

**PRESENTED AT**

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**How Transactional Insurances Continue to Change the M&A Game**

**Representations and Warranties Insurance -  
Current Market Developments and Trends  
October 2020**

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An aerial night-time photograph of a city, showing a dense grid of buildings and streets. The lights from the buildings and streets create a vibrant, dark scene. A large white rectangular box is overlaid on the left side of the image, containing the title and date. Several smaller white rectangular boxes are also scattered across the lower-left portion of the image.

# Representations and Warranties Insurance – Current Market Developments and Trends

October 2020

# Mergers & Acquisitions Transactional Insurance

## Overview of Transactional Insurance Solutions

### Representations & Warranties Insurance

- Used by private equity and strategic buyers to increase competitive position in auctions – offer sellers a limited or no indemnity deal
- Facilitates clean exits – sellers avoid escrows and holdbacks, and distribute proceeds to investors
- Acceptance and use of product has increased dramatically over last five years

### Tax Insurance

- Insure tax positions to facilitate transactions
- Covers taxes, penalties, interest and contest costs in the event of a challenge by the IRS or other tax authority
- Wide range of tax issues can be insured, including:
  - Tax-free mergers
  - S-corporation issues
  - Net operating losses
  - Alternative energy credits
  - Sales and use tax

### Contingent Liability/Pending Litigation/Other Insurance

- Used by buyers and sellers to transfer risk on contingent exposures to insurers
- Pending litigation
- Environmental
- Successor liability
- Fraudulent conveyance
- Loss portfolio transfer
- Antitrust consent
- Legislative contingency
- Fund liquidation

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## Title search: How Transactional Insurances Continue to Change the M&A Game: Representations and Warranties Insurance - Current Market Developments and Trends October 2020

Also available as part of the eCourse  
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