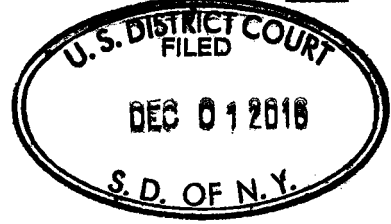


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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In the Matter of
:
SECOND AMENDED ORDER
REGARDING THE DEPOSIT AND
INVESTMENT OF REGISTRY FUNDS
:
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M10- 468
11 MISC. 00173

ORDER REGARDING DEPOSIT AND INVESTMENT OF REGISTRY FUNDS

The Court, having determined that it is necessary to adopt local procedures to reflect the tax administration requirements for certain Court Registry interpleader funds, and to ensure uniformity in the deposit, investment, and tax administration of funds of the Court Registry Investment System ("CRIS"),

IT IS ORDERED that the following shall govern the receipt, deposit, and investment of registry funds:

I. Receipt of Funds

- A. No money shall be sent to the Court or its officers for deposit in the Court's registry without a court order signed by the presiding judge in the case or proceeding.
- B. The party making the deposit or transferring funds to the Court's registry shall serve the order permitting the deposit or transfer on the Clerk of Court.
- C. Unless provided for elsewhere in this Order, all monies ordered to be paid to the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

II. Investment of Registry Funds

- A. Where, by order of the Court, funds on deposit with the Court are to be placed in some form of interest-bearing account or invested in a court-approved, interest-bearing instrument in accordance with Rule 67 of the Federal Rules of Civil Procedure, the Court Registry

Investment System (“CRIS”), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, shall be the only investment mechanism authorized.

- B. The Director of Administrative Office of the United States Courts is designated as custodian for all CRIS funds. The Director or the Director’s designee shall perform the duties of custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.
- C. Money from each case deposited in the CRIS shall be “pooled” together with those on deposit with Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury, in an account in the name and to the credit of the Director of the Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.
- D. An account will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments 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. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.
- E. Unless otherwise ordered by the court, interpleader funds shall be deposited in a Disputed Ownership Fund (“DOF”) established within the CRIS and administered by the Administrative Office of the United States Courts. The DOF is a taxable entity pursuant to 28 U.S.C. § 1335 and funds deposited in the DOF are subject to taxation. The Administrative Office shall be responsible for meeting all DOF tax administration requirements.
- F. For each interpleader case, a separate account shall be established in the CRIS DOF, titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account as directed by court Order.

III. Fees and Taxes

- A. The custodian is authorized and directed by this Order to deduct the CRIS fee consistent with that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office for all CRIS funds on deposit, excluding the case funds held in the DOF, for the management of investments in the CRIS. According to the Court's

Miscellaneous Fee Schedule, the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases.

- B. The custodian is authorized and directed by this Order to deduct the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. According to the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases. The custodian is further authorized and directed by this Order to withhold and pay federal taxes due on behalf of the DOF.

IV. Transition From Former Investment Procedure

- A. The Clerk of Court is further directed to develop a systematic method of redemption of all existing investments and their transfer to the CRIS.
- B. Deposits to the CRIS DOF will not be transferred from any existing CRIS Funds. From the effective date of this order, only new deposits pursuant to 28 U.S.C. § 1335 will be placed in the CRIS DOF.
- C. This Order supersedes and abrogates all prior orders of this Court regarding the deposit and investment of registry funds.
- D. The DOF provisions will become effective, April 1, 2017, the date the CRIS DOF begins to accept deposits.
- E. All other provisions of this Order become effective on the date of entry.

SO ORDERED:

Dated: December 1, 2016
New York, New York



Colleen McMahon
Chief Judge