

ORDER CONFIRMING CHAPTER 12 PLAN

Applicable Law and Rules

Section 1221 of the Bankruptcy Code (11 U.S.C. § 1221) requires each debtor to file a plan within 90 days after the filing of the original petition. The court may extend this deadline “if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.”

Instructions

General

Many courts have developed their own form order for the confirmation of a chapter 12 plan. Before submitting a proposed confirmation order on Form 2300A, an attorney should inquire whether the court uses the form. Furthermore, the local rules or practice may require the standing trustee to prepare the confirmation order.

Caption

1. Identify the judicial district in which the bankruptcy case was filed. Example: Eastern District of California.
2. “In re”: Insert the name of the debtor as it appears in the bankruptcy petition.
3. “Case No.”: Insert the bankruptcy case number assigned at the time of filing.

Line 1, first paragraph

Insert in first blank the date of filing of the plan. Insert in the second blank the date of filing of any modification.

Numbered section 1

Select the appropriate check boxes.

Line 2: insert the amount of each payment.

Line 3: insert the day of the month payment is due, or specify the alternative payment schedule, if any, in the blank on Line 4.

Line 5: insert the length of the plan, in months, specify on Line 6 the total percent of dividend to be paid to creditors holding allowed unsecured claims, or fill in the blank on Line 8 with any other event which will terminate the plan.

Line 9: insert the name and address of the standing trustee.

Numbered section 2

Insert in the first blank the total amount paid and to be paid to the attorney for the debtor.

In the second blank indicate the balance to be paid to the attorney for the debtor through the plan, if any.

Numbered section 3

Set forth any additional provisions ordered by the court at the confirmation hearing. An order directing an entity from which the debtor receives income to make all or part of the plan payments may be set forth in this section or as a separate order.

General Information for the Clerk

Form 2300A seeks a middle ground between two forms of confirmation orders used in the courts. The first is a “short form” order which merely recites that the court finds the plan to be in compliance with 11 U.S.C. § 1225 and decrees the plan to be confirmed. The second is a “long form” order which sets forth specific findings on each § 1225 requirement, as well as detailing the provisions of the confirmed plan. Form 2300A does not specifically list the findings required by § 1225 and summarizes the terms of the plan.

Clerks should review this form with the judges to determine whether the form should be adopted in their district.

Clerks also may wish to establish a policy fixing the party to be charged with the responsibility for submitting this form to the court for signature: the trustee, the debtor, or the clerk. There are arguments to be made in favor of each of these policies, and each is in use somewhere in the country.

An order directing an entity from which the debtor receives income to pay all or part of the income directly to the trustee may be included in the confirmation order or it may be prepared as a separate order. If such a provision is included in the confirmation order, the caption of the order should be revised to reflect it.

Bankruptcy Rule 2002(f)(7) requires that the clerk, or some other person as directed by the court, give notice of the confirmation of a chapter 12 plan. Many courts delegate this function to the debtor or the chapter 12 trustee. The rule does not specify a time for the notice but it should be given in a timely manner.