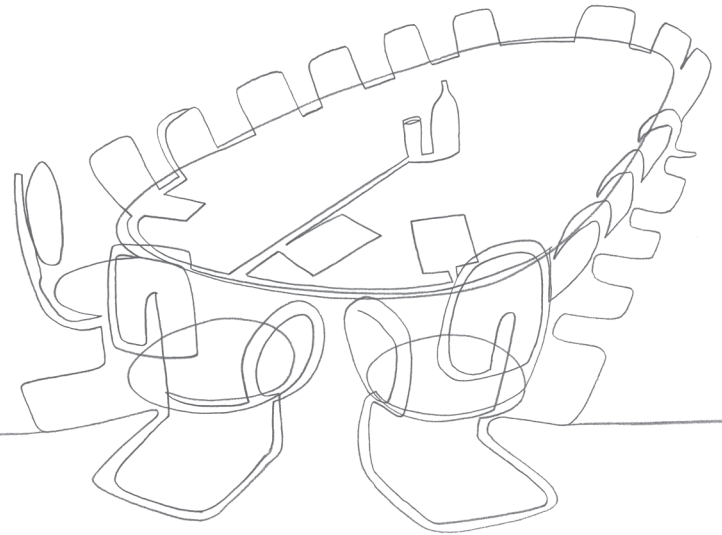


Beazley
M&A Transaction
Liability –
Warranty
and Indemnity
Insurance

Protecting against financial losses that buyers or sellers might incur resulting from inaccuracies in representations or warranties made in share or asset sale and purchase agreements.



Beazley

M&A Transaction Liability – Warranty and Indemnity Insurance

Warranty and Indemnity insurance

Warranty and Indemnity (W&I), or Representations and Warranty (R&W) as it is referred to in the US, covers unidentified breaches of warranties or representations (Breaches) documented in a share or asset purchase or sale agreement, as made by a seller (or other warrantor) to a purchaser in the context of an M&A transaction. W&I insurance is increasingly valued by both sellers and buyers.

Key motivations for using W&I insurance

<p>The ‘clean exit’ – allows funds flowing from the transaction to be retained by sellers with little to no ‘tail of liability’ and in most circumstances without escrows or significant indemnities.</p>	<p>Enhancement of bid proposal – by structuring W&I cover into the bid, the buyer could propose a reduced seller indemnity cap on the warranties, on the basis that the W&I cover will provide additional recourse for breaches (over and above that given by the sellers in the transaction documents).</p>
<p>Seller – buyer disparities – when there are different expectations regarding contractual liability structure, such disparity is often a heavily negotiated matter, and can even cause the deal to collapse. The use of W&I cover can be useful to bridge the gap of expectations in these circumstances.</p>	<p>Protection of family assets – W&I cover is sometimes used as an asset protection strategy, ensuring that proceeds of a sale to an individual cannot be clawed back and helping avoid costly litigation to defend claims for breaches.</p>
<p>Limited seller security – using W&I cover, a purchaser can transfer the financial risk of a breach to the insurer. This can avoid pricing discounts or the need for funds to be held in escrow for long periods of time.</p>	<p>Unwillingness to sue the seller – this is particularly important in situations where the seller (or seller’s management) is still involved in the business post transaction. A policy can be structured so that claims for breaches are made directly against the insurer and not the seller.</p>
<p>Entrepreneurial exit – a seller policy allows entrepreneurs to sell a business, and do their tax or estate planning with reduced concern over any breaches occurring.</p>	<p>Distressed sales – W&I cover can be used to provide greater comfort in a distressed sale situation. The benefits are significant in the case of a distressed seller looking to provide greater comfort and security to a purchaser.</p>

Beazley's W&I insurance offers:

- Cover that can be provided to the seller to defend against breaches claimed by a purchaser, or to a purchaser to provide 1st party protection for innocent or fraudulent breaches by a seller
- Broad appetite across different target sectors, deal types, transaction structures and jurisdictions
- Cover offered to private equity clients, selling entrepreneurs, private shareholders, venture capital funds, listed companies and other corporate clients.

What we look for:

- M&A transactions where the underlying warranties are made by a knowledgeable party and accompanied by a full disclosure exercise
- Opportunities to replace risk allocation mechanisms (escrow, indemnity, holdback) on an M&A transaction with insurance capital
- Opportunities to add value through flexible and sophisticated underwriting, either as a lead insurer or working with other markets to achieve the capacity or solution required.

Territories

Primarily focus on transactions in: US and Canada; EU 27 countries; Asia Pacific Region; Latin America; and Middle East and South Africa.

Rating

W&I insurance is written for syndicate 623/2623 which have the Lloyd's Market Rating of S&P A+ "Stable Outlook" and A.M. Best A Excellent "Stable Outlook".

Limits available

Up to:
USD 40,000,000
GBP 26,600,000
EUR 40,000,000
AUD 40,000,000
CAD 40,000,000

Beazley Group

Plantation Place South
60 Great Tower Street
London EC3R 5AD
United Kingdom

T +44 (0)20 7667 0623
F +44 (0)20 7674 7100

Beazley Group

6 Concourse Parkway NE
Suite 2800
Atlanta, GA
30328
USA

T +1 (770) 351 1660
F +1 (770) 396 7197



Tim Allen
Underwriter
T +44 (0)20 7674 7199
tim.allen@beazley.com



Holly Edwards
Underwriter
T +44 (0)20 7674 7376
holly.edwards@beazley.com



Simon Chung
Underwriter
T +1 (770) 351 1700
simon.chung@beazley.com

The descriptions contained in this communication are for preliminary informational purposes only. Coverages are underwritten by Beazley syndicates at Lloyd's and will vary depending on individual country law requirements and may be unavailable in some countries. Coverages are available in the US only on a surplus lines basis through licensed surplus lines brokers. The exact coverage afforded by the product(s) described in this brochure is subject to and governed by the terms and conditions of each policy issued. The publication and delivery of the information contained herein is not intended as a solicitation for the purchase of insurance on any US risk.

beazley

www.beazley.com/m&a