IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

In the matter of

EMERGENCY TECHNICAL
AMENDMENT TO LOCAL RULE OF
CIVIL PROCEDURE 67.1

INVESTMENT OF FUNDS ON DEPOSIT
IN THE REGISTRY ACCOUNT

SUPERSEDES GENERAL ORDER 16-27

GENERAL ORDER 17-07

The need for a technical, clarifying amendment to Local Rule of Civil Procedure 67.1 having come to the attention of the Court, and pursuant to Local Rule of Civil Procedure 83.9(a), **IT IS HEREBY ORDERED** that LRCiv 67.1 be amended to comply with the requirements of 26 U.S.C. § 468B and 26 C.F.R. § 1.468B-9, which state that 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. LRCiv 67.1 is hereby amended as shown in the attachment, with underlining and strikeouts illustrating the amended text.

To facilitate transition from the former investment procedure, **IT IS FURTHER ORDERED**:

1.   Deposits to the Court Registry Investment System (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.

2.   This order supersedes and abrogates all prior orders of this Court regarding

the deposit and investment of registry funds.

3. The effective date of this order is April 1, 2017, which is the date the CRIS DOF begins accepting deposits.

IT IS FURTHER ORDERED that this amendment be circulated to the bar and public for comment and subsequent evaluation by the Local Rules Advisory Committee and the Court for possible revision according to the deadlines set forth in sections (b)(3) and (b)(4) of LRCiv 83.9.

Dated this 20th day of March, 2017.

Raner C. Collins
Chief United States District Judge

F.R.Civ.P. 67. Deposit into Court

LRCiv 67.1

INVESTMENT OF FUNDS ON DEPOSIT IN THE REGISTRY ACCOUNT

The following procedure shall govern the receipt, deposit and investment of registry funds:

(a) **Receipt of Funds.**

(1) ~~Unless the statute requires the deposit of funds without leave of Court, n~~No monies shall be sent to the Court or its officers for deposit into the Court's registry without a Court order signed by the presiding Judge in the case or proceeding.

(2) Unless provided for elsewhere in this Local Rule, all monies ordered to be paid into 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.

(3) 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 or the Chief Deputy Clerk, and upon the Financial Deputy.

(4) Upon making the deposit, a "Notice of Deposit" must be filed with the Clerk.

(b) **Investment of Registry Funds.**

(1) ~~All funds deposited into the registry of~~Where, by order of the Court, funds on deposit with the Court ~~will~~ 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~~. Unless otherwise ordered~~, 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.

(2) 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 into 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.

(3) 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. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.

(2~~4~~) ~~Under the CRIS, monies~~Money from each case deposited in ~~each case under (a)(1) will~~the CRIS must be "pooled" together with those on deposit with the Treasury to the credit of other courts in the ~~Court Registry Investment System~~CRIS and used to purchase Government Account Series securities through the Bureau of Public debt, which will be held at the Treasury, in an account in the name and to the credit of the Director of the Administrative Office of the United States Courts.~~, hereby designated custodian for the Court Registry Investment System.~~The pooled funds will be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.

(3~~5~~) An account ~~for each case~~ will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the deposit invest~~ed~~~~ment~~ in the ~~system~~fund. Income ~~received~~ generated from fund investments will be distributed to each case based on the ratio each account's principal and ~~income~~ earnings ~~total~~ has to the aggregate principal and income total in the fund ~~each week~~after the CRIS fee has been applied. ~~Weekly r~~Reports showing the ~~income~~ 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.

(6) 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 the 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.

     (c) ~~Deductions of~~ **Fees and Taxes.**

     (1)   The custodian is authorized and directed by this Local Rule to deduct the ~~registry fee for maintaining accounts in~~ CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, ~~and the investment services fee~~ for the management of investments in the CRIS. ~~The proper registry fee is to be determined on the basis of the rates published by the Director of the Administrative Office of the United States Courts as approved by the Judicial Conference. The investment services fee is assessed from interest earning a~~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.

     (2)   ~~If registry fees were assessed against the case under the old 45 day requirement prior to deposit in CRIS, no additional registry fee will be assessed.~~The custodian is authorized and directed by this rule 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 rule to withhold and pay federal taxes due on behalf of the DOF.