



Gallagher

Insurance | Risk Management | Consulting

Warranty and Indemnity Insurance

Middle East and Africa

When selling a business, a vendor will typically provide warranties in favour of the purchaser which may relate to title to shares, company accounts, tax, customer contracts, compliance with laws and regulations, property, employees and other matters.

Warranty and Indemnity (W&I) Insurance is designed to cover the buyer or the seller for any loss they may suffer due to a breach of warranty or a call under a tax indemnity (**Breach**) under a sale and purchase agreement (**SPA**) for any unknown or unforeseen risk which was not identified through the underlying disclosure and due diligence process.

BENEFITS OF W&I INSURANCE

From a **buyer's** perspective, W&I Insurance can be utilised to:

- **Provide a second form of recourse:** As an independent instrument, the insurance provides a buyer with an alternative form of recourse in the event of a Breach.
- **Enhance a bid:** Allows a buyer to submit a more attractive offer in a competitive situation by reducing the level and/or duration of the seller's liability under the SPA.
- **Provide protection against Seller Fraud:** Fraudulent misrepresentations will typically be covered.
- **Reduced counterparty risk:** Extinguishes any concerns regarding the financial covenant of the seller.

From a **seller's** perspective, W&I Insurance can be utilised to:

- **Engineer a "clean exit":** A seller may be able to limit their contractual liability (for example to \$1) and any limitation periods under a SPA on the basis a buyer will have enhanced coverage through a buy side policy.
- **Eliminate the need for escrow arrangements:** A policy can be used as a substitute for any escrow arrangements providing a cleaner exit for a seller.
- **Safeguard sale proceeds:** A sell side policy may enable a seller to enjoy the sale proceeds without fear of a potential claw back due to unintentional or innocent breach.

POLICY SNAPSHOT

Typical deal size: \$5 million to \$1 billion+

Premium: 1% to 3.5%+* of the policy limit purchased

*Subject to the nature and jurisdiction of the Target, the counterparties, the level of insurance cover and excludes any taxes and/or legal fees payable

Policy Limit: This will be a commercial decision for the insured, typically:

Buy-side: 20% to 40% of enterprise value

Sell-side: the seller's liability under the SPA

INSURANCE PROCESS

Marketing Phase		
1 – 2 Days	Kick off Call	Initial discussion with Gallagher Team
	Submission	Once confidential barriers are in place, Gallagher team provides a submission to the transactional insurance market — which includes details of the proposed transaction, draft SPA, details about the Target and any insurance requirements
3 -5	Review	Insurers consider risk
	Non-binding indications (“NBI”) Report	On receipt of a full market response, Gallagher team will issue on a NBI report and will make a recommendation as to which insurer is best placed to underwrite the transaction
Underwriting Phase		
5 – 14	Underwriting process	The preferred insurer will review all due diligence, the contents of the online data room, written and/or verbal responses to any underwriting questions
	Policy negotiation	Concurrent with the underwriting process, the Gallagher team will work with the insured and it’s legal counsel to negotiate the broadest possible coverage under the policy
	Bind policy	Policy is put on risk on execution of the SPA

Gallagher M&A Team

Based in the heart of the DIFC and located across Middle East and Africa, we are well positioned to support clients locally and across the region. We have handpicked our M&A team, not just because of their technical knowledge and client focus, but also because they have well established relationships with insurers and reinsurers, and are able to offer unparalleled access to the local and regional markets.

As a specialist insurance M&A team is made of up highly qualified lawyers, tax specialists, investment bankers and ex-M&A underwriters, with extensive experience advising local and international private equity, corporates, sovereign wealth and family offices for the last 25 years.



Gallagher has been named one of the World's Most Ethical Companies* – a 13-time honoree.

If you have any questions or would like to explore how we can help you from an M&A Insurance perspective, then please contact one of our local M&A specialists:

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