

M&A Hotline

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RISK, WRAPPED & INSURED: M&A'S SAFETY BLANKET

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The global M&A market's restoration to pre-pandemic levels has led to a synchronised growth in the demand for investor protection mechanisms. Investors' attitude is shifting towards more robust investor protection tools which can guarantee them extensive coverage on a wide array of risks and a clean exit post-closing to the sellers. This has led to more purchasers seeking fortification of their investments through various insurance policies, such as warranty & indemnity ("W&I") insurance, Press Note No. 3 (2020 Series)[1] ("PN3") risk insurance, contingent risk insurance, litigation insurance, tax liability insurance, cyber liability insurance, intellectual property insurance, etc.

In this article, we focus on one of these insurance categories, i.e. W&I insurance. As mentioned above, investors are seeking policies that can give them extensive coverage while having minimum reliance on seller's ability to pay in case of default. Traditionally, this was achieved by sellers heavily relying on an indemnity construct, and incorporating a combination of escrows, holdbacks, and price adjustments in the Transaction Documents ("TD"). However, there was a lack of specialised and customisable tools available that could protect both the seller and buyer/ investor simultaneously while shifting the liability to a third party. W&I insurance seeks to precisely accomplish that by protecting the interests of both parties involved while shifting liability to a third-party, i.e., the insurer.

Please click [here](#) for our detailed article.

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