

Rule 3015-3: Chapter 13 Plan Requirements and Confirmation

(a) Applicability

This LBR applies to all chapter 13 cases filed in the United States Bankruptcy Court for the District of Puerto Rico.

(b) Form of Chapter 13 Plan

Chapter 13 Plan Local Form G, adopted pursuant to Fed. R. Bankr. P. 3015(c), 3015.1 and 9009, must be used for all plans filed pursuant to 11 U.S.C. §§ 1321 or 1329(a). LBF-G instructions must be strictly followed.

(c) Service and Notice of Chapter 13 Plan

- (1) If the plan is not filed on the same day the petition is filed, the debtor shall serve a copy of the chapter 13 plan on all creditors, the chapter 13 trustee, the United States trustee and parties in interest, in the manner provided for in Fed. R. Bankr. P. 7005(b), Fed. R. Bankr. P. 2002(a)(9) and (b).
- (2) A chapter 13 plan that proposes the avoidance of a lien under 11 U.S.C. § 522(f) or a modification of a secured claim pursuant to 11 U.S.C. § 1322(b)(2), including a determination of the amount of a secured claim, shall be served by the debtor when it is filed on the affected secured claim holder in the manner provided for the service of a summons and complaint in Fed R. Bankr. P. 7004, as required by Fed. R. Bankr. P. 3012(b) and Fed. R. Bankr. P. 4003(d), at least 28 days before the confirmation hearing.
- (3) Certificate of Service: A certificate of service setting forth the date, the manner of service, and the names and addresses of all parties to whom the plan was served, shall be filed with the court the same day the plan is filed or the next business day.

(d) Objections to Plan Confirmation

- (1) The filing of an amended plan prior to the hearing on confirmation pursuant to § 1323 supersedes any prior plan filed and renders moot any objection to the same that was pending prior to its filing.
- (2) Service of Objection
 - (A) The objecting party shall file the objection with the court and serve the same on the trustee, the debtor, and the debtor's attorney, in the manner provided for service of a summons and complaint by Fed. R. Bankr. P. 7004.

- (B) A certificate of service setting forth the date, the manner of service, and the names and addresses of all parties to whom the objection was served, shall be filed, at the court, the same day the objection is filed or the next business day.

(3) Objection to Confirmation

- (A) Any creditor or party in interest may file and serve to the debtor, debtor's attorney, the chapter 13 trustee, the United States trustee and any other entity designated by the court, an objection to confirmation of the plan at least seven (7) days before the date set for the confirmation hearing as required by Fed. R. Bankr. P. 3015(f).
- (B) The objection shall set forth the facts and legal arguments that cause the objection in sufficient detail to allow the debtor to file a reply or an amendment to the plan to address the objection.

(4) Trustee's Objection in Minutes of Meeting of Creditors

- (A) The trustee may object to the confirmation of a chapter 13 plan in the minutes of the § 341 meeting of creditors. The meeting minutes must set forth the facts and legal arguments that give rise to the objection with sufficient particularity to allow the debtor to file a reply or an amendment to the plan addressing the objection.
- (B) If the meeting of creditors is held within seven (7) days from the date set for the hearing on confirmation, the trustee may file with the court the meeting minutes, including the objection, not later than one (1) day before the confirmation hearing date.
- (C) The trustee shall serve copy of the objection on the debtor(s)' attorney, the debtors, and parties in interest, in the manner provided for service of a summons and complaint in Fed. R. Bankr. P. 7004.
- (D) A certificate of service setting forth the date, the manner of service, and the names and addresses of all parties to whom the objection was served, shall be filed at the court the same day the objection is filed or within the next business day.

(5) Response to Objection: If an objection to a chapter 13 plan is filed seven days (7) before the scheduled confirmation hearing date, the

debtor must file a response not later than one (1) day before the confirmation hearing date. The debtor may:

- (A) amend plan to address each objection; or
- (B) reply to the objection setting forth the facts and legal arguments with sufficient particularity to allow each objector to reconsider and withdraw its objection.

(e) Initial Chapter 13 Confirmation Hearing

The initial confirmation hearing scheduled in the combined notice of the § 341 meeting of creditors issued by the court will be a non-evidentiary hearing.

- (1) The plan may be confirmed at the initial confirmation hearing if:
 - (A) an objection has not been filed by the trustee, any creditor or other party in interest, or if filed, has been withdrawn or otherwise disposed of;
 - (B) all requirements for confirmation under §§ 1322 and 1325 as well as all other applicable provisions of the Bankruptcy Code are satisfied; and
 - (C) there is no motion to dismiss, convert, or abstain pending in the case.
- (2) The confirmation hearing may be rescheduled to a later date as a contested confirmation hearing if:
 - (A) The trustee, a creditor or any party in interest files a timely objection to the plan before the initial confirmation hearing;
 - (B) the § 341 meeting of creditors has not been held and closed prior to the initial confirmation hearing; or
 - (C) an amended plan was filed less than fourteen (14) days prior to the initial confirmation hearing.
- (3) If the chapter 13 plan is not confirmed at the initial confirmation hearing, the court may continue the hearing as a contested confirmation hearing by announcement at the first confirmation hearing of the continued date and time, without further written notice. The continued date and time will be provided at the hearing and will be reflected in the minutes.

(f) Contested Confirmation Hearing

- (1) At the commencement of the contested confirmation hearing, the court may call for the record and confirm those cases in which the plan:
 - (A) has not been objected to by the chapter 13 trustee, any creditor or party in interest;
 - (B) complies with all requirements for confirmation under §§ 1322 and 1325 and all other applicable provisions of the Bankruptcy Code; and
 - (C) there is no motion to dismiss, convert, or abstain pending in the case.
- (2) Any party in interest that objects to the confirmation of the plan shall attend the contested confirmation hearing if the objection has not been resolved or withdrawn prior to the hearing. If the objecting creditor does not appear at the contested confirmation hearing, the court may overrule the objection for failure to prosecute the same.
- (3) If the court denies the confirmation of the plan at a contested confirmation hearing, the court may for cause under § 1307(c) enter an order dismissing or converting the case to chapter 7 at the contested confirmation hearing.
- (4) The court may continue a contested confirmation hearing by announcement at the contested confirmation hearing without further written notice. The continued date and time will be reflected in the minutes of the contested confirmation hearing.
- (5) A motion filed by the debtor, or any party in interest, to continue the contested confirmation hearing must show good cause, include an itemization of pending matters, and a proposed timetable to resolve the pending matters prompting the motion for continuance.

(g) Dismissal of Case upon Denial of Confirmation

- (1) If the court denies confirmation of the debtor's plan, the court may dismiss the case, unless within fourteen (14) days after denial of confirmation:
 - (A) the debtor files an amended plan;

- (B) the debtor moves to convert the case to another chapter of the Bankruptcy Code;
- (C) the debtor requests the court to alter or amend the order denying confirmation pursuant to Fed. R. Bankr. P. 9023 stating with particularity how the issues that prevented confirmation of the proposed plan have been resolved with the trustee and/or the objecting creditor; or
- (D) the court orders otherwise.

(h) Attorney's Fees under the plan (LBF-G, Part 4, Section 4.3)

- (1) Compensation Pursuant to LBR 2016-1(f)(1): If a plan provides that the attorney representing the debtor(s) is to be compensated for her/his legal services pursuant to LBR 2016-1(f)(1), the court may approve the amounts described in the statement filed pursuant to 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b), as they are deemed to be reasonable for the legal services performed up to the confirmation hearing date.
- (2) Compensation Pursuant to LBR 2016-1(a): If a plan provides that the attorney representing the debtor(s) is to be compensated for her/his legal services upon the approval by the court of an application for compensation filed pursuant to Fed. R. Bankr. P. 2016(a) and LBR 2016-1(a), then:
 - (A) The application for compensation, pursuant to 11 U.S.C. § 330 and Fed. R. Bankr. P. 2016(a), shall be filed no later than fourteen (14) days from the date of the entry in the docket of the confirmation order, covering all professional services performed up to the confirmation hearing date.
 - (B) If the application is timely filed, the trustee will not make related plan disbursements until the same is considered and approved by the court.
 - (C) Once approved by the court, related plan disbursements by the trustee under the plan will be made in the order of distribution provided in the plan.
- (3) If an application for compensation has not been approved before the confirmation hearing, the court may allow an interim compensation not to exceed the amounts in LBR 2016-1(f)(1), subject to a final determination on a timely filed fee application.

- (4) If the plan is confirmed under § 1325 and the application is not timely filed, the attorney's compensation approved by the confirmation order will be equal to the amount authorized by LBR 2016-1(f)(1), unless otherwise ordered by the court, and the trustee is authorized to make distribution accordingly without further notice or hearing.

(i) Modification of the Plan After Confirmation

- (1) Service and Notice of Plan: The proponent of the post confirmation modification shall serve a copy of the amended plan on all creditors, the chapter 13 trustee, the United States trustee and other parties in interest, in the manner provided for in Fed. R. Bankr. P. 7005(b), including the notices required by Fed. R. Bankr. P. 3015(h), within the time provided therein.
- (2) Certificate of Service: A certificate of service setting forth the date, the manner of service, and the names and addresses of all parties to whom the plan was served, shall be filed at court the same day the plan is filed at the court or the next business day.
- (3) Increase of Plan Scheduled Payments (LBF-G, Part 2, Section 2.1): If the confirmed plan is fewer than 60 months and additional payments are necessary to make the payments to creditors in the amounts specified in the plan, the debtor(s) shall give notice to the chapter 13 trustee, creditors and parties in interest by filing an informative motion describing the time and amount of the additional plan payments that will be made. A motion for amendment to the plan under § 1329 of the Bankruptcy Code is not required. Additional plan payments shall not exceed 60 months. A certificate of service of the motion shall be filed with the motion or the next business day.

(j) Full Force and Effect

An order entered by the court confirming a chapter 13 plan shall remain in full force and effect until a subsequently modified post-confirmation chapter 13 plan is approved by the court. Upon the filing of a request for modification which expressly proposes discontinuance of further distributions by the trustee on a claim or claims, the trustee is authorized to hold such funds in reserve until the request is considered by the court. Otherwise the trustee will continue making disbursements per the terms of the confirmed chapter 13 plan.

(k) Discharge Upon Completion of the Chapter 13 Plan

- (1) Upon completion of the debtor's confirmed plan and debtor's

certification of compliance with domestic support obligation (“DSO”) requirements pursuant to § 1328(a) (using Official Form B2830), the Trustee’s Report of Plan Completion shall state:

- (A) That there is no DSO due to be paid by the debtor;
 - (B) That there were DSO due to be paid by the debtor and that the debtor has certified that those obligations are current;
or
 - (C) That there were DSO owed by the debtor, that the trustee is unable to determine if they are current, and the debtor has not applied for a waiver under applicable statute.
- (2) If the trustee informs the court in writing that he is unable to determine if the debtor is current with domestic support obligations, the court shall issue a notice of intent to close the case without a discharge unless within fourteen (14) days, the debtor files a certification with the court, under penalty of perjury, stating that all post-petition DSO are current (using Official Form B2830).