

Transactional Insurance – Market Overview and Key Issues

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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

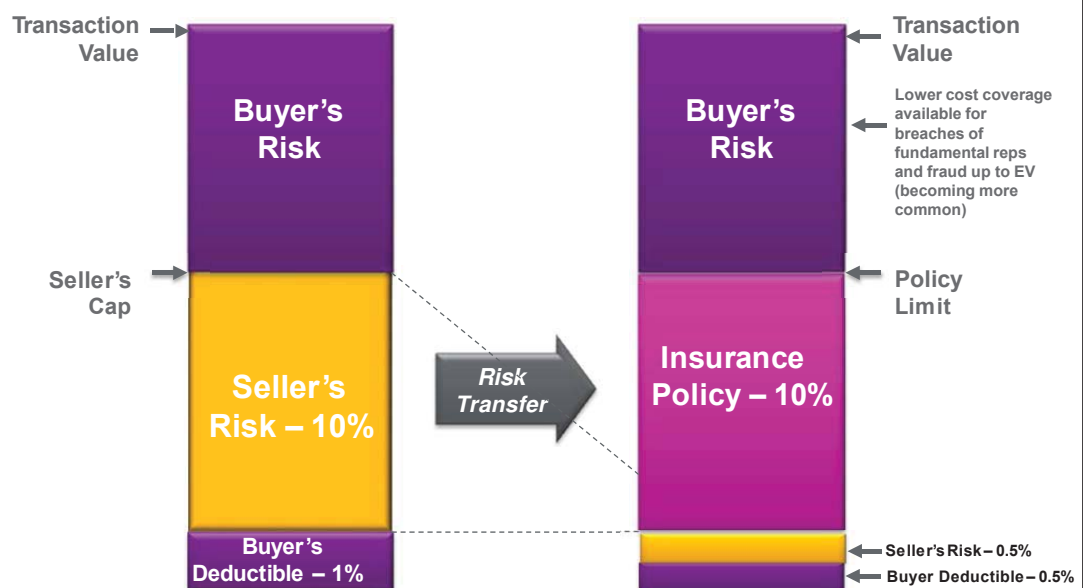
- Used by buyers and sellers to transfer risk on contingent exposures to insurers
- Pending litigation
- Environmental
- Successor liability
- Fraudulent conveyance
- Loss portfolio transfer
- Antitrust consent
- Legislative contingency
- Fund liquidation

REPRESENTATIONS & WARRANTIES (“R&W”) INSURANCE OVERVIEW

Purpose	<ul style="list-style-type: none"> Provides insured with coverage for breaches of covered representations and warranties in acquisition agreement
Cost	<ul style="list-style-type: none"> One time premium payment typically in range of 2% to 3.25% of coverage limits purchased, plus underwriting fee, excess brokerage fee (if applicable) and applicable taxes
Market Capacity	<ul style="list-style-type: none"> Over 20 U.S. underwriting markets including carriers and managing general underwriters that underwrite on behalf of one or more insurers In excess of ~\$1 billion in coverage limits available for a single deal Global market
Parties	<ul style="list-style-type: none"> Deal parties (buyer, seller, respective counsel) Underwriters Insurance brokers (sophisticated brokers and underwriters now staffed by many former M&A and/or insurance attorneys) Underwriting counsel

R&W INSURANCE

R&W Insurance Replaces Seller's Risk



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