

**United States Bankruptcy Court
Eastern District of Kentucky**

General Order 16-1

ORDER REGARDING DEPOSIT AND INVESTMENT OF REGISTRY FUNDS

As the Court has 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 ORDERED that the following shall govern the receipt, deposit, and investment of registry funds effective December 1, 2016:

I. Receipt of Funds

A party may file a motion requesting the clerk to deposit funds in the Court's registry pending resolution of litigation or determination of ownership as provided under 28 U.S.C. §1335, §2041, and §2045. Unless ordered otherwise, the clerk will deposit said funds with the Treasurer of the United States through the Court Registry Investment System (CRIS).

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, as applicable via the Federal Rules of Bankruptcy Procedure Rule 7067, the CRIS, administered by the Administrative Office of the United State 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 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.
- 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 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.
- F. For each interpleader case, an account shall be established in the CRIS Disputed Ownership 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 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 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 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.

IT IS FURTHER ORDERED that this Order supersedes and abrogates (i) all prior orders of this Court governing the deposit and investment of registry funds, including General Order 13-2 entered January 18, 2013; and (ii) KYEB-LBR 7067-1 as adopted effective December 1, 2015.

The affixing of this Court's electronic seal below is proof this document has been signed by the Judge.



Signed By:
Tracey N. Wise
Bankruptcy Judge
Dated: Monday, November 21, 2016
(tnw)