

# MERGERS & ACQUISITIONS PRACTICE

The Mergers & Acquisitions Practice is an experienced, dedicated team concentrating on assessing and insuring the risks and exposures arising from mergers, acquisitions and other corporate transactions.

Below we detail several case studies demonstrating our value to our clients in the transaction process.

## CASE STUDY 1: INSURANCE DUE DILIGENCE

### The Transaction

A private equity fund acquired a division from a U.K. domiciled parent company in the manufacturing and engineering design industry.

### The Issue

Group policies were in place which the target benefitted from. Premiums were paid by the parent and allocated between subsidiaries at the parent's discretion. During the diligence process, we discovered the target made a disproportionately low contribution to the group Professional Indemnity premium compared to their significant design exposure.

### Impact on the deal

It had been suggested in the financial due diligence that premium costs post completion would be unchanged, however the stand alone Professional Indemnity premium post completion was discovered to be a 250% increase on current allocation.

### Willis Value

We identified accurate post completion premium costs for our client that could be factored into the financial modelling.

## CASE STUDY 2: INSURANCE DUE DILIGENCE

### The transaction

A large Willis client in the food sector acquired a farm and processing company.

### The Issue

The target was to be integrated into the purchaser's group insurance programme. However we discovered the Target's Employers Liability policy had been placed with a deductible for the last three years which is unusual for this type of policy. This would leave the purchaser exposed at completion for all future deductible costs in respect of claims notified post-completion relating to the three year period.

### Impact on the Deal

The purchaser would have had a significant financial exposure for up to three years post-completion which had not been anticipated in the financial modelling. Willis were able to facilitate completion of the transaction by providing proposals to our client to transfer the risk to insurers at a one-off premium cost of £750,000.

### Willis Value

We had identified a significant financial exposure for our client pre-completion and provided a viable insurance solution to enable the transaction to complete.

## CASE STUDY 3: INSURANCE DUE DILIGENCE

### The Transaction

A private equity fund acquired a division from a large multi-national parent company in the food manufacturing sector.

### The Issue

In the transaction, the past liabilities of the target would transfer to the purchaser from completion. It was vital that the Sale and Purchase Agreement (SPA) allowed the purchaser appropriate recourse to the vendor's pre-completion insurance arrangements in respect of both incurred but not reported ('IBNR') claims and losses first notified prior to completion but which remained outstanding at completion. In this instance, the SPA denied the purchaser such access and imposed a time limit from completion in respect of IBNR claims.

### Impact on the Deal

It was crucial that the SPA gave the purchaser access to the vendor's pre-completion insurance arrangements. If the SPA had been left as initially drafted, it would have cost the purchaser approximately £500,000 to extend their insurances to cover the potential exposure.

### Willis Value

We successfully negotiated the amendments to the SPA with the legal team and prevented our client incurring significant premium costs.

## CASE STUDY 4: INSURANCE DUE DILIGENCE

### The Transaction

A private equity fund acquired a research, development and consultancy business in the oil and gas industry.

### The Issue

The business description included consultancy work which was carried out regularly and was a significant exposure to the business. However, the target did not purchase any Professional Indemnity cover.

### Impact on the Deal

A key area of the business was uninsured.

### Willis Value

We identified an uninsured exposure and provided costed proposals and recommendations to put an appropriate level of cover in place.

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# MERGERS & ACQUISITIONS PRODUCTS AND SERVICES

## INSURANCE DUE DILIGENCE

Our consultancy team specialises in Risk and Insurance due diligence and provides a suite of services to private equity, corporate clients and lender groups.

This includes an assessment of all insurance aspects which may impact on the M&A transaction, incorporating historical, current and future issues. Production of a succinct report detailing only aspects which will affect the transaction presented such as those:

- Issues to be addressed pre-completion
- Issues to be addressed within the 100 day plan
- Issues to be considered longer-term

Typical areas of focus include:

- Financial cost
- Current programme audit
- Programme recommendations post-completion
- Compliance with statutory insurance requirements
- Sale and purchase clause relating to insurance
- Assessment of insurability of deal-breaker issues

## TAX INSURANCE

Tax insurance has been developed in order to provide cover for the potential tax liability and the costs involved to defend a challenge by the tax authority. In the context of the transaction, policies of this nature have been used to unblock deals deadlocks and enable successful completion.

## WARRANTY AND INDEMNITY INSURANCE

Warranty insurance provides protection for losses which would fall within the scope of warranties in a share/asset purchase agreement. Cover can be arranged for a seller or buyer:

**Seller-side Policy** Designed to provide cover to a seller and responds to litigation made by a buyer. The policy includes defence and investigation costs.

**Buyer-side Policy** Structured to provide coverage for a buyer where they require an enhanced level of protection through insurance, typically because the recourse against the seller may be limited.

Willis will guide you on policy coverage and the creation of bespoke solutions.

## ENVIRONMENTAL INSURANCE

This is a specialist form of insurance providing cover against losses that could be incurred as a result of third party and regulatory action arising from pollution or contamination. It is increasingly used as an effective mechanism to transfer environmental liabilities associated with corporate and property transactions as well as ongoing operations.

Willis is a market leading broker in this field, ideally placed to provide innovative, robust and cost effective solutions.

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With over 300 offices in more than 100 countries, its global team of approximately 20,000 associates serves clients in some 180 countries. Additional information on Willis may be found on [www.willis.com](http://www.willis.com)

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