



Qualified Intermediaries Are Not Created Equal

By:

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Investors generally think 1031 Exchange Qualified Intermediaries are all the same – but Qualified Intermediaries are absolutely not created equal – and the differences can be significant and critical. Did you know there is no independent regulatory or government oversight of Qualified Intermediaries; that very few are licensed, regulated, audited, or have minimum equity capital requirements? This is very scary when you consider the amount of money Qualified Intermediaries hold on behalf of investors' 1031 Exchange transactions.



I have seen numerous Qualified Intermediaries fail over my thirty-six-year career in the 1031 Exchange industry. Most of these Qualified Intermediary failures could have been prevented had there been direct regulatory or government oversight and an independent audit of the Qualified Intermediaries' 1031 Exchange operation.

Qualified Intermediaries are a crucial part of successful 1031 Exchanges and have three very important responsibilities. They prepare the necessary documents to properly structure the investor's 1031 Exchange, work with the investor and their legal, tax and financial advisors to ensure a successful and compliant 1031 Exchange transaction and – arguably – the most important responsibility – receive, hold and safeguard the investors' 1031 Exchange funds throughout the 1031 Exchange.

Investors should be extremely careful 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' 1031 Exchange transactions.

Regulatory Oversight Ensures Safety, Soundness and Security

Oversight and audit by a regulatory agency or government body, such as a State Division of Banking (“DOB”), State Department of Financial Institutions (“DFI”), Office of the Comptroller of the Currency (“OCC”), Office of Thrift Supervision (“OTS”), Federal Deposit Insurance Corporation (“FDIC”) or the Federal Reserve Board (“FRB”), is crucial to ensure the Qualified Intermediary is operating in a safe, sound and secure manner.

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



The importance of government oversight and an independent audit cannot be emphasized enough since Qualified Intermediaries have such tremendous fiduciary duties and responsibilities. Government oversight and an independent audit provides third-party verification that the Qualified Intermediary is operating in a safe, sound, and secure manner. I know that I already said this, but most Qualified Intermediary failures could have been prevented with proper government oversight and independent audits.

Exeter 1031 Exchange Services, LLC takes its fiduciary duties and responsibilities in the administration of clients' 1031 Exchange transactions very seriously. Therefore Exeter 1031 Exchange Services, LLC chose to be in the top 1% of Qualified Intermediaries by proactively choosing to go through a rigorous regulatory review and approval process to form and launch Exeter Trust Company to better protect its clients' 1031 Exchange funds. Exeter Trust Company is licensed, regulated, and audited by the Wyoming Division of Banking. This makes Exeter 1031 Exchange Services, LLC one of the safest Qualified Intermediaries in the industry today.

Bonding, Insurance and Equity Capital Provide Financial Strength and Stability

The Exeter Group of Companies, including Exeter 1031 Exchange Services, LLC and Exeter Trust Company, have \$5.0 million in Fidelity Bond coverage, \$5.0 million in Errors & Omissions Insurance and in excess of \$4.0 million in equity capital to protect clients' 1031 Exchange funds.

Qualified Intermediaries' should carry significant amounts of fidelity bond and errors and omissions insurance coverage to protect their investors from risk of theft or loss. Qualified Intermediaries should also maintain substantial equity capital as an added and essential safety net against errors or losses that may occur in a 1031 Exchange transaction due to administrative errors.



The Exeter Group of Companies, including Exeter 1031 Exchange Services, LLC and Exeter Trust Company, maintain \$5.0 million in fidelity bond coverage, \$5.0 million in errors & omissions insurance, general fiduciary insurance coverage and in excess of \$4.0 million in equity capital to protect clients' 1031 Exchange funds.

Qualified Trust Accounts Protect Investors' 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 protect their clients' 1031 Exchange funds.

The bankruptcy court ruled in the LandAmerica 1031 Exchange Services bankruptcy case that the clients' 1031 Exchange funds were corporate funds (not client trust funds) and were therefore subject to the general creditor claims in the bankruptcy filing since the 1031 Exchange funds were not held in Qualified Trust Accounts or Qualified Escrow Accounts as permitted and authorized under the Department of the Treasury Regulations.

Exeter 1031 Exchange Services, LLC always 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.



Qualified Trust Accounts or Qualified Escrow Accounts are crucial to clearly classify clients' 1031 Exchange funds 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 always deposits, holds, and safeguards clients' 1031 Exchange funds in separate, segregated, dual-signature Qualified Trust Accounts through Exeter Trust Company.

Internal Controls and Processes Provide Additional Safety

Investors should investigate the methods, structures and processes used by the Qualified Intermediary to track, monitor, reconcile and protect their clients' 1031 Exchange funds through internal controls, checks and balances. Internal controls, checks and balances are crucial and should always be an integral part of any fiduciary operation.

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

It takes four (4) separate Exeter team members acting together to request, authorize, process, and make any transfer or disbursement of clients' 1031 Exchange funds.

Did you know that it takes four (4) separate team members within The Exeter Group of Companies as well as the client acting together to request, authorize, process, and make any transfer or disbursement of clients' 1031 Exchange funds? Exeter 1031 Exchange Services, LLC implemented these additional internal controls to better protect its clients.

There's NO Substitute for Experience

Investors need more than just a transaction processor. Investors should be able to turn to a Qualified Intermediary for advice and guidance on best practices in structuring and administering their 1031 Exchange. Investors should interview prospective Qualified Intermediaries to ensure they have the technical depth, experience, and expertise necessary due to the highly complex and technical nature of 1031 Exchange transactions. Investors need and deserve knowledgeable support, so the Qualified Intermediary should be advisory and 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 advisory and consultative services to its clients and their professional advisors.

Exercising Diligence Affords Protection

It is not the size of the Qualified Intermediary that matters, but how they manage the clients' 1031 Exchange funds and control risks through internal controls. It is critical to understand the importance of regulatory oversight, equity capitalization, bonding, insurance, 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.