UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
www.flsb.uscourts.gov

In re: **Administrative Order 16-07**

Adoption of Modified Provisions
Authorizing and Implementing
Court Registry Investment System ("CRIS")
Previously Adopted Under AO 16-03

This court's Administrative Order 16-03 "Authorization and Implementation of Court Registry Investment System ("CRIS") as Sole Mechanism for Deposit and Investment of Registry Funds and Adoption of Interim Local Rule 7067-1" was entered on May 20, 2016.

The Administrative Office of the United States Courts ("AO"), which manages the Court Registry Investment System ("CRIS") has advised the Court that, under amended Internal Revenue Service regulations, 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 (26 C.F.R. § 1.468B-9(b)(1), 9(h)(3)).

The AO has further advised that the centrally held CRIS will provide tax administration services and ensure compliance with tax regulations and reporting requirements for court deposited DOF funds if the Court authorizes deposits of DOF funds into the national CRIS DOF and designates the Director of the AO as the custodian of the funds.

In addition, the court has noted that, effective December 1, 2016, the Judicial Conference Bankruptcy Fee Schedule item for registry funds is amended, setting different rates for funds invested in the CRIS DOF investment option and other registry funds held in the CRIS.

The court has determined that is in the best interest of judicial economy for DOF funds to be deposited and maintained in CRIS with fees assessed under rates set forth in the Judicial Conference Bankruptcy Fee Schedule and ORDERS THAT the authorization & implementation provisions contained in paragraph one of AO 2016-03 are superseded by the provisions set forth in italics below. All other provisions of AO 2016-03 remain in effect.

Where, by order of the Court, funds on deposit or to be deposited with the Court are placed in some form of interest-bearing account, or invested in a court-approved, interest-bearing instrument, 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 and the following shall apply:

I. *Investment of Registry Funds*

A. *The Director of Administrative Office of the United States Courts is designated as custodian for CRIS. 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.*

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. *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.*

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. *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.

II. 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.

III. 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. 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 judge assigned to the specific case.

ORDERED in the Southern District of Florida on Nov. 29, 2016.

Laurel Myerson Isicoff
Chief United States Bankruptcy Judge

c: All SD Bankruptcy Judges
Clerk of Court