



## U.S. Department of Justice

Executive Office for United States Trustees

Office of Oversight

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### **LIST OF CHANGES AND UPDATES TO THE HANDBOOK FOR CHAPTER 13 STANDING TRUSTEES** May 2015

Table of Contents:

- Chapter 3.J.1. page number revised.

Chapter 2, Appointment, Qualifications, Percentage Fee and Compensation of the Standing Trustee:

D. Calculation and Collection of Percentage Fee:

- Title of section is revised to add “and Collection.”
- Added “(1)(B)” to citation in first paragraph.
- Second paragraph is revised to read as follows:

“The percentage fee is collected from all payments received by the standing trustee under the plan, including ongoing mortgage payments. 28 U.S.C. § 586(e)(2). Any exceptions to the collection of a fee on specific payments such as ongoing mortgage payments and domestic support obligations will be stated in the Director’s notice fixing the percentage fee. The percentage fee collected is the percentage fee in effect at the time the payment is received. The standing trustee is authorized to collect the percentage fee upon receipt of the payment. The trustee must transfer the percentage fee to the operating expense account at least monthly. If the plan is dismissed or converted prior to confirmation, the standing trustee must reverse payment of the percentage fee that had been collected upon receipt if there is controlling law in the district requiring such reversal or if (after consultation with the United States Trustee) the standing trustee determines that there are other grounds for concern in the district. If the standing trustee determines that all or part of the payment may not be a payment under the plan, the standing trustee may delay collection of the percentage fee on that payment or part of a payment until there is a determination of that issue. [Policy change effective October 1, 2014].”

See pages 2-3 to 2-4.

Chapter 3, Administration of Chapter 13 Cases:

H. Disbursements, 1. Monthly Disbursements:

- Both paragraphs and Related Provisions were revised to read as follows:  
“The standing trustee must retain debtor payments of amounts proposed by the plan until confirmation, unless otherwise ordered by the court or required by law or local rule. 11 U.S.C. § 1326(a)(2). If the plan is confirmed, the standing trustee must distribute such

payments in accordance with the plan as soon as practicable. Id. The standing trustee must have in place procedures designed to assure that disbursements to creditors are made soon after confirmation and the disbursements are made monthly thereafter.

If the case is dismissed or converted pre-confirmation, the standing trustee must distribute or return funds as required by 11 U.S.C. § 1326(a)(2), after deducting § 503(b) claims to the extent allowed by court order. See also Chapter 2, section D, Calculation and Collection of Percentage Fee. It is the Program’s longstanding position to disfavor awards of administrative expenses to standing trustees pursuant to 11 U.S.C. § 503(b) unless otherwise ordered by the court or required by law or local rule. Trustees who receive such awards may not also collect a percentage fee in those cases. If the case is dismissed or converted post-confirmation, the standing trustee must make distributions in accordance with controlling law. [Language revised May 2015.]”

***Related Provisions:***

11 U.S.C. § 348	Effect of Conversion
11 U.S.C. § 349	Effect of Dismissal
11 U.S.C. § 524(i)	Failure of Creditor to Credit Payments
11 U.S.C. § 1326(a)(2)	Plan Payments
28 U.S.C. § 586(e)(2)	Collection of Percentage Fee

- See pages 3-36 to 3-37; change in page breaks affects 3-37 through end of chapter.