

**§ 266.12**

**20 CFR Ch. II (4-1-10 Edition)**

§ 266.10, they shall be conserved or invested on behalf of the annuitant. Such funds must be invested in accordance with the rules applicable to investment of trust estates by trustees. Any investment must show clearly that the representative payee holds the property in trust for the annuitant.

(b) *Preferred investments.* Preferred investments for excess funds are deposits in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either Federal or State law, direct obligations of the United States Government or obligations for which both principal and interest are guaranteed unconditionally by the United States Government. The account must be in a form which shows clearly that the representative payee has only a fiduciary, and not a personal, interest in the funds. If the payee is the legally appointed guardian or fiduciary of the annuitant, the account may be established to indicate this relationship. If the payee is not the legally appointed guardian or fiduciary, the accounts may be established as follows:

- (1) For U.S. Savings Bonds—

\_\_\_\_\_  
(Name of annuitant)

\_\_\_\_\_  
(Social Security Number), for whom

\_\_\_\_\_  
(Name of payee)

is representative payee for Railroad Retirement benefits;

- (2) For interest or dividend paying accounts—

\_\_\_\_\_  
(Name of annuitant) by

\_\_\_\_\_  
(Name of payee), representative payee.

(c) *Interest and dividend payments.* The interest and dividends which result from an investment are the property of the annuitant and may not be considered to be the property of the representative payee.

(d) *Prohibition against commingling.* The representative payee shall not commingle his or her personal funds with the representative payments. A representative payee may consolidate and maintain an annuitant's funds in an account with other annuitants if he

or she maintains a separate, accurate and complete accounting of each annuitant's funds under his or her control.

**§ 266.12 Effect of matters or actions submitted or taken by legal guardian, etc.**

All matters and actions in connection with an annuity submitted or taken by the guardian or other person legally vested with the care of the person or estate of an incompetent or a minor shall be considered by the Board in the same manner and with the same effect as though such matters or actions had been submitted or taken by the ward, if the ward had capacity to act in his or her own behalf; *Provided, however,* That the Board may, if it deems it necessary, require the guardian or other person legally vested with the care of the person or estate of an incompetent or a minor to submit a certified copy of an order from the court of appointment authorizing some particular action which the guardian or other person legally vested with the care of the person or estate desires to take in connection with the application.

**§ 266.13 When a new representative payee will be selected.**

When the Board learns that the interests of the annuitant are not served by continuing payment to the present representative payee or that the present representative payee is no longer able to carry out the payee responsibilities, the Board will undertake to find a new representative payee. The Board will select a new representative payee if the Board finds a preferred payee or if the present payee—

- (a) Has not used the benefit payments on the annuitant's behalf in accordance with the guidelines in this part;
- (b) Has not carried out the other responsibilities described in this part;
- (c) Dies;
- (d) No longer wishes to be representative payee;
- (e) Is unable to manage the benefit payments; or
- (f) Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information which the Board requests.