



## ENSURING THAT YOUR EXCHANGE IS SAFE

Many Exchangers don't understand that the 1031 exchange industry is largely unregulated. Across the country there are very few provisions set forth legislatively to ensure that your exchange as well as your hard-earned exchange funds are handled appropriately.

To be sure, there are a handful of states that require the licensing of Qualified Intermediaries and some basic requirements for minimum fidelity bonding and errors and omissions insurance for facilitators.

This is just one of the reasons why as an Exchanger, you must take an active role in ensuring that the processing of your exchange is secure and that your exchange funds, while on deposit with the Qualified Intermediary are always safe. You owe it to yourself to understand both the environment in which your exchange documentation and data is handled, but also how your 1031 funds will be truly safe.

### The Security of Your Personal Data

The online world in which we live today can be dangerous. Especially for those involved in the sale and transfer of real estate. Your personal data is always at risk of being hacked or compromised, and it is ever-more risky to allow the transport of your personal data across free email platforms like Gmail and Yahoo.

Frankly, this is primary rationale we cited when we originally developed our proprietary exchange processing platform, the Fyntex Exchanger Center. We knew that if we processed everything pursuant any exchange within a fully encrypted environment, we would never be the party who is putting client data at risk. That is also why we will set up your account and securely send you login credentials, so you can log in to a secure ecosystem where you can safely interact with your exchange documents, view your trust account activity, or communicate with your 1031 Coordinator.

This is the backbone of our infrastructure that works to protect you and your business 24/7:

- **Encryption in transit** - We encrypt all data as it **moves** between our servers and your web browser. Our API is fully encrypted so every request to view or update your records automatically encrypts that data behind the scenes.
- **Encryption at rest** - We encrypt all data that's **stored** on our servers. This includes both the **records** stored in our databases and search indexes as well as any files and images you've uploaded to your database.
- **Bank-level Encryption** - We use both [SHA-256](#) and [AES-256](#) encryption, the strongest encryption available. This is the same level of encryption that banks use.

We are not suggesting that Fyntex is the only national Qualified Intermediary who processes all exchanges this way. But we do have it on good authority that the number of other facilitators who operate this way can be counted on less than one hand.

### The Security of Your Exchange Proceeds

For many years, Qualified Intermediaries commingled the exchange proceeds of their Exchangers and provided for the sub-accounting of individual Exchanger balances on their own books. Over time, as banking software became more sophisticated, it was possible to set up individual accounts for the benefit of Exchangers (FBO), however the accounts were always in the name of the Qualified Intermediary and never required the approval of the Exchanger to transfer and exchange funds.

### Qualified Escrow Accounts

One step forward for 1031 Exchangers was the introduction of Qualified Escrow Accounts or QEAs. This is essentially a three-party agreement between the bank, the Intermediary and the Exchanger which ensures that a bank officer must sign off for the transfer of any 1031 funds. This was a dramatic step

forward for Exchangers, but has been utilized very rarely because of the traditional extra expense of setting up the individual QEA at the bank.

### **Restricted 1031 Trust Accounts**

When we started Fyntex in 2018, we knew that beyond creating a fully secured environment for the actual processing of exchanges, we also wanted to create a banking structure that could be trusted by our Exchangers. We believe we've accomplished this in two steps.

First, we integrated with our banks, a back-end interface to our Exchanger Portal where our Exchangers could always see the activity in their account and their current exchange funds balance.

Secondly, and most importantly, we created a banking regimen where we actually set up each individual Exchanger's account in their name, and with their tax identification number. This makes it very clear who's exchange funds are on deposit in that account and also requires that every Exchanger must provide written instructions, usually provided through secure e-signature for the wiring or movement of any 1031 funds

### **Segregated Accounts**

A segregated trust account is the bedrock of a secure and IRS-compliant 1031 exchange. Here's why it's non-negotiable:

- Security and Compliance - segregated trust account ensures compliance with IRS regulations by keeping exchange funds entirely separate from the QI's assets. This not only provides investors with security but also minimizes the risk of misappropriation, a fundamental concern. This is because trust accounts require the account holder, in this case the exchanger, to sign off on any movement of funds
- Transparency - Segregated trust accounts deliver transparency to the exchange process. Investors can effortlessly track their funds, fostering peace of mind and confidence that their QI is faithfully executing the exchange agreement.
- Legal Safeguards - Funds not placed directly into trust accounts (or even segregated bank accounts) from escrow are likely commingled with other funds, a disaster waiting to happen. It's important to verify with your QI that your funds will be directly wired at closing from escrow to the trust account that the QI has set up on your behalf.

### **The Power of 24/7 Account Access**

In today's digital age, having access to financial information at any time is imperative.

- Timely Updates -24/7 account access empowers investors to monitor their 1031 exchange accounts in real time. This ensures that they remain informed about the status of their funds, eliminating unexpected surprises.
- Rapid Decision Making - the real estate world, property contracts can move at light speed. With around-the-clock access, investors can respond promptly to opportunities, ensuring they seize ideal replacement properties without hesitation.
- Effortless Oversight - Continuous access to account information allows investors to oversee the progress of their 1031 exchange effortlessly. This is particularly beneficial when managing multiple investments or properties within the exchange.

This standard now represents the safest method for having your funds on deposit with any Qualified Intermediary. If a QI suggests to you that this is unnecessary or refuses to offer you a QEA, you shouldn't immediately assume your exchange proceeds will be safe in their custody.

### **A Word About Banks**

Lastly, while we can arrange extended FDIC insurance for individual accounts, we utilize the banking services of institutions which are frankly 'too big to fail'. While this may be a new concept for many

Americans, candidly this means that we keep exchange funds on deposit with a very select few banks which are so large that their deposit base is effectively guaranteed by the full faith and credit of the United States of America. In practical terms this means that the bank deposit base is so large, that it cannot be taken over by regulators and sold to another institution. Rather it must be fully backstopped by US Treasury.

### **Fidelity Bonding**

First, while fidelity bonding is a standard requirement for all Qualified Intermediaries, it is not the same as insurance, nor is it secured for the benefit of the Exchanger. Most QIs maintain a minimum \$1 million bond for qualification purposes, although Exchanger should know that bonding is designed to protect the facilitator, not the Exchanger.

There are some facilitators who tout a large fidelity bond as the tacit security for the exchange funds in their custody. Such a suggestion is false, as often the exchange funds held by that facilitator dramatically exceed the face amount of the fidelity bond by an order of magnitude. If your Qualified Intermediary suggests that such a bond represents the security of your exchange funds, you owe it to yourself to Google 'LandAmerica Title Company and LandAmerica 1031 Exchange' before committing to such an arrangement.

### **Our Approach**

We've tried our best to build the most secure and most transparent value proposition for Exchangers.

We've done this through:

- Separate, restricted trust accounts in the name and tax identification number of each Exchanger
- Every exchange is processed within a fully encrypted facilitation environment
- Exchangers can interact with their documents and trust account activity 24/7 in our Exchanger Portal
- Exchangers may opt for a Qualified Escrow Account for a modest charge
- All disbursements require the explicit written instruction of each Exchanger before any funds are wired
- Documents are expedited so agreements and disbursements are ready for e-signature within an hour
- Exchangers can communicate securely and/or upload or download files directly in the Portal