

Good Faith

Making a deposit on a trawler sets the gears in motion to an accepted or rejected offer.

Most purchase and sale agreements stipulate that your deposit is due once the seller accepts your written offer. The amount is normally 10 percent of the contracted price, and typically, it must be received into the broker's trust account within three business days.

Once your deposit is in trust, all parties receive a receipt, and the money can only be moved with your written instructions to the broker or bank. Your deposit funds should be secured in a bonded trust account that has the specific purpose of protecting client funds. It is illegal for a brokerage to commingle funds with its general business account.

Today, most brokers specify bank-to-bank wire transfers. Our policy is that the sender is responsible for the transmission of funds, including any bank fees, so that the correct amount is received. For extra security, bank account numbers should always be verified over the phone—never rely on an email exchange, or provide the entire account number. To ward off hackers from intercepting your funds, don't reference banking in email subject lines.

You cannot go to survey without your deposit and payoff funds in place, ready for closing. In good faith, the seller is taking his boat off the market until you complete the purchase process or withdraw your offer. Most sellers want to see a timely turnaround from contract signing to completion, so it is essential that you have your banking available for closing.

You are never forced to buy the trawler, but the clock is ticking with due dates, and you need to stay on schedule. The preferred practice regarding due-diligence expenses is for the buyer to pay them separately and directly to the vendor, thus leaving the deposit intact.

Your purchase and sale agreement should outline the terms and conditions for the two possible outcomes: acceptance or rejection. If you accept the trawler, you will authorize your funds to be applied to the balance of the purchase price and proceed to closing (after your insurance broker approves the survey and gives a date for binding coverage). If you reject the trawler, then your deposit, by law, must be returned to the originating account. Your broker will first verify any expenses you are responsible for and did not pay separately.

There are also contract-violation scenarios where your deposit could be withheld as liquidated damages. Most contracts have language for a buyer or seller default. The common situation to avoid



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as a buyer is to sign off, accepting the vessel, and then back out. Once you accept, you are committed. If you change your mind, your deposit will likely be forfeited.

If you need more time, ask your broker to draft an extension addendum before the deadline. Or, you can walk away, absorb the survey costs and get your deposit back. Most sellers are understanding if a request is made in advance of the deadline; they would prefer to finish the deal rather than starting over with an unknown buyer.

In the old days (really, not that long ago), many offers were submitted with a copy of a check. Today, trawler transactions involve banking conducted by wire transfer, digitally inked signatures, and initials and dates on documents that are transferred electronically. Instant receipt of emails and real-time confirmation of banking provides much more confidence for all parties involved.

Good faith may sound casual, but no one should treat deposit money lightly. We advise our clients to consider their deposit a commitment, and we work carefully to guide them through the paperwork and banking steps from offer to closing. 🌟



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