



UNRAVELING THE MYSTERY OF 1031 EXCHANGES: QUALIFIED INTERMEDIARIES ARE NOT CREATED EQUAL

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One of the common misconceptions is that 1031 exchange qualified intermediaries, also known as accommodators or facilitators, are all the same. However, qualified intermediaries are not created equal, and the differences are significant.

Did you know the 1031 exchange qualified intermediary industry has no licensing body or regulatory authority to provide independent oversight? Most qualified intermediaries are not licensed, regulated, audited, nor do they have any regulatory minimum insurance or equity capital requirements. This should be a major concern when considering the amount of money qualified intermediaries hold on behalf of investors 1031 exchange transactions. The qualified intermediary failures that I have witnessed during my 41-plus year career in the 1031 exchange industry could have been prevented with regulatory oversight and independent annual examinations.

Qualified intermediaries are crucial to successful 1031 exchange transactions and have three especially important responsibilities: (1) preparing the necessary documents to structure the investors 1031 exchange; (2) working with the investor and their legal, tax, financial advisors and closing agents to ensure a successful and compliant 1031 exchange transaction; and arguably the most important, (3) receiving, holding, and safeguarding the investors 1031 exchange funds throughout the 1031 exchange transaction.

Investors should be extremely cautious and diligent when evaluating and selecting the qualified intermediary that will administer their 1031 exchange transaction since qualified intermediaries hold significant amounts of 1031 exchange funds on behalf of thousands of investors transactions.

Regulatory Oversight Ensures Safety, Soundness and Security

Regulatory oversight and independent audits by a regulatory agency or government body, such as a State Division of Banking, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Deposit Insurance Corporation or the Federal Reserve Bank, are crucial to ensure that qualified intermediaries operate in a safe, sound and secure manner.

The importance of regulatory licensing, oversight and independent audits cannot be emphasized enough, as qualified intermediaries have tremendous fiduciary duties and responsibilities in safeguarding investors 1031 exchange funds. Government oversight with independent annual regulatory audits provides third-party verification that the qualified intermediary operates in a safe, sound, and secure manner. Most qualified intermediary failures would have been prevented with proper government oversight and independent annual regulatory audits.

Exeter Trust Company is licensed, regulated, and audited by the Wyoming Division of Banking.





Exeter 1031 Exchange Services, LLC takes its fiduciary duties and responsibilities in administering investors 1031 exchange transactions very seriously. Exeter 1031 Exchange Services, LLC chose to be one of the few qualified intermediaries to proactively undergo a rigorous multi-year regulatory review and approval process to obtain its own trust company charter and to form and launch an independent trust company to better protect its clients' 1031 exchange funds. **Exeter Trust Company** is licensed, regulated, and audited by the Wyoming Division of Banking, making Exeter 1031 Exchange Services, LLC one of the safest qualified intermediaries today.

Regulatory oversight tends to improve the entire industry through access to best practices learned from one regulated entity and pushed out to all regulated entities. If your qualified intermediary is regulated, they operate under best practices. Those that are not regulated – simply do not have this access.

Bonding, Insurance and Equity Capital Provide Financial Strength and Stability

Qualified intermediaries should have significant amounts of fidelity bond coverage, errors and omissions insurance, cyber/wire fraud insurance, and financial institutions blanket bond coverage to protect clients from the risks of theft or loss. Additionally, they should maintain substantial equity capital reserves as a safety net against errors or losses that may occur during a 1031 exchange transaction due to administrative errors.

The Exeter Group of Companies has a \$10.0 million Fidelity Bond, \$10.0 million in Errors & Omissions Insurance, \$10.0 million in cyber and wire fraud insurance, and more than \$8.0 million in equity capital reserves to protect clients' 1031 exchange funds.



The Exeter Group of Companies, including Exeter 1031 Exchange Services, LLC, Exeter Trust Company, and Exeter Asset Services Corporation, have \$10.0 million in fidelity bond coverage, \$10.0 million in errors & omissions insurance, \$10.0 million in cyber and wire fraud insurance, a financial institution blanket bond, and more than \$8.0 million of equity capital to protect investors 1031 exchange funds, which is more than \$7.0 million above the minimum equity capital reserves required by its regulators.

Qualified Trust Accounts Protect Clients' 1031 Exchange Funds

Qualified intermediaries should always deposit, hold, and safeguard clients' 1031 exchange funds in separate, segregated, dual-signature qualified trust accounts or qualified escrow accounts to better protect their clients' 1031 exchange funds.

In the LandAmerica 1031 Exchange Services bankruptcy case, the bankruptcy court ruled that clients' 1031 exchange funds were corporate funds (not client trust funds) and thus subject to general creditor claims in bankruptcy, since they were not held in qualified trust accounts or qualified escrow accounts as permitted and authorized under the Treasury Regulations.

Separate, segregated, dual-signature qualified trust accounts or qualified escrow accounts are crucial to ensure that investors 1031 exchange funds are classified and treated as client trust funds and not corporate funds in the event the qualified intermediary files for bankruptcy protection for any reason.

Exeter 1031 Exchange Services, LLC deposits, holds, and safeguards clients' 1031 exchange funds in separate, segregated, dual-signature qualified trust accounts with

Exeter 1031 Exchange Services, LLC deposits, holds, and safeguards clients' 1031 exchange funds in separate, segregated, dual-signature qualified trust accounts with Exeter Trust Company for each individual 1031 exchange account.





Exeter Trust Company. The dual-signature requirement means the client and authorized exchange representatives must sign any disbursement request. This means Exeter 1031 Exchange Services, LLC is unable to move any funds without the client's written authorization.

Excess FDIC Insurance Coverage

Exeter Trust Company automatically allocates clients' 1031 exchange funds across numerous commercial banks, providing FDIC insurance coverage far exceeding the standard \$250,000 limit. Additionally, Exeter Trust Company offers an Insured Cash Sweep ("ICS") vehicle, providing up to \$150.0 million in FDIC insurance coverage when needed.

Internal Controls and Processes Provide Additional Safety

Investors should inquire into the methods and processes used by the qualified intermediary to receive, hold, track, monitor, reconcile and protect their 1031 exchange funds through internal controls and checks and balances. Internal controls and checks and balances are crucial and should always be an integral part of any financial services business.

Exeter Trust Company utilizes a sophisticated trust accounting system that allows it to accurately track, monitor, and account for investors 1031 exchange funds in real time. Exeter Trust Company reconciles its entire client trust funds position to the penny every day, and has implemented stringent internal controls and checks and balances to ensure the safety of investors 1031 exchange funds.

It takes four (4) separate Exeter team members, acting together, and the client's written authorization (dual signatures), to request, authorize, process, and complete any transfer or disbursement of clients' 1031 exchange funds.

Four (4) individual team members within The Exeter Group of Companies, acting together, and the investors written authorization (dual-signatures), are required to request, authorize, process, and complete any transfer or disbursement 1031 exchange funds, including a telephone call back to verbally verify and confirm wire transfer instructions. Exeter 1031 Exchange Services, LLC implemented these additional internal controls to better protect investors.

There's NO Substitute for Knowledge, Experience and Expertise

Investors need more than just a transaction processor. Investors should be able to turn to a qualified intermediary, along with their legal, tax and financial advisors, for guidance on best practices in structuring and administering their 1031 exchange. Investors should interview prospective qualified intermediaries to ensure they have the technical depth of knowledge, experience, and expertise necessary due to the extraordinarily complex and technical nature of 1031 exchange transactions. Investors need and deserve knowledgeable support; therefore, the qualified intermediary should be consultative in nature and be willing and able to work with investors and their legal, tax and financial advisors to ensure a successful and compliant 1031 exchange. Exeter 1031 Exchange Services, LLC delivers consultative services to individual, corporate and institutional investors and their professional advisors.

Exercising Diligence Affords Protection

It is not the size of the qualified intermediary that matters, but how they manage the investors 1031 exchange funds and control risks. It is critical to understand the importance of regulatory oversight, equity capitalization, bonding, insurance, depth of knowledge, experience, expertise, internal controls and processes, and quality control measures. Bring this knowledge to bear to successfully execute a 1031 exchange transaction. Everyone will rest easier knowing the investors' goals have been safely achieved.