

Mergers & Acquisitions (M&A): Warranty and Indemnity (W&I) insurance

Overview

W&I insurance provides cover to a buyer or a seller of a company for loss suffered as a result of a breach of a warranty or a claim being made under an indemnity in a sale and purchase agreement (SPA).

Motivation

W&I insurance is a deal facilitation tool which has become increasingly common in M&A transactions in recent years and is typically used to:

- ▶ enable private equity funds and corporates to effect a clean exit thereby maximising returns for their investors or enabling redeployment of capital elsewhere in their business
- ▶ enable sellers to reinvest their sale proceeds and provide peace of mind following completion of the sale
- ▶ provide a buyer with comfort if they have concerns about the seller's covenant strength
- ▶ permit a well advised buyer to obtain a strategic advantage in an auction process

What we look for

The London based Strategic Capital Products (SCP) team typically focuses on UK and US deals, within the GBP 25 million to GBP 500 million range, although the team can consider deals outside of this range and in other jurisdictions if the right deal dynamics exist.

SCP target risks which demonstrate the following:

- ▶ the right motivation – W&I insurance is to be used as a deal facilitation tool
- ▶ a well negotiated transaction on arm's length terms with thorough disclosure and high quality professional advice
- ▶ the involvement of a seller who knows the business being sold and a buyer who is fully engaged in the deal process
- ▶ high quality due diligence completed by externally engaged and reputable professional advisers
- ▶ target companies with sound internal operating and financial reporting procedures with audited accounts

What we can provide

We have a dedicated underwriting team with extensive experience of M&A transactions at all levels of the market. We understand deal dynamics, timetables and what matters on an M&A transaction.

Line size

Up to USD 50 million (or local currency equivalent) on any one transaction.

Territories

We write business worldwide.



Illustrative applications

Buy side cover

A company may be a bidder in a competitive auction process for the sale of a strategically important acquisition target.

With several other potential bidders on the scene, how does one bidder differentiate their offer from the next? W&I insurance is a useful tool for a buyer to utilise in this scenario.

Because a buy side W&I insurance policy is a direct contract between the buyer and Liberty, it does not have to mirror the provisions in the SPA. For instance, the SPA can state that the seller's liability is capped at 1% of the enterprise value or expires after 18 months, whilst the policy of insurance can provide the buyer with the level of recourse it requires in terms of both quantum and time.

The use of W&I insurance therefore enables the buyer to differentiate its offer and provide the seller with a compelling offer, whilst relying on a policy of insurance from Liberty for its source of recourse.

Sell side cover

A family may have established and run a successful business for many years. They may now wish to exit their business and realise the value in their investment. As part of the sale process, they will inevitably need to give certain warranties and representations to a buyer, but may wish to invest their sale proceeds with peace of mind, or distribute the money to families and friends without the fear that the money may be clawed back.

Our sell side cover gives sellers the peace of mind they require, as they know they have a policy of insurance from a highly rated insurer which they can turn to in the event of a buyer bringing a claim against them.

Contact us



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