

J.P.Morgan



# Guide to Commercial Real Estate Escrows

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# Helping you structure your deal to manage transaction risk, protect your investment and mitigate counterparty risk

Whether you are a real estate developer, management company, investor or trust, real estate-related transactions can expose complex financial risks such as:

- Delays in permitting and approvals
- Supply-chain and labor disruptions
- Scheduling impacts to planned and ongoing projects
- Contractor delays
- Counterparty uncertainty



Real estate escrows can help you mitigate these risks while satisfying legal and/or regulatory requirements.

Let us help you develop creative solutions to address your most complex issues.

We've worked with:

- Owners
- Operators
- Tenants
- Lenders
- Borrowers
- Sellers
- Purchasers
- Investors
- Developers

# What is Escrow?

Escrow is a legal arrangement in which funds or assets are held with an independent third-party agent on behalf of two or more parties that are in the process of completing an underlying transaction.

The funds or assets are held in safekeeping by the agent and are only disbursed after pre-determined contractual obligations are fulfilled by the contracted parties.

## Construction escrow in action:

1

Funds are deposited into an escrow account in accordance with the developer / tenant construction agreement for a to-be-constructed building.

2

J.P. Morgan holds funds as outlined in the escrow agreement.

3

J.P. Morgan is instructed by the tenant to disburse funds from the escrow account to the developer as certain milestones are met.



In this example, the tenant will lease the to-be-constructed building from the developer. Total construction costs were raised through financing arranged by the developer and held in escrow.

J.P. Morgan offers comprehensive real estate escrow solutions for:

- Good faith / earnest deposits
- Construction
- Leasing
- Retainage
- Asset sale / purchase holdbacks
- Litigation and restitution payments
- Other needs to ring-fence funds

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# The Right Capabilities for Nearly Any Real Estate Transaction

J.P. Morgan has facilitated a variety of real estate-related transactions, including:



Good faith / earnest deposit  
escrow accounts

can allow a company to demonstrate serious buyer interest, typically when considering an acquisition or project development where approvals are pending. For example, a developer could support its bid for a potential project by depositing a portion of the project cost into an escrow account to demonstrate its commitment to build.



Construction  
escrows

can be used to help ensure that the completion or occurrence of pre-specified construction milestones are adhered to and funded. For example, the developer of a new office building deposits construction costs into an escrow account to demonstrate an understanding between the parties that the project has been funded. In addition, the escrow account can be used to make milestone payments to contractors.



Asset sale / purchase holdback  
escrow accounts

are used for potential post-close representations and warranties claims.



Lease escrow  
accounts

are used to help mitigate the risk between the lessor and the lessee. For example, a J.P Morgan escrow account can be used to safeguard security deposits and/or facilitate monthly rent payments made by the lessee.



## Retainage

requirements or laws may sometimes require that a portion of the project cost be held back from the contractors until the project has been completed or has met certain milestones. In these cases, a developer would deposit a portion of the project costs into a J.P. Morgan escrow account for safekeeping until the project is completed.



## Litigation and restitution payments

J.P. Morgan escrow accounts have been used in cases where a company is ordered to make payments to members of a settlement. For example, a landlord deposits funds into an escrow account to fund potential liabilities relating to a dispute it had with a tenant relating to covering relocation costs and business losses following a lease termination.



## Ring-fencing

financing proceeds earmarked for a real estate-related transaction could provide significant benefits to the borrower and lender by mitigating the risk of how funds are controlled and used.

## Related capabilities

Our escrow clients also have access to J.P. Morgan's broad range of related capabilities, including:

- Paying Agent services
- Escrow Direct, our industry-leading online platform
- Foreign exchange services, with the capability to hold and disburse funds denominated in any freely traded currency
- A range of investment products that can help provide liquidity, safety and return

We make document preparation easier, with dozens of standard contract templates applicable under a variety of governing laws that can be readily tailored to specific escrow structures.

# Use Cases



## Retainage

**Challenge:** A consumer products company in the process of moving forward with a \$10 million construction project was required by law to satisfy retainage guidelines set out by the state that would ensure the project was completed and the contractors received payment.

**Solution:** The company deposited the required retainage amount set out in the construction contract into an escrow account.

**Result:** Funds were held in escrow until the completion of the project and released once the contractors satisfied their obligations.

## Earnest Deposit

**Challenge:** In order to secure and enter into a construction agreement with its contractors, an oil and gas company first needed to show that project funding had been secured and was available.

**Solution:** The company pre-funded the cost of the project and deposited the funds into an escrow account.

**Result:** The escrow account allowed the company to demonstrate to its contractors that funds were secured and that they could pay as construction milestones were met.

# Use Cases



## Litigation

**Challenge:** A property manager was faced with a dispute from one of its tenants after receiving notification that a lease agreement was being terminated due to required repairs to the property.

**Solution:** The company deposited funds into an escrow account to cover the tenant's relocation costs and business losses.

**Result:** The landlord was able to continue required repairs to its property and the tenant was able to relocate its business to an alternative location and recoup costs.

## Asset sale / purchase holdback

**Challenge:** A US-based leisure company working on expanding its business into Europe was in the process of acquiring multiple properties from one of its peers to begin building its European portfolio. The company wanted to ensure that the representations and warranties the seller was making were accurate.

**Solution:** The buyer deposited a portion of the purchase price into an escrow account for general indemnification and purchase price adjustment purposes.

**Result:** The buyer acquired the ability to re-capture potential post-close representations and warranties claims.

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# Your Dedicated Escrow Professionals

J.P. Morgan is a global escrow and paying agent service provider with extensive capabilities and a history of success:

\$450+ billion

in escrow and liquidity deposits

1,400+

escrow mandates

2,600+

active escrow transactions

100+

experienced global escrow professionals

As of June 30, 2024



An established  
track record

J.P. Morgan has breadth and depth of knowledge in areas ranging from M&A, litigation, debt capital markets, real estate, project finance, bankruptcy, and beyond. Our escrow servicing locations span five continents, providing worldwide service to our clients. Our escrow solutions are backed by the financial strength of J.P. Morgan. With over \$3.7 trillion as of Q1 2023 in assets, J.P. Morgan is a leading global escrow agent.



Responsive  
service

Mitigating performance risk is a key component of any transaction, yet escrow arrangements are often the last consideration in a long, intricate process. J.P. Morgan can provide quick turnaround on escrow agreements, enabling clients to close deals without delay.



Dedicated  
experts

At J.P. Morgan, our experienced professionals deal exclusively with escrows. They understand the intricacies of such transactions and can help you navigate your unique risk mitigation requirements and find a simple, workable solution.



# Global Capabilities Local Presence

A distinct advantage that comes from deploying global solutions informed by local perspectives.

We have dedicated escrow account centers across the globe.



## Paying Agent Capabilities

Increase the efficiency of transactions with an online portal to pay smarter, faster

Paying stakeholders of an acquired asset can be a complex and tedious process. Typically, you have to rely exclusively on paper documents and the mail to obtain required shareholder information and instructions. This may adversely affect the finalization time frame of closing a transaction.

At the intersection of digital, high-touch client service and efficiency, J.P. Morgan's Paying Agent Portal automates manual processes and aims to provide a frictionless transaction experience.

## Key Features and Potential Benefits

- Automates the manual process of collecting shareholder information, and can speed up payments and reduce administrative burdens
- Lets shareholders submit, validate and e-sign their information securely and confidently
- Increases transparency by enabling attorneys and their clients to easily track the status of shareholder payments online
- Maintains the security of online information for shareholders and buyers
- Backed by J.P. Morgan's extensive experience and expertise in helping to facilitate M&A transaction escrows

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# Escrow Direct – Simpler for you



## It's a fact:

Our clients expressed the need for a faster, more streamlined way to engage, track and manage their escrow accounts. We listened.



## The result:

Escrow Direct – a future-ready platform that can drive your business's escrow efficiencies.

## Access data fast with a dashboard customized for the way you do business

Having the information you need when you need it is crucial to your efficiency. Our user-friendly Escrow Direct dashboard is designed to provide you with a centralized view of all your deals and real-time status updates.

With it, you can:

- View your pre-closing, active and terminated escrow deals
- Check account balances across all deals globally
- View and edit your deal details, including close dates, deal contacts, contracting parties and more
- Stay informed by adding milestone events for key dates and setting up Outlook and email reminders
- Access your data 24/7 and on mobile devices
- Continue to have full access to your dedicated Escrow team, who will support you start to finish
- Connect counterparties and their intermediaries and attorneys for all deals in any J.P. Morgan escrow account location
- Cybersecurity controls you can trust to keep your and your partners' confidential data safe and secure

[Watch Video](#)

## Create, e-sign and submit payments, claims and other escrow deal instructions

From gathering instruction details to managing document execution with e-sign, Escrow Direct streamlines the process from start to finish. Select from three options to quickly create new deal instructions using a simple and secure step-by-step guided approach.

- Quickly build your deal instructions from scratch using pre-defined templates or upload prepared instructions
- Speed up inputting details with pre-populating data and reduce manual entry errors
- Automate document execution with e-sign to sign anytime, anywhere
- Transmit instructions securely without reliance on emails
- Use as a repository to store past instructions

[See the Feature in Action](#)

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# The Strength of a Global Bank

## The J.P. Morgan Payments Advantage

J.P. Morgan Payments combines our treasury services, trade, commercial card and merchant services capabilities to help clients pay anyone, in any currency, anywhere in the world.

As one of the world's largest full-service providers, we deliver cash management, liquidity and escrow services that help clients resolve the working capital and efficiency challenges they face today. On a daily basis, we move nearly \$10 trillion in over 120 currencies and more than 160 countries.



Source: J.P. Morgan Annual Report 2023

## Leadership Matters

J.P. Morgan is a global leader in helping clients define their liquidity needs and develop a framework for managing and investing cash balances. Here are a few of the recent awards we have received for industry leadership:

- J.P. Morgan Recognized as a Greenwich Quality Leader in U.S. Large Corporate Cash Management Quality, 2023
- 2023 Greenwich Excellence in U.S. Large Corporate Cash Management, J.P. Morgan recognized as excellent in 10 categories, including:

Ease of Doing Business

Customer Service

Digital Platform Design

Digital Platform  
Functionality

International Product  
Capability

Accuracy of Operations

Frequency of Contact

Timely Follow-Up

Quality of Advice

Source: 2023 Greenwich Leaders

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For more information about J.P. Morgan Escrow Services, please visit us at

[LEARN MORE](#)

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