



Representations and Warranties Insurance for Financial Institutions

Representations and warranties insurance (RWI) is increasingly popular among financial institutions, as regulatory shifts and rising mergers and acquisitions (M&A) activity demand advanced risk management solutions. This note explores the drivers of M&A growth in the financial sector and the role of RWI in facilitating smoother transactions.

Drivers of increased M&A activity in financial institutions

The US financial services sector has seen a strong rebound in M&A activity in 2025, fueled by:

- **Lower interest rates:** Improved valuations and liquidity
- **Strategic needs:** Digital transformation, economies of scale and diversification into alternative assets
- **Private equity involvement:** Active participation in deal-making
- **Regulatory easing:** Anticipated reforms under a business-friendly US administration, including reduced antitrust scrutiny, faster Bank Merger Act approvals and relaxed restrictions on fintech and digital asset activities

In banking, M&A is accelerating, as interest rate normalization alleviates capital pressures from the 2023 regional banking crisis. Regional banks are consolidating to scale, divesting non-core assets and acquiring fintech and private credit firms. Proposed reforms to the supplementary leverage ratio (SLR) and Basel III Endgame rules are expected to free up significant capital, further boosting M&A activity.

Asset management firms are consolidating due to declining margins and rising technology costs, with deals focusing on private debt, ESG and cryptocurrencies. Regulatory easing is enabling faster approvals and cross-border transactions. Similarly, US insurance companies are pursuing transformative deals for balance sheet optimization, ESG-driven risk mitigation and InsurTech acquisitions.

Where does RWI fit in?

The rise in deal activity has driven increased use of representations and warranties insurance to mitigate transaction risks for both buyers and sellers. Traditionally, sellers set aside up to 10% of the deal value in escrow for years to cover potential losses from breaches of representations and warranties. RWI shifts this risk to insurers, protecting buyers from misrepresentations while freeing up capital for sellers, making deals more appealing. Policies are tailored to each transaction and can address various risks.

Buyers can:	Sellers can:
Enhance bidder terms	Release capital and distributions
Increase indemnification and survival periods	Alleviate negotiation of representations
Protect management and rollover sellers	Safeguard buyer relationships
Satisfy lenders and investment committees	Reduce residual liability

With nearly one in five RWI policies receiving claim notifications and a similar proportion of notifications resulting in successful claims, RWI is not just a deal facilitator but also a necessary part of transaction risk management.

Is it right for the deal?

With two-thirds of private transactions involving RWI, it has become a standard consideration on both sides of the deal. Typically, we recommend RWI for targets with an enterprise value (EV) of \$10 million to \$20 billion, but the current state of the RWI market is supporting smaller deal sizes now as well. Insurers are able to underwrite transactions with both internal and third-party due diligence, subject to understanding the qualifications of those involved and the scope of the review.

What does RWI cover?

Unknown breaches: RWI covers unknown breaches of representations and warranties in the transaction agreement. Policies are generally designed to cover all representations and warranties but can be customized to focus on specific ones.

Policy enhancements: Insurers often agree to include the following enhancements:

- **Pre-closing tax indemnity:** Coverage for tax liabilities arising before the transaction closes
- **Consequential and multiplied damages:** Removal of exclusions for these damages, depending on the buyer's valuation methodology
- **Materiality scrape:** Coverage follows materiality scrape provisions (for determining breaches and/or calculating losses), subject to the insurer's understanding of the seller's disclosure practices (e.g., comprehensive disclosures)
- **Defense and investigation costs:** Coverage for costs associated with defending third-party claims and investigating breaches of representations

What are the typical policy exclusions?

- **Buyer's knowledge:** Breaches or facts known by the buyer's deal team that could reasonably lead to a breach
- **Disclosure schedule matters:** Issues explicitly disclosed in the disclosure schedules
- **Certain agreement provisions:** Covenants, projections, forward-looking statements, purchase price adjustments or net worth changes
- **Deal-specific exclusions:** Certain exclusions tied to specific industries
- **Geopolitical exclusions:** Touchpoints in Russia, Ukraine, Belarus or the Middle East
- **Identified issues:** Issues identified during diligence or gaps uncovered in the underwriting process

Defense/settlement — buyer-side (third-party demand)

- The insured has a duty to defend; the insurer has the right to associate with defense
- The insurer must approve the insured's legal counsel, which can be pre-agreed in the policy terms
- The insurer must consent to any settlement

What is the policy term of RWI policies?

- **Standard coverage:** Three years for general representations and six years for fundamental and tax representations, including pre-closing tax indemnity
- **Extended coverage:** Seven years for fundamental and tax representations available for an additional premium
- **Specialist representations:** Certain representations (e.g., IP and environmental) can be treated as fundamental representations for an additional premium

How much does RWI cost?

- **Premiums:** One-time payment, typically 3% to 4% of the coverage limit (lower for higher limits)
- **Minimum premium:** Around \$80,000 (varies by carrier)
- **Underwriter fee:** Non-refundable outside counsel fee of \$35,000 to \$50,000

What is the typical size of policy retention (deductible)?

- **Retention range:** Typically 0.5% to 0.75% of the transaction value (may be lower for larger deals). Minimum retention is around \$150,000
- **Structure:** Usually split 50% buyer deductible and 50% seller indemnity/escrow, though deals can exclude seller indemnity/escrow
- **Retention drop:** Retention often reduces to 0.3% to 0.5% after 12 months post-closing. Some insurers offer nil retention for true fundamental representations

How long does it take to obtain RWI?

- Typically, it takes 7-14 days from the submission of the required documentation
- Policies can be placed in less than seven days under certain circumstances

FI-specific RWI hot button issues

- **Typical exclusions:** Valuation and performance of assets/investments under management and adequacy of loan or similar debt reserves
- **Key areas of underwriting:** E&O, cybersecurity, regulatory compliance, and, where applicable, anti-kickback and anti-bribery laws

Process

We recommend engaging Gallagher four weeks from transaction signing. Insurers can complete underwriting within one week from receipt of diligence reports, disclosure schedules and data room access.

Deal stage	Recommended time	RWI phase
Letter of intent	4 weeks	Phase I: Indications
	To obtain quotes, insurers will conduct a high-level review of the target's operations, financial statements and representations in order to prepare indications, which Gallagher will review and put forward recommendations in a summary report.	
Diligence complete	2 weeks	Phase II: Underwriting
	Once selected, the primary insurer reviews all diligence reports, the data room and draft disclosure schedules before participating in a detailed underwriting call with the buyer's deal team and their advisors.	
Final transaction agreement	1 week	Phase III: Policy inception
	Following the underwriting call, the insurer will share a draft policy and follow up on diligence requests resulting from responses provided during the underwriting call.	
	Gallagher will coordinate follow-up responses, provide policy comments and negotiate any deal-specific exclusions or other coverage limitations arising from underwriting.	
	The policy should inception at transaction signing. Gallagher will work with the insurer and the insured to confirm satisfaction of all pre-close and post-close policy conditions (including delivery of premium, data room and closing set).	

Conclusion

RWI is a powerful tool that not only protects against unforeseen breaches in representations and warranties but also streamlines the deal process, reduces negotiation friction and enhances client satisfaction. With a competitive market, flexible policy terms and proven claims history, RWI is accessible for deals of all sizes today.

Despite its widespread use, RWI continues to see significant variations in pricing, coverage and availability. Using data-driven insights and technical expertise, Gallagher can help decide whether RWI is right for the deal and reduce the execution risk associated with the placement process.

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