

GENERAL ORDER No. 31
DEPOSIT AND INVESTMENT OF REGISTRY FUNDS

The Court's registry funds consist of monies deposited with the court for cash bail, appeal and other bonds, temporary restraining orders and preliminary injunctions, interpleader funds, restitution, and other monies ordered to be deposited into the court in a pending or closed case.

The Court's registry funds are pooled with registry funds from other courts and invested, via the Court Registry Investment System ("CRIS"), in short-term nonmarketable Government Account Series ("GAS") securities managed under the Federal Investments Program of the United States Department of the Treasury's Bureau of the Fiscal Service. These short-term GAS securities, each maturing within 100 days or less, are laddered within the Liquidity Fund to ensure that sufficient funds are available to meet the disbursement needs of participating courts. The Administrative Office of the U.S. Courts ("AO") manages CRIS.

The AO has established a Minors' Fund within CRIS to invest post-adjudication deposits held on behalf of minors until their age of majority, which is often longer than 100 days. The Minors' Fund provides liquidity but is comprised of a laddered portfolio of one-year securities maturing each month. Thus, the fund improves the match between investment holdings and the length of time each minor's funds remain invested, thereby capitalizing on higher-yielding securities. Accordingly, all funds held in the CRIS Liquidity Fund on behalf of minors were transferred to the Minors' Fund in March 2014.

The AO has also established a Disputed Ownership Fund ("DOF") pool within CRIS for courts to invest interpleader deposits filed under 28 U.S.C. §1335 and eliminate the need for the appointment of a DOF administrator in each case to undertake the tax administration responsibilities needed to comply with the IRS reporting requirements for interpleader funds. This centralized approach for the tax administration of DOFs will be cost-effective to litigants and reduce risks related to managing the DOFs individually. A court order to deposit funds into the DOF is required for interpleader cases filed under 28 U.S.C. § 1335.

I. RECEIPT OF FUNDS

- A. No money shall be sent to the Court or its officers for deposit in CRIS without a court order signed by the presiding judge in the case or proceeding.
- B. Unless provided for elsewhere in this Order, all monies, including cash bail, appeal and other bonds, temporary restraining orders and preliminary injunctions, and interpleader funds ordered to be paid to the Court or received by its officers in any case pending or closed, shall be deposited in the Court's registry fund through CRIS with the Treasurer of the United States in the name and to the credit of this Court, pursuant to 28 U.S.C. §2041.
- C. The party making the deposit or transferring funds to CRIS shall serve the order authorizing the deposit or transfer on the Clerk of Court.
- D. Restitution monies shall be deposited in the court's registry only by court order and shall be held there until the court orders them distributed, together with interest earned, to the recipients named in the order.

II. INVESTMENT OF REGISTRY FUNDS

- A. When, 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, CRIS, administered by the 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 DOF, a taxable entity that requires tax administration. 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. A court order granting motion for interpleader deposits under 28 U.S.C. § 1335 must be accompanied with the deposit in order for the funds to be deposited into the DOF.
- C. The Director of the AO 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.
- D. Money from each case deposited in CRIS, with the exception of funds held on behalf of minors and interpleader funds, shall be held in the Liquidity Fund.
- E. Post-adjudication deposits held on behalf of minors until their age of majority will be deposited into the Minors' Fund. Estimated withdrawal dates are required for the funds to be deposited into the Minors' Fund.
- F. An account for each case will be established in CRIS bearing the name of the case that gave rise to the investment 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 either the Liquidity or Minors' Fund after the CRIS fee has been applied. Reports showing the interest earned and the principal amounts contributed in each case are available from the FedInvest/CMS application to litigants and/or their counsel.
- G. For each interpleader case, an account will 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 Director of the AO, as custodian, is authorized and directed by this Order to deduct the CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, 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 Director of the AO, as 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.

ADOPTED: October 10, 1989
AMENDED: May 21, 1996
AMENDED: May 3, 2011
AMENDED: May 17, 2011
AMENDED: January 21, 2014
AMENDED: April 19, 2016
AMENDED: December 1, 2016
AMENDED: October 15, 2019

FOR THE COURT:



PHYLLIS J. HAMILTON
CHIEF JUDGE