

**Bureau of Indian Affairs, Interior**

**§ 115.813**

statutory language, congressional directives, court orders, court-approved settlements, settlement agreements, use and distribution plans, or bond or loan payments.

INVESTING AND MANAGING TRIBAL TRUST FUNDS

**§ 115.807 Will OTFM consult with tribes about investments of tribal trust funds?**

Upon the request of a tribe, OTFM will consult with the tribe annually to develop investment strategies to accommodate the cash flow needs of the tribe.

**§ 115.808 Could trust fund investments made by OTFM lose money?**

The value of trust fund investments made by OTFM will vary depending on the type of investment and, including but not limited to, the following:

- (a) Current interest rates;
- (b) Whether the security/investment is held to its maturity; and
- (c) Original purchase price.

However, as long as the purchase price of the security/investment is made at or below face value and the security/investment is held until maturity or payoff, the security/investment will not lose principal invested funds.

**§ 115.809 May a tribe recommend to OTFM how to invest the tribe's trust funds?**

Tribes may recommend certain investments to OTFM, but the recommendations must be in accordance with the statutory requirements set forth in 25 U.S.C. §§161a and 162a. The OTFM will make the final investment decision based on prudent investment practices.

**§ 115.810 May a tribe directly invest and manage its trust funds?**

A tribe may apply to withdraw its trust funds from OTFM for investment and management by the tribe. The tribe's request to withdraw funds must be in accordance with the requirements of the Trust Reform Act and 25 CFR part 1200, subpart B, unless otherwise specified by statutory language or the controlling document which governs the use of the trust funds.

**§ 115.811 Under what conditions may a tribe redeposit funds with OTFM that were previously withdrawn under the Trust Reform Act?**

Tribal trust funds withdrawn under the Trust Reform Act may be returned to OTFM under the following conditions:

- (a) A tribe must make a written request to OTFM to redeposit all or part of the withdrawn trust funds;
- (b) No tribal trust funds may be redeposited to a tribal trust account during the first six months after being withdrawn, except with the approval of the Secretary;
- (c) Tribal trust funds may only be returned to OTFM a maximum of twice a year, except with the approval of the Secretary; and
- (d) A tribe must return withdrawn trust funds in accordance with the requirements of the Trust Reform Act in 25 CFR, part 1200, subpart C.

**§ 115.812 Is a tribe responsible for its expenditures of trust funds that are not made in compliance with statutory language or other federal law?**

If a tribe's use of trust funds is limited by statutory language or other federal law(s) and a tribe uses those trust funds in direct violation of those laws, absent an approved modification which allows for the expenditures, we will require the tribe to reimburse its trust fund account.

**§ 115.813 Is there a limit to the amount of trust funds OTFM will disburse from a tribal trust account?**

OTFM will only disburse the available balance of the trust funds in a tribal trust account in accordance with a use and distribution plan, if applicable, and will not overdraw a tribal trust account. If a tribe's trust funds are invested in securities that have not matured, OTFM will only sell the asset to make cash available to the tribe if:

- (a) There are no restrictions against the sale, and
- (b) A tribe provides OTFM with a tribal resolution stating that:
  - (1) The security must be sold;
  - (2) The tribe acknowledges that they may incur a penalty when the security is sold; and