

# Transactional Risk Insurance

Market overview & trending topics

18<sup>th</sup> Annual Mergers & Acquisitions Institute  
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1

## Transactional insurance solutions

Our team offers tailored solutions to transactional risk allocation

### Representations and warranties insurance:

Offers protection for **unknown breaches** of target and seller representations and warranties in a purchase agreement

### Tax liability insurance:

Offers protection against a **known tax risk or uncertain tax position** that is challenged by a tax authority and is not otherwise covered by an RWI policy. Each placement led by an in-house tax expert

**Insurance solutions**

### Contingent liability insurance:

Offers protection for a **broad range of known contingent risks** for which neither party to a transaction will accept financial responsibility

### Tailored solutions:

Offers protection across a **wide array of bespoke transactional risks** such as insurance on GP-led secondaries transactions, real estate investments, de-spac transactions, etc.

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2

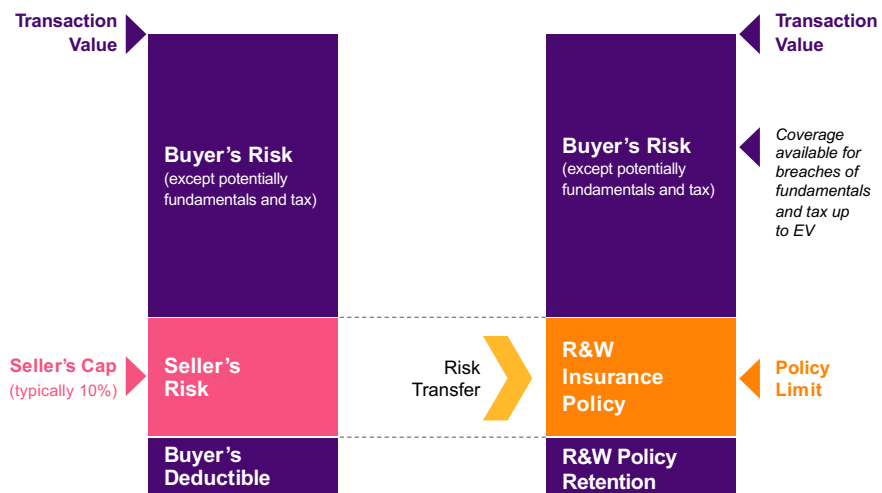
2

# Representations and Warranties Insurance (RWI)

3

## R&W insurance

Risk transfer to an insurer mirrors a traditional seller indemnity and works “back-to-back” with a purchase agreement



4

## Benefits and uses

All parties benefit through transferring risk to an insurer

Buyers	Sellers
<ul style="list-style-type: none"> <li>Receive broader representations under a policy than sellers may otherwise offer</li> </ul>	<ul style="list-style-type: none"> <li>Collect proceeds up front without funds tied up in escrow</li> </ul>
<ul style="list-style-type: none"> <li>Benefit from extended survival periods (customarily 3 years for general representations &amp; 6 years for fundamental representations)</li> </ul>	<ul style="list-style-type: none"> <li>Avoid post-closing contingent liabilities and proceedings</li> </ul>
<ul style="list-style-type: none"> <li>Avoid post-closing proceedings with sellers who may remain active at the company</li> </ul>	<ul style="list-style-type: none"> <li>Reduce the risk of prolonged or contentious negotiation over representations and indemnification provisions in a transaction agreement</li> </ul>
<ul style="list-style-type: none"> <li>Benefit from security where there is concern over the ability to collect indemnification</li> </ul>	<ul style="list-style-type: none"> <li>For minority and passive investors, receive protection from any indemnity obligations arising out of joint and several liability obligations</li> </ul>

5

## Overview: Buyer-side coverage

Over 99% of RWI policies are buyer-side policies

	RWI insurance
Term	<ul style="list-style-type: none"> <li>3 years for General Reps</li> <li>6 years for Fundamental reps</li> <li>Coverage for 6 years for all reps may be available depending on the deal characteristics</li> </ul>
Limit	<ul style="list-style-type: none"> <li>Insureds select the coverage limit amount according to preference and risk appetite</li> <li>Coverage available for excess fundamentals and tax risk</li> </ul>
Retention	<ul style="list-style-type: none"> <li>Typically, 1.0% of deal value</li> <li>Most commonly either split 50/50 with seller, or follow a "no seller indemnity" structure</li> </ul>
Fraud	<ul style="list-style-type: none"> <li>Buyer-side policies cover seller fraud (the definition of fraud is reviewed by underwriters), so long as the insurer maintains subrogation's rights</li> </ul>

6

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"RWI Update and the Due Diligence and Underwriting Process"