court in such a case to act at a time other than when a disclosure statement is approved to set certain times and dates.

1 **Rule 3018. Acceptance or Rejection of Plan in a Chapter**
2 **9 Municipality or a Chapter 11 Reorganization Case**

3 (a) ENTITIES ENTITLED TO ACCEPT OR
4 REJECT PLAN; TIME FOR ACCEPTANCE OR
5 REJECTION. A plan may be accepted or rejected in
6 accordance with § 1126 of the Code within the time fixed by
7 the court pursuant to Rule 3017, 3017.1, or 3017.2. Subject
8 to subdivision (b) of this rule, an equity security holder or
9 creditor whose claim is based on a security of record shall
10 not be entitled to accept or reject a plan unless the equity
11 security holder or creditor is the holder of record of the
12 security on the date the order approving the disclosure
13 statement is entered or on another date fixed by the court
14 under Rule 3017.2, or fixed for cause, after notice and a
15 hearing. For cause shown, the court after notice and hearing
16 may permit a creditor or equity security holder to change or
17 withdraw an acceptance or rejection. Notwithstanding
18 objection to a claim or interest, the court after notice and

19 hearing may temporarily allow the claim or interest in an
20 amount which the court deems proper for the purpose of
21 accepting or rejecting a plan.

22 * * * * *

Committee Note

Subdivision (a) of the rule is amended to take account of the court's authority to set times under Rules 3017.1 and 3017.2 in small business cases and cases under subchapter V of chapter 11.

1 **Rule 3019. Modification of Accepted Plan in a Chapter**
2 **9 Municipality or a Chapter 11 Reorganization Case**

3 * * * * *

4 (b) MODIFICATION OF PLAN AFTER
5 CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If
6 the debtor is an individual, a request to modify the plan under
7 § 1127(e) of the Code is governed by Rule 9014. The request
8 shall identify the proponent and shall be filed together with
9 the proposed modification. The clerk, or some other person
10 as the court may direct, shall give the debtor, the trustee, and
11 all creditors not less than 21 days' notice by mail of the time
12 fixed to file objections and, if an objection is filed, the
13 hearing to consider the proposed modification, unless the
14 court orders otherwise with respect to creditors who are not
15 affected by the proposed modification. A copy of the notice
16 shall be transmitted to the United States trustee, together
17 with a copy of the proposed modification. Any objection to
18 the proposed modification shall be filed and served on the

19 debtor, the proponent of the modification, the trustee, and
20 any other entity designated by the court, and shall be
21 transmitted to the United States trustee.

22 (c) MODIFICATION OF PLAN AFTER
23 CONFIRMATION IN A SUBCHAPTER V CASE. In a
24 case under subchapter V of chapter 11, a request to modify
25 the plan under § 1193(b) or (c) of the Code is governed by
26 Rule 9014, and the provisions of this Rule 3019(b) apply.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (c) is added to the rule to govern requests to modify a plan after confirmation in such cases under § 1193(b) or (c) of the Code.

EXHIBIT B

LOCAL RULE REVISIONS RELATING TO SMALL BUSINESS REORGANIZATION ACT OF 2019

UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF TEXAS

[Effective February 19, 2020]

Local Rule of Bankruptcy Procedure 1020-1. SMALL BUSINESS CHAPTER 11 REORGANIZATION CASE

(a) Determination of “Small Business Debtor” Status

A party seeking to object to a Chapter 11 debtor's statement in its petition regarding whether it meets the definition of a “small business debtor” under §101 (51D) of the Bankruptcy Code shall file a Motion to Determine Small Business Debtor Status. The motion must contain the **14-day negative notice language described in LBR 4001** and shall be served upon the parties designated by LBR 9013(f). A proposed order shall accompany the motion.

Local Rule of Bankruptcy Procedure 2015-1. DUTY TO KEEP RECORDS, MAKE REPORTS, AND GIVE NOTICE OF CASE

...

(c) Post Confirmation Requirements in Chapter 11 Cases (Non-Subch. V Cases)

1. In a case filed under Chapter 11 **which is not governed by Subchapter V**, and in which the debtor is a **non-individual entity**, the proponent of a confirmed plan must:
 - (A) file a post confirmation report within **60** days after the date of the order confirming the plan and serve that report upon the master mailing list (matrix) as constituted by the Court on the date of service. The report must inform the Court of the post-confirmation actions taken by the confirmed debtor or the trustee and the progress made toward consummation of the plan; and
 - (B) within 180 days after the date of the confirmation order, file either an application for a final decree showing that the plan has been consummated with a proposed final decree or a subsequent post-confirmation report explaining why an application for final decree is not yet appropriate and requesting a continuance of any status conference previously scheduled.
2. In a case filed under Chapter 11 **which is not governed by Subchapter V**, and in which the debtor is an individual, the proponent of a confirmed plan must:

- (A) file an annual status report on each anniversary date of the entry of the confirmation order which outlines the status of payments made by the individual debtor in the past year and any other post-confirmation action taken toward consummation of the plan; and
- (B) file a *Notice of Plan Completion and §522(q) Statement By Individual Debtor in a Chapter 11 Case* (no service required) in a format substantially conforming to *TXEB Local Form 4004-b* under which each individual debtor declares that all payments under the confirmed Chapter 11 plan have been completed and that all prerequisites for the entry of an order of discharge pursuant to 11 U.S.C. §1141(d)(5) have been fulfilled.

(d) Post Confirmation Requirements in Chapter 11 Subchapter V Cases

1. In a case filed under Chapter 11 in which the Debtor elects treatment under Subchapter V and in which consensual confirmation of the Chapter 11 plan was accomplished under § 1191(a):
 - (A) the Debtor shall file a post confirmation report within 60 days after the date of the order confirming the plan and serve that report upon the master mailing list (matrix) as constituted by the Court on the date of service. The report must inform the Court of the post-confirmation actions taken by the confirmed debtor or the trustee and the progress made toward substantial consummation of the plan;
 - (B) the Debtor shall file a Notice of Substantial Consummation promptly upon the occurrence of such event and serve such notice upon the master mailing list (matrix) as constituted by the Court on the date of service; and
 - (C) the Trustee shall file a *Final Report and Account and Application for Final Decree* promptly after the filing of the Notice of Substantial Consummation and through which the Trustee shall be discharged of all duties and the Chapter 11 case shall be closed.

2. In a case filed under Chapter 11 in which the Debtor elects treatment under Subchapter V and in which non-consensual confirmation of the Chapter 11 plan was accomplished under § 1191(b):
 - (A) the Debtor shall file a Notice of Substantial Consummation promptly upon the occurrence of such event and serve such notice upon the master mailing list (matrix) as constituted by the Court on the date of service;
 - (B) the Trustee shall file, for the duration of the period in which the Debtor must tender projected disposable income or equivalent values of property under the confirmed plan as required under § 1191(c)(2) (the “*Non-Consensual Commitment Period*”), a status report on each anniversary date of the entry of the confirmation order which outlines the status of payments made by the Debtor and distributed by the Trustee in the past year and any other post-confirmation action taken toward consummation of the plan and serve that report upon the master mailing list (matrix) as constituted by the Court on the date of service;
 - (C) the Debtor shall file, upon completion of the Non-Consensual Commitment Period, a *Motion for Entry of Discharge Upon Completion of Non-Consensual Commitment Period* pursuant to LBR 4004(c) which documents that all payments of projected disposable income or equivalent values of property by the Debtor under the confirmed plan as required under § 1191(c)(2) have been completed and that all other prerequisites for the entry of an order of discharge pursuant to 11 U.S.C. § 1192 have been fulfilled.
 - (D) the Trustee shall file, upon entry of the Debtor’s discharge, a *Final Report and Account and Application for Final Decree* through which the Trustee shall be discharged of all duties and the Chapter 11 case shall be closed.

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Local Rule of Bankruptcy Procedure 3003-1. FILING OF PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN CHAPTER 9 OR CHAPTER 11 REORGANIZATION CASES.

(a) Time for Filing

A proof of claim is timely filed in a Chapter 9 or Chapter 11 case if it is filed not later than 120 days after the entry of the order for relief under that chapter, except as follows:

1. in a Chapter 11 case governed by Subchapter V, a proof of claim for a creditor other than a governmental unit is timely filed if it is filed not later than 70 days after the entry of the order for relief;
2. a proof of claim by a governmental unit in any Chapter 9 or Chapter 11 case is timely filed if it is filed not later than 180 days after the entry of the order for relief; or
3. the Court may set a different bar date for a creditor or creditors. Notice of a different bar date for all creditors must comply with Fed. R. Bankr. P. 2002.

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Local Rule of Bankruptcy Procedure 3016-1. FILING OF PLAN AND DISCLOSURE STATEMENT IN CHAPTER 9 MUNICIPALITY AND CHAPTER 11 REORGANIZATION CASES.

The plan proponent must deliver a paper copy of the proposed plan of reorganization and the accompanying disclosure statement, **if any**, including all exhibits thereto, to the Clerk for use by the assigned judge pursuant to *TXEB Appendix 5005*.

Local Rule of Bankruptcy Procedure 3017.1-1. COURT CONSIDERATION OF DISCLOSURE STATEMENT IN A SMALL BUSINESS CASE.

(a) Conditional Approval

A plan proponent in a small business case, **or in a Subchapter V case if a disclosure statement has been required by the Court**, may seek conditional approval of a disclosure statement, subject to final approval after notice and hearing, by filing a request with the Court contemporaneously with the filing of the proposed plan of reorganization. Such request shall contain a certificate of service evidencing service upon the parties designated by LBR 9013(f) and shall be accompanied by a proposed order substantially conforming to *TXEB Local Form 3017.1*. The request will not require negative notice language and will be presented to the Court for immediate consideration

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Local Rule of Bankruptcy Procedure 3019-1. MODIFICATION OF CONFIRMED PLAN IN CHAPTER 11 REORGANIZATION CASE.

(a) Required Information (Non-Subch. V Cases)

A proponent requesting the modification of a confirmed plan of reorganization in a case filed under Chapter 11 which is not governed by Subchapter V, must file the modified plan, together with a motion seeking confirmation of the modified plan which specifies the precise changes sought by the modification including, but not limited to, the following:

- (1) the purpose of, or the necessity for, the modification, together with sufficient information regarding such circumstances, **including financial information**, that would enable a hypothetical investor to make an informed judgment regarding the legitimacy of the need for the modification; and
- (2) the **specific** changes being made as to **any** plan payment, the term of the plan; the proposed distribution to any class, or any other substantive provision.

(b) **Required Information (Subch. V Cases)**

A proponent requesting the modification of a confirmed plan of reorganization in a case governed by Subchapter V of Chapter 11 must file the modified plan, together with a motion seeking confirmation of the modified plan which specifies the precise changes sought by the modification including, but not limited to, the following:

- (1) the purpose of, or the necessity for, the modification, together with a sufficient description of all circumstances, including financial information, that establishes a legitimate need for the modification; and
- (2) the specific changes being made as to any plan payment, the term of the plan; the proposed distribution to any class, or any other substantive provision.

(c) **Service**

A proponent requesting the post-confirmation modification of a Chapter 11 plan of reorganization **in any Chapter 11 case** must serve the proposed modified plan and the accompanying motion upon the master mailing list (matrix) as constituted by the Court on the date of service and file a certificate of service evidencing such service. The motion must also contain the following 28-day negative notice language, which must appear as presented and be located in the motion text — preferably on the initial page:

28-DAY NEGATIVE NOTICE – LBR 3019(b):

Your rights may be affected by the plan modifications sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this Motion unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading WITHIN TWENTY-EIGHT (28) DAYS FROM THE DATE OF SERVICE shown in the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the Court may enter an order confirming this plan modification. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your

objection may be stricken. The Court reserves the right to set a hearing on any matter.

Modifications shall be handled in accordance with the Court's usual motion procedures.

Local Rule of Bankruptcy Procedure 4000-1. IMPOSITION, CONTINUATION OR STATUS OF THE AUTOMATIC STAY.

(a) Imposition/Continuation Motions Scheduled for Hearing Upon Filing

1. The following motions to impose or to continue the automatic stay shall not require negative notice language but instead shall be scheduled for an accelerated hearing upon filing:

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- (B) Motion to impose automatic stay by a small business debtor, **including one having elected to proceed under Subchapter V of Chapter 11**, pursuant to § 362(n)(2) of the Code

Local Rule of Bankruptcy Procedure 4004-1. GRANT OR DENIAL OF DISCHARGE.

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(b) Discharge Process for Chapter 11 Individual Debtors (Non-Subch. V Cases)

1. Upon completion of all plan payments required of an individual debtor under a confirmed Chapter 11 plan **which is not governed by Subchapter V**, the individual debtor(s) shall file a “Notice of Plan Completion and §522(q) Statement By Individual Debtor in a Chapter 11 Case” (no service required) in a format substantially conforming to *TXEB Local Form 4004-b*.
2. Upon the filing of the Notice of Plan Completion, an opportunity to object to the entry of the discharge order shall be given by the Clerk to all parties on the master mailing list (matrix) as constituted by the Court on that date.
3. Upon the entry of a discharge order on behalf of an individual debtor, and in the absence of any unresolved administrative issue, a final decree closing the case shall be entered by the Clerk.

(c) Discharge Process for Chapter 11 Subchapter V Debtors – Nonconsensual Plan

1. Upon completion of all plan payments required to be distributed within the Non-Consensual Payment Period, the Debtor shall file a *Motion for Entry of Discharge Upon Completion of Non-Consensual Commitment Period* which documents that all payments of projected disposable income or equivalent values of property by the Debtor under the confirmed plan as required under § 1191(c)(2) have been completed and that all other prerequisites for the entry of an order of discharge pursuant to 11 U.S.C. § 1192 have been fulfilled.
2. Any *Motion for Entry of Discharge Upon Completion of Non-Consensual Commitment Period* filed by the Debtor must be served upon the master mailing list (matrix) as constituted by the Court on the date of service and contain a certificate of service evidencing such service.
3. Any *Motion for Entry of Discharge Upon Completion of Non-Consensual Commitment Period* filed by the Debtor must also contain the following 28-day negative notice language, which must appear as presented and be located in the motion text — preferably on the initial page:

28-DAY NEGATIVE NOTICE – LBR 4004(c):

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this Motion unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading WITHIN TWENTY-EIGHT (28) DAYS FROM THE DATE OF SERVICE shown in the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, the relief sought in this pleading shall be deemed to be unopposed, and the Court may enter an order of discharge as requested by the Debtor. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The Court reserves the right to set a hearing on any matter.