

§1397. Financial responsibility and insurance coverage requirements

1. Financial responsibility. An exchange facilitator shall at all times comply with one or more of the following:

- A. Maintain a fidelity bond or bonds in an amount not less than \$250,000, executed by an insurer authorized to do business in this State; [PL 2009, c. 61, §1 (NEW).]
- B. Deposit an amount of cash or securities or irrevocable letters of credit in an amount not less than \$250,000 in an interest-bearing deposit account or a money market account with a financial institution. Interest on that amount must accrue to the exchange facilitator; or [PL 2009, c. 61, §1 (NEW).]
- C. Deposit all exchange funds in a qualified escrow account or qualified trust, as those terms are defined under United States Treasury Regulation Section 1.1031(k)-1(g)(3), with a financial institution and provide that any withdrawals from that escrow account or trust require that person's and the client's written authorization. [PL 2009, c. 61, §1 (NEW).]

An exchange facilitator may maintain a bond or bonds or deposit an amount of cash or securities or irrevocable letters of credit in excess of the minimum required amounts. If an exchange facilitator is listed as a named insured on one or more fidelity bonds totaling at least \$250,000, the requirements of this subsection are deemed satisfied.

[PL 2009, c. 61, §1 (NEW).]

2. Insurance or alternative coverage. An exchange facilitator shall at all times comply with either of the following:

- A. Maintain an errors and omissions insurance policy in an amount not less than \$100,000, executed by an insurer authorized to do business in this State; or [PL 2009, c. 61, §1 (NEW).]
- B. Deposit an amount of cash, securities or irrevocable letters of credit in an amount not less than \$100,000 in an interest-bearing deposit account or a money market account with a financial institution. Interest on that amount must accrue to the exchange facilitator. [PL 2009, c. 61, §1 (NEW).]

An exchange facilitator may maintain insurance or deposit an amount of cash or securities or irrevocable letters of credit in excess of the minimum required amounts. If an exchange facilitator is listed as a named insured on an errors and omissions policy of at least \$100,000, the requirements of this section are deemed satisfied.

[PL 2009, c. 61, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §1 (NEW).

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