

## **SBRA**

The SBRA creates a new subchapter V within chapter 11 of the Code, providing a new form of bankruptcy relief to debtors that qualify as “small business debtors” as defined in the Bankruptcy Code. Under the SBRA, a small business debtor must elect whether its case will be administered under subchapter V. Absent such an election, the small business case will be administered under the small business provisions of chapter 11 that have been in effect since 2005. The SBRA will become effective on February 19, 2020, for cases filed on or after that date.

The SBRA treats small business debtors who elect to proceed under subchapter V differently in a number of ways, including that only the debtor may file the plan and it must be done within 90 days; no creditors’ committee is appointed unless the court orders one for cause; no disclosure statement is required; debtors are excused from paying quarterly fees; and rules on non-consensual confirmation are quite different from the rules for cram-down in ordinary chapter 11 cases.

Another notable difference is that a trustee must be appointed in every subchapter V case. The United States Trustees (USTs) will be responsible for appointing and overseeing either standing or case-by-case trustees to handle subchapter V cases who will perform a variety of duties ranging from facilitating the development of a consensual plan, appearing in court at status conferences and on significant matters in the case, and performing certain other duties that trustees now perform under chapters 11 and 12.

The United States Trustee Program (USTP or Program) will soon solicit applications from the bankruptcy community and others who may be qualified to serve as subchapter V trustees. It is anticipated that, at least initially, the USTs will appoint case-by-case trustees from trustee pools established in each district developed through an application process. The USTP anticipates the need to identify a pool of at least 200 individuals. More information to follow.

## **HAVEN ACT**

The HAVEN Act, which became effective upon enactment, amends the definition of “current monthly income” (CMI) in section 101(10A) of the Bankruptcy Code to exclude certain military disability or death-related benefits received by veterans and their survivors. Basically, it treats veterans’ benefits like similar non-veteran disability and certain other government benefits payments. The change in the CMI definition necessarily affects the determination of presumed abuse in chapter 7 cases, as well as the calculation of disposable income in individual chapter 11 and 13 cases.

The USTP has posted on its website Frequently Asked Questions on the HAVEN Act that represent the Program’s interpretation of the Code as amended by the Act. [https://www.justice.gov/ust/file/haven\\_act\\_faqs.pdf/download](https://www.justice.gov/ust/file/haven_act_faqs.pdf/download). As issues related to the amendments arise, the USTP will work to ensure that its approach is faithful to the language of the statute and, if ambiguities arise, will generally resolve them in favor of the recipients of benefits covered by the Act. In addition, in connection with the USTP’s duties under section 707(b), the Program will not routinely request documents from debtors related to income excluded from CMI under the HAVEN Act that otherwise are not required by the Bankruptcy Code or Rules. Consistent with established best practices for document requests, trustees are encouraged to do likewise.

### **Family Farmer Relief Act**

The Family Farmer Relief Act of 2019 enlarges the debt limit for an individual or entity to be eligible for chapter 12 relief as a “family farmer” from \$4,411,400 to \$10 million by amending the definition of a family farmer at section 101(18) of the Code. The increased debt limit will continue to be subject to adjustment every three years based on the Consumer Price Index. This change in the debt limit is effective immediately.

### **National Guard and Reservists Debt Relief Extension Act**

The National Guard and Reservists Debt Relief Extension Act extends for an additional four years the existing exemption from the means test for qualifying reservists and National Guard debtors who are called to active duty or to perform a homeland defense activity for not less than 90 days. This extension is effective immediately. Trustees should continue to evaluate these cases as they have since December 19, 2008, the effective date of the law that created the exemption.