

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In the Matter of :
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DEPOSIT AND INVESTMENT OF :
REGISTRY FUNDS :
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ADMINISTRATIVE ORDER
No. 2016-09

The Court, having determined that it is necessary to adopt local procedures to ensure uniformity in the deposit, investment, and tax administration of funds in the Court’s Registry,

IT IS HEREBY ORDERED that the following procedures shall govern the receipt, deposit, and investment of funds transferred to, received by, or held in the registry of this District Court:

I. Receipt of Funds

- A. No party or other person can deposit funds in the court’s registry without an order signed by the judge presiding over the case.
- B. The party that either is depositing or transferring funds to the court’s registry must serve the order permitting the deposit or transfer on the Clerk of the Court.
- C. Pursuant to 28 U.S.C. § 2041, any money paid into the court or received by its officers in any pending or adjudicated case shall be deposited with the Treasurer of the United States in the name and to the credit of the court unless an alternate is authorized elsewhere in this Order.

II. Investment of Registry Funds

- A. Under Rule 67 of the Federal Rules of Civil Procedure, if an Order directs for funds to be placed in an interest bearing account or a court approved interest bearing instrument, then the Court Registry Investment System (“CRIS”) administered by the Administrative Office of the United States Courts (“AO”) under 28 U.S.C. § 2045 shall be the only investment mechanism authorized.
- B. Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a “Disputed Ownership Fund” (“DOF”), a taxable entity that requires tax administration. Unless otherwise ordered by the court, interpleader funds shall be deposited in the DOF established within the CRIS and administered by the AO, which shall be responsible for meeting all DOF tax administration requirements.

- C. The custodian for all CRIS funds is the Director of the AO (“Director”). The duties of custodian shall be performed by the Director or the Director’s designee. The funds held in CRIS shall remain subject to the control and jurisdiction of the court.
- D. All funds deposited into CRIS will be “pooled” together and used to purchase, through the Bureau of Public Debt, government account series securities that will be held at Treasury in an account in the name and to the credit of the Director. In accordance with the principles of CRIS Investment Policy, the “pooled” funds will be invested as approved by the Registry Monitoring Group.
- E. In the CRIS Liquidity Fund, an account will be created with the name of the case in which the deposit occurred. Investment income will be distributed to each case based on the ratio each account’s principal and earnings has to the aggregate principal and income total in the fund after the CRIS fee has been applied. The court will receive a report that shows the interest earned and the principal amount contributed in each case. The report will be made available to the litigants and/or their counsel.
- F. An account bearing the name of the case, shall be created for each interpleader case established in the CRIS Disputed Ownership Fund. After applying the DOF fee and deducting tax withholdings, investment earnings will be contributed to each case. Through the FedInvest application or the Case Management System application, a report showing the interest earned and the principal amount contributed in each case will be made available to the court participating in the CRIS DOF. The report will be made available to the parties and their counsel.

III. Fees and Taxes

- A. The custodian is authorized and directed to deduct the CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds (excluding CRIS DOF money) for the management of investment into CRIS. Under the court’s miscellaneous fee schedule, the CRIS fee is assessed from interest earnings to the pool before distributing the earnings proportionally to each case.
- B. The custodian is authorized and directed to deduct the DOF fee of an annualized 20 basis points on assets on deposit for all CRIS DOF funds for the management of investments and for tax administration. Under the court’s miscellaneous fee schedule, the DOF fee is assessed from interest earnings to the pool before distributing the earnings proportionally to each case. The custodian is authorized and directed to withhold and pay federal taxes on behalf of the DOF.

IV. Transition from Former Investment Procedure

- A. The Clerk of the Court must develop a system to redeem existing investments and to transfer the existing investments to CRIS.
- B. DOF funds will not be transferred from any existing CRIS funds. Only deposits under 28 U.S.C. § 1335 occurring after the effective date of this order will be placed in CRIS DOF.
- C. Parties who do not wish to transfer existing registry funds into CRIS may seek leave to transfer said funds to the litigants or their designees by motion and approval of the judge assigned to that particular case.
- D. This Order supersedes and abrogates all orders of this court on the deposit and investment of registry funds.
- E. This Order becomes effective on the day the CRIS DOF begins accepting deposits.

SO ORDERED.

Dated: Brooklyn, New York
December 5, 2016



Dora L. Irizarry
Chief Judge