

Transaction Liability Insurance Claims Study

An update on claims activity
in North America and EMEA
during an unprecedented year



Foreword

In spite of market uncertainty throughout much of 2020, claims activity never truly slowed

In 2020, Aon's M&A and Transaction Solutions team in North America placed more than 725 representations and warranties, tax and contingent liability insurance policies, and helped clients navigate in excess of 150 claims – exceptional volume which has continued through the first half of 2021.

The size and scale of the Aon business makes Aon uniquely positioned to offer insight into current mergers and acquisition (M&A) and tax claims activity. In our 2020 study, we continue to focus on representations and warranties claims, examining trends that are emerging with respect to claim size and frequency on policies placed between 2013 and 2020 in North America. However, we also surveyed insurers in the representations and warranties space about their claims experiences and incorporated this further insight into our findings.¹ Additionally, as part of this year's study, we examined Aon's tax and international claims data to provide an expanded view for our clients on what is happening in our other lines of business and in other jurisdictions around the world.

Last year was one that no one could have anticipated. At the start of the COVID-19 pandemic, there was an unprecedented global impact on the M&A market which in turn affected the representations and warranties insurance business. While the uncertainty wrought by the pandemic led to many transactions initially being put on hold as they were re-evaluated or re-negotiated, the claims activity on representations and warranties policies never really slowed. In fact, consistent with the growth in the number of

representations and warranties policies placed by Aon in 2018 and 2019, Aon saw a 23.5% increase in the number of claims filed in 2020 versus 2019. While this meant that insurers and their advisors were busier than ever, for the majority of the year we did not see a significant change in the claim process with respect to the investigation and analysis of claims, or the willingness of insurance carriers to pay claims.

Towards the end of 2020, however, we did begin to notice a shift in the approach that insurers and their consultants appeared to be taking in validating representations and warranties claims, taking more time to verify claim details and applying greater scrutiny around loss calculation. That said, despite the challenges that 2020 presented to the representations and warranties market, we continued to see many claims reach a successful resolution and result in fair claim payments.

¹ All data used for the Aon claim study as well as data received from insurers participating in the Aon 2020 Representations and Warranties Insurer Survey ("2020 Insurer Survey") was aggregated and anonymized to produce the study results.

Also available as part of the eCourse

[2021 Mergers and Acquisitions eConference](#)

First appeared as part of the conference materials for the
17th Annual Mergers and Acquisitions Institute session
"Lessons Learned from the Most Heavily Litigated Provisions"