



## Fact Sheet – Warranty & Indemnities

# Warranty & Indemnity Insurance

## Covering Shares & Property in M&A Transactions

- Covers the reps & warranties that a seller gives in relation to the target company.
- Gives buyers confidence that they are getting what they expect.
- “Covenant” of the seller may not be strong or, in the case of SPVs, non-existent.
- Gives sellers a clean exit
- Gives the buyer comfort, where:
  - Seller’s creditworthiness questionable
  - SPV or fund needs to be dissolved after closing
  - Public companies want to avoid reporting contingent liabilities or providing explanatory footnotes
  - Seller is the liquidator
- Indemnifies either buyer or seller
- In lieu of bank guarantees
  
- Risks covered are more focused than a full W&I policy
- Main risk types (also known as “fundamental warranties”):
  - Authority (of seller) to act
  - Capacity to act
  - Title warranties related to the real estate asset

	Non-Fundamental	Fundamental
Coverage	Tax, Accounts etc	Authority, Capacity, Title
Period	2 years, except taxes, usually 7 yrs	Up to 10 years
Limit	10-20% of deal value	Up to 100% of asset value
Price	70 – 125 bps	15 -70 bps

## Policy Features

- SPA attached or referenced
- Warranties by seller relating to authority, capacity and title
- Disclosures in data room are excluded (no defined risk) but can be covered under a separate Title Policy
- Deal team required to:
  - Confirm warranties are true and correct at closing; and
  - Provide a no-claims declaration
- Deductible applies
- Closing requirements
- Underwriting fee