

# Transactional Risk Insurance

*Insurance capital solutions designed to remove obstacles to closing your corporate client's mergers and acquisition and private equity transactions.*

**T**ransactional risk is a fast-growing industry. In 2004, annual premiums for these products totaled approximately \$25 million. We offer three insurance programs that provide you and your clients with an additional tool to gain a competitive advantage.

## Representations & Warranties Insurance

To protect either a buyer or a seller from financial loss resulting from inaccuracies in the representations and/or breaches of the warranties made in connection with a transaction.

### Opportunities

- Parties to a transaction seeking to remove obstacles to the negotiating process
- Buyer is not able to secure seller indemnification, or the desired amount
- Buyer wants to enhance a bid in an auction scenario
- Seller needs to distribute the majority of the sales proceeds
- Seller needs sales proceeds to extinguish outstanding debt
- Seller wants to avoid a long-term indemnification obligation

### Cost

Cost is a function of three factors:

1. Premium. A one-time charge, typically ranging between 4% and 7% of the limit purchased.
2. Retention. Ranging between 1% and 3% of the transaction purchase price.
3. Underwriting fee. Ranges between \$10K and \$50K

### Timing

- Indications within 3 to 7 business days
- Bindable quotes within 3 to 4 weeks

## Tax Liability Insurance

Used by taxpayers to protect against tax liability (incl. interest, penalties and gross-up) assessed pursuant to an adverse IRS determination with regard to the Insured's tax position.

### Opportunities

- Tax-free reorganizations and mergers
- Stock purchase treated as an asset acquisition
- Like-kind exchanges
- Involuntary conversions of property
- Availability of Net Operating Losses following an acquisition

### Cost

1. Premium. A one-time charge, typically ranging between 5% and 9% of the limit purchased.
2. Retention. Ranging between 0% and 15% of the potential liability.
3. Underwriting fee. Ranges between \$15K and \$50K

### Timing

- Indications within 5 to 7 business days
- Bindable quotes within 3 to 4 weeks

Transactional Risk products are designed to use the capital of the insurance marketplace to facilitate more efficient corporate transactions. These products were developed to address those liabilities, both known and unknown, that arise during or result from, merger and acquisition activities or other corporate transactions. At S. H. Smith & Company, our professional liability experts are experienced in evaluating your clients' unique situations and providing unique and flexible solutions.

## Contingent Liability Insurance

A mitigation product that: (a) caps a known liability excess of existing insurance or negotiated attachment point; or (b) acts as a buy-out of a financial obligation.

### Types of litigation

The types of litigation that can be addressed include:

- Securities litigation
- Contract litigation
- Environmental litigation
- Product liability

### Cost

1. Premium. Dependent upon (a) type of litigation; (b) timing of transaction; (c) maturity of case; and (d) client's willingness to assume a portion of the risk.
2. Retention. Negotiated.
3. Underwriting fee. Ranges between \$25K and \$100K

### Timing

- Indications within 3 to 4 weeks
- Bindable quotes within 4 to 5 weeks



## S.H. SMITH & COMPANY, INC.

Offices in: Connecticut, Massachusetts, Minnesota, New York, Ohio, Florida

[www.shsmith.com](http://www.shsmith.com)

*Note: No charges are incurred simply for requesting an indication of pricing. Depending upon an organization's facts and circumstances, certain tax or accounting benefits may be associated with these products. Organizations should consult with their tax, accounting and legal advisors to determine whether such benefits would be applicable. Statements concerning legal matters should be understood to be general observations based solely on our experience as insurance brokers and risk consultants and should not be relied upon as legal advice, which we are not authorized to provide. All such matters should be reviewed by the client's own qualified legal advisors.*

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