

**§1395. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2009, c. 61, §1 (NEW).]

**1. Administrator.** "Administrator" means the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation.

[PL 2009, c. 61, §1 (NEW).]

**2. Affiliated.** "Affiliated" means a person, directly or indirectly through one or more intermediaries, who controls, is controlled by or is under common control of, another person.

[PL 2009, c. 61, §1 (NEW).]

**3. Client.** "Client" means the taxpayer with whom the exchange facilitator enters into an agreement described in subsection 4, paragraph A.

[PL 2009, c. 61, §1 (NEW).]

**4. Exchange facilitator.** "Exchange facilitator" means a person that does any of the following:

A. Facilitates, for a fee, an exchange of like-kind property by entering into an agreement with a taxpayer by which the exchange facilitator acquires from the taxpayer the contractual rights to sell the taxpayer's relinquished property located in this State and transfers a replacement property to the taxpayer as a qualified intermediary as that term is defined under United States Treasury Regulation Section 1.1031(k)-1(g)(4) or enters into an agreement with the taxpayer to take title to a property in this State as an exchange accommodation titleholder as that term is defined in United States Internal Revenue Service Revenue Procedure 2000-37 or enters into an agreement with a taxpayer to act as a qualified trustee or qualified escrow holder as those terms are defined under United States Treasury Regulation Section 1.1031(k)-1(g)(3), except as provided in section 1396; [PL 2009, c. 61, §1 (NEW).]

B. Maintains an office in this State for the purpose of soliciting business as an exchange facilitator; or [PL 2009, c. 61, §1 (NEW).]

C. Purports to be an exchange facilitator by advertising any of the services listed in paragraph A or soliciting clients in printed publications, direct mail, television or radio advertisements, telephone calls, facsimile transmissions or other electronic communications directed to the general public in this State for purposes of providing any of those services. [PL 2009, c. 61, §1 (NEW).]

[PL 2009, c. 61, §1 (NEW).]

**5. Fee.** "Fee" means compensation of any nature, direct or indirect, monetary or in-kind, that is received by a person or related person as defined in the United States Internal Revenue Code, Section 267(b) or 707(b) for any services relating to or incidental to the exchange of like-kind property.

[PL 2009, c. 61, §1 (NEW).]

**6. Financial institution.** "Financial institution" means a bank, credit union, savings and loan association, savings bank or trust company or other similar depository or nondepository financial institution including an institution whose accounts are insured by the full faith and credit of the United States, the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or other similar or successor programs as well as an affiliate or subsidiary of such institution.

[PL 2009, c. 61, §1 (NEW).]

**7. Person.** "Person" means an individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust or any other form of legal entity, including agents and employees of a person.

[PL 2009, c. 61, §1 (NEW).]

**8. Prudent investor standard.** "Prudent investor standard" means the prudent investor standard referenced in Title 18-B, Part 1, section 901, subsection 1.

[PL 2009, c. 61, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §1 (NEW).

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