

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
17-SO-1

MAR 16 2017

John M. ...
CLERK
US DISTRICT COURT, EDNC
BY *[Signature]* DEP. CLK.

IN RE:)
DEPOSIT AND INVESTMENT)
OF REGISTRY FUNDS)

STANDING ORDER

The Administrative Office of the United States Courts (“AO”) has advised this Court that the AO has established and is administering the Court Registry Investment System (“CRIS”), which is an interest-bearing registry fund case management tool. Registry funds deposited into the CRIS are pooled and used to purchase U.S. Treasury securities, which are held to maturity. The CRIS portfolio is structured so that sufficient securities mature each week to disburse the required funds for all registry cases settled or adjudicated during that week. The AO encourages courts to use the CRIS for the deposit and investment of registry funds. The AO has advised this Court, however, that the CRIS can develop a custom solution for significant cases or special situations.

This Court also is aware that Internal Revenue Service (“IRS”) regulations were revised in 2006 to treat disputed ownership funds, which include escrow accounts established to hold funds with competing claims, as taxable entities. IRS regulations specifically identify interpleader funds as defined in 28 U.S.C. § 1335 as disputed ownership funds. The AO has advised this Court that the CRIS will establish a Disputed Ownership Fund (“DOF”) to comply with IRS disputed ownership funds requirements. The AO has further advised this Court that the DOF will be the only AO-supported means for complying with the IRS disputed ownership funds requirements.

In light of the foregoing, the Court determines that it is necessary to adopt revised local procedures to ensure uniformity in the deposit and investment of funds in the Court’s Registry,

and hereby ORDERS that the following procedures shall govern the receipt, deposit, investment, management, and withdrawal of registry funds:

I. Receipt of Funds

- A. No money shall be tendered to the Court or its officer for deposit in the Court's registry without an 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.

II. Deposit of Funds

Unless otherwise specified by order of the presiding judge in a case or proceeding, 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.

III. Investment of Registry Funds

- A. Where by order the Court directs that funds on deposit with the Court be placed in some sort 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 CRIS as administered by the AO under 28 U.S.C. § 2045 shall be the investment mechanism used, unless otherwise ordered by the Court.
- B. Unless otherwise ordered by the Court, interpleader funds deposited under 28 U.S.C. § 1335 shall be deposited in the DOF established within the CRIS and

administered by the AO, which shall be responsible for meeting and documenting all DOF tax administration requirements.

IV. Management of Funds

- A. The Director of the 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, which shall include all functions and responsibilities required for the investment and management of funds held in the CRIS. Funds held in the CRIS shall remain subject to the control and jurisdiction of the Court.
- B. Money from each case deposited in the CRIS shall be "pooled" together with those on deposit from the 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 of and to the credit of the Director of the Administrative Office of the United States Courts. The pooled funds shall be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.
- C. An account for each case shall 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 shall 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 in that case. Reports showing the principal amounts contributed and net interest earned in each case shall be available to each court participating in the CRIS and made

available to litigants and their counsel. At the request of the Chief Judge, presiding judge in a specific case, the Clerk of Court, or the Financial Administrator, the AO shall provide a report on the amount of fees collected that can be attributed to a specific case.

- D. An account for each interpleader case 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 shall 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 principal amounts contributed for each case shall be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and their counsel. When requested by the Chief Judge, the presiding judge in a specific case, the Clerk of Court, or the Financial Administrator, the AO shall provide a report to the Court on a case's pro rata share of taxes and fees. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds shall be transferred to another investment account as directed by court order.

V. Fees and Taxes

- A. The custodian is authorized and directed by this Order to deduct the CRIS fee as determined by the Judicial Conference.
- B. The custodian is authorized and directed by this Order to deduct the DOF fee established by the Judicial Conference. The custodian is further authorized and directed to withhold and pay federal taxes due on behalf of the DOF.

VI. Withdrawal

No money shall be withdrawn from Court-directed deposits without an order signed by the presiding judge in the case or proceeding.

VII. Transition to CRIS

- A. The Clerk of Court shall develop a systematic method of redemption for all existing investments and their transfer to the CRIS.
- 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 registry deposits into the CRIS may seek leave to transfer them to the litigants or their designees by proper motion and approval of the presiding judge in the case or proceeding.
- D. This Order supersedes and abrogates Local Civil Rule 67.1 and all other prior orders of this Court regarding the deposit, investment, and management of registry funds.
- E. This Order is generally effective on the date of entry, but DOF provisions will become effective on the date the CRIS DOF begins to accept deposits.

SO ORDERED. This the 16 day of March, 2017.



JAMES C. DEVER III
Chief United States District Judge