


  
 JUN 19 2017

 UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF TENNESSEE

 Thomas M. Gould, Clerk  
 U. S. District Court  
 W. D. OF TN, Memphis

<b>In Re: Order Regarding Deposit and Investment          of Registry Funds including Disputed          Ownership Funds (28 U.S.C. §1335)</b>	) ) )	<b>Administrative Order          No. 2017-20</b>
---	-------------	--

---

On November 21, 2014, the Court authorized the migration of interest-bearing registry deposits from commercial accounts to the Court Registry Investment System ("CRIS"), which is administered by the Administrative Office of the U.S. Courts. On May 20, 2016, the Court adopted Administrative Order No. 2016-22, which reauthorized the clerk to close all commercial interest-bearing registry accounts and transfer those funds to CRIS. Due to policy changes implemented by the Internal Revenue Service regarding the taxability of interest earned on Disputed Ownership Funds ("DOF"), the Court has determined that it is necessary to adopt additional local procedures to ensure uniformity in the deposit, investment, and tax administration of funds in the Court's registry. A parallel provision has been provided in the Court's Local rules at L.R. 67.1.

**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. 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 Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements.
- C. The Director of the Administrative Office of the United States Courts is designed as custodian for all CRIS funds. The Director of 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 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 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.
- E. 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 investment will be distributed to each case based on the ratio each account’s principal and earning 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. On appointment of an administrator authorized to incur expenses on behalf of the DOF in the 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 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 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 D"OF 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.

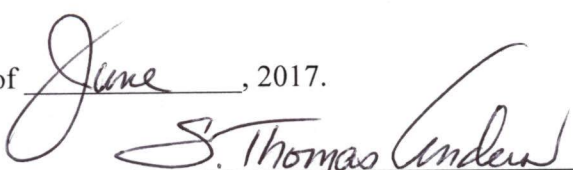
**IV. Withdrawals**

- A. Funds will be disbursed from the Court's registry only upon entry of an order authorizing disbursement. The order directing disbursement must include: (1) the name and address of each person or other entity to receive funds; and (2) the sum of money to be paid to each person or other entity along with any interest accrued thereon, less the registry fees and taxes provided for in herein or as otherwise authorized by the Judicial Conference of the United States.

**V. 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 if these transfers have not been completed.
- B. Deposits to the CRIS DOF will not be transferred from any existing CRIS Funds. Only new deposits pursuant to 28 U.S.C. § 1335 from the effective date of this order will be placed in the CRIS DOF.
- C. Parties not wishing to transfer certain existing registry deposits into the CRIS may seek leave to transfer them to the litigants or their designees on proper motion and approval of the presiding judge assigned to the specific case.
- D. This Order supersedes and abrogates all prior orders of this Court regarding the deposit and investment of registry funds.
- E. The effective date of this order is the date the CRIS DOF begins accepting deposits.

IT IS SO ORDERED this 19<sup>th</sup> day of June, 2017.

  
S. Thomas Anderson  
Chief United States District Judge