



## M&A Advisory

# Reps & Warranties Insurance



Reps & Warranties Insurance facilitates transactions by transferring some or all of a Seller's indemnification obligations for breaches of reps and warranties to a third-party insurer, typically benefiting both Buyer and Seller. Policies can be placed on behalf of the Buyer or Seller, but policies are almost always purchased by the Buyer.

## Benefits Include

**Maximize ROI:** Reduce escrow and indemnity obligations.

**Enhance bid:** Reduced escrow and indemnity ceilings may enhance a bid.

**Collection assured:** The insurer will be available to backstop the reps made, while traditional seller dynamics may lack certainty of collection.

**Bridge the deal:** Whenever an impasse is reached over a desired amount of duration of escrow, or of indemnity ceiling.

**Protect ongoing relationship with management team:** Avoids potential friction with the roll-over management team in the event of a claim.

## Buy-Side Policy

- Buyer is the "Insured"
- Policy can be structured to provide enhanced coverage (i.e. limit, survival periods, inception at signing, etc.)
- Buyer's recourse for covered losses is directly against insurer(s) and not Seller
- Seller instigated Buyer Policies are very common, since they allow Seller to walk away with a clean exit
- Coverage for Seller(s) fraud is provided to the Insured (Insurer retains subrogation rights)

## Typical Coverage Matters

- Accuracy of the financial statements
- Employment and labor matters
- Compliance with laws
- Environmental matters
- Customer and vendor relations
- Intellectual property
- Contracts
- Title to real and personal property
- Tax matters

## General Policy Parameters

- Limits: ~10% of TEV
- Retention: ~1% of TEV
  - Retention is typically split between the buyer & seller and drops to .5% of the Purchase Price at 12 months after the Closing Date until the remainder of the policy term
- Premium: 2.5 - 3.0% of limits purchased
- Underwriting Fee: \$30,000 - \$40,000 non-refundable even if coverage is not bound

## Requested Underwriting Information

- To begin their review, underwriters will request the following:
- Most recent draft of the Transaction Agreement
- Offering Memorandum or Management Presentation, if available
- Target Company Financials

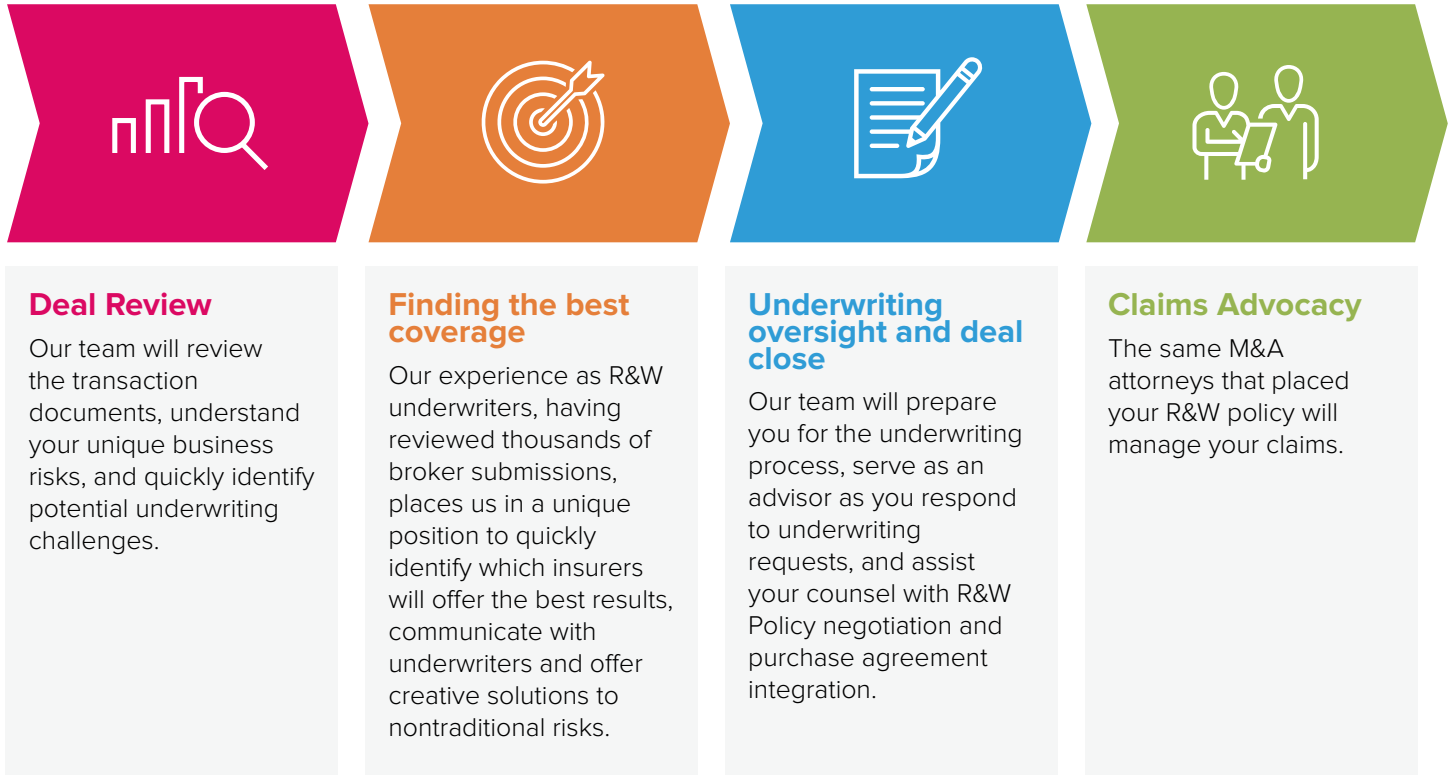
## Typical Process

- **Bid solicitation:** 2-4 business days
- **Broker review/recommendation:** 1-2 business days
- **Underwriter selection and fee incurred:** 1-2 business days
- **Underwriting process:** 5-6 business days
- **Finalize terms:** 2-3 business days
- Coverage bound at signing or closing



## M&A Advisory

### The ABD Placement Process



### The ABD Difference

#### Quality of Staff

- The team is led by former M&A attorneys with large law firm and in-house experience who can relate to your advisors, because they have been in that role.
- Our former M&A attorneys have also served as Transaction Risk underwriters at market leading R&W insurance providers, allowing us to identify the best insurers and potential underwriting issues in advance.

#### Lower Cost Basis

- Other brokers charge their clients a minimum fee equal to 75 bps of limits purchased, regardless of commission received. ABD does not charge this additional fee.

#### Seamless Due Diligence Offering

- Our professionals will review the ancillary insurance policies that impact the R&W placement and deliver their findings in a format that R&W underwriters will appreciate.
- This can be done whether or not ABD is the broker for these lines of coverage.

#### End-to-End Solution

- Unlike other brokers, the same team will review the initial information, negotiate with underwriters, present terms, and advocate on claims. The knowledge gained from leading every stage of the process is invaluable when a claim occurs. Responsibility is never handed off at any point of the process.