

B-3020-1
Chapter 11 Confirmation: Hearing

(a) In a case under Chapter 11, if all the requirements for confirmation of 11 U.S.C. § 1129(a) are met other than those contained in paragraph (8) (acceptance or deemed acceptance of the plan by all classes), should the proponent intend to seek confirmation over the rejection of any class pursuant to the requirements of 11 U.S.C. § 1129(b), the proponent shall file and serve a request to do so no later than fourteen (14) days before the date set for the confirmation hearing. The request shall identify the class or classes which have rejected the plan as to which the proponent contends the requirements of 11 U.S.C. § 1129(b) are fulfilled and shall state how those requirements have been fulfilled as to each such class, so that the plan may be confirmed notwithstanding the rejection of such class or classes. The request shall be served upon each entity which cast a ballot in any such rejecting class and upon the entities entitled to receive copies of the ballot report. At the initial confirmation hearing the court may determine that the proposed plan does not discriminate unfairly and is fair and equitable as to a rejecting class, based upon the information contained in the request, without further proof, unless at least one rejecting member of such class appears at the confirmation hearing.

(b) The proponent of the plan may be required to file an application to fix the amount of any confirmation deposit, no less than fourteen (14) days before the date set for the hearing on confirmation, which shall include the computations which were used in arriving at the amount of any deposit.

Commentary (1994)

Paragraph (a) is based upon §1129(b) which specifically requires the proponent to request “cram down” of a plan. The formal request is rarely, if ever, made as to a class which has only voted to reject a plan and has not also filed a separate objection to the plan as well.

Paragraph (b) is existing rule B-223(d).

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.