# M&A INSURANCE
## Synthetic Insurance

**400m EV**
*Synthetic W&I*

**330m EV**
*Synthetic W&I*

**10m EV**
*Synthetic W&I*

## M&A INSURANCE EXPERTS

LIVA is a market-leading, M&A insurance broker with specialist knowledge and experience across various sectors. We draw on our experience of over 3,500 transactions for leading global advisors and investors, ensuring the best client outcome through unique, tailored and data-driven solutions.

LIVA is part of the Ecclesia Group, one of the largest European commercial insurance brokers with a network of specialists in over 170 countries, providing clients insurance solutions and local capabilities on every continent.

## SYNTHETIC INSURANCE

Those familiar with W&I insurance on M&A transactions will likely be aware of the increased conversations around synthetic W&I insurance. This is largely due to the anticipation of future demand for synthetic insurance on distressed M&A resulting from Covid-19.

For those not familiar with synthetic W&I insurance – it is a product where the suite of warranties and tax indemnity (if applicable) that would typically be given by a seller in an acquisition agreement are instead given 'synthetically' by (and negotiated with) the insurer and appended to the policy.

Synthetic W&I insurance can remove the need for the parties to negotiate the warranty pack amongst themselves, therefore saving time and money on legal fees. Synthetic W&I transfers the warranty negotiation process into the insurance workstream and completely removes the seller from the process.

## KEY POINTS

- **Insurers' Approach:** Our experience is that insurers approach synthetic policies in much the same way as conventional policies. With synthetic policies, insurers will place increased emphasis on risk selection. Deal dynamic is also an important factor – insurers will favour transactions where the target is solvent, and the management or seller(s) are engaged in the sales process and/or will take a role in the business post-completion. In such circumstances, insurers have greater confidence that the quality of information available to the insured and its retained advisers will be higher, and insureds can expect to obtain broad coverage provided diligence has been undertaken that is commensurate to the scope of the warranties for which coverage is sought.

- **DD and Q&A Requirements:** The cornerstone of traditional W&I insurance is the availability of due diligence and a well-populated VDR to enable the insurer to underwrite the transaction. In order for a warranty to be covered under the W&I insurance, the subject matter must be within the scope of a thorough due diligence exercise. With synthetic W&I insurance the principle is the same – the insurer will only give and provide cover for warranties that relate to areas that have been properly diligenced.

- **Disclosure:** The market differs on its approach to disclosure. Some insurers require the selling party to disclose against the synthetic warranties, however most do not require a disclosure process to be undertaken and instead rely on the thoroughness of the DD. The absence of disclosure is typically not a sticking point for insurers where there has been Q&A with management or outgoing sellers.

- **Pricing:** Pricing on synthetic W&I insurance is typically c.30% more expensive than normal W&I insurance but this can vary depending on: (i) the limit of insurance sought; (ii) the sector; and (iii) the jurisdiction. However, we note that if the risk profile of the transaction is benign and the limit sizeable, it is likely that there would be a minimal difference in terms of price.

## KEY CONTACTS

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