



Lowenstein Sandler's In the Know Series Video 10 – Dispelling Common Myths About Reps & Warranties Insurance (Part Two)

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Eric Jesse:

Hi, I'm Eric Jesse, partner in Lowenstein Sandler's Insurance Recovery Group, and welcome to "[In the Know](#)."

Last time, we addressed three common misconceptions about reps and warranties insurance. In today's video, we're going to dispel three more myths about these policies.

First, buyers are often concerned that their R&W policy holds less value due to a "laundry list" of exclusions. In fact, many policies contain only a few standard exclusions, such as breaches about which the deal team has actual knowledge. And while it is the deal-specific exclusions that concern buyers, they rarely amount to a laundry list.

R&W insurers, to varying degrees, tend to be upfront in their initial proposals about the matters they will or may exclude after further underwriting. Exclusions that are added are often a product of matters discovered during the buyer's diligence process, or as a result of failing to diligence a material aspect of the target. Sometimes insurers will narrow or even eliminate exclusions if the buyer can provide a persuasive reason to do so. But to achieve such results, it's important to select the right insurer to partner with, which brings us to our second myth.

And that myth is that it's okay to select an R&W insurer based on premium alone. Buyers should beware of taking this penny-wise, pound-foolish approach. Pricing is definitely relevant, but is far from the only important factor. An insurer's experience and reputation in the market can make a significant difference throughout the underwriting and claim process. Policyholders should examine the insurer's responsiveness, their ability to focus on key rather than irrelevant issues, and perhaps most importantly their reputation for handling and paying claims. These factors can offset a more expensive policy.

The third myth is that buyers might think that R&W insurance isn't for them because it's not the right type of deal, the right size of deal, or the right industry. But the number of underwriters and the growing reps and warranties insurance market has made it possible for buyers of all types to secure a policy. Policies can be placed for small deals in the low eight figures, or even the seven figures. Policyholders don't even have to be placed in a pure M&A deal either--they can be placed in real estate

transactions that have reps and warranties. And while there are certain industries, such as life sciences or health care, where many insurers do not have a risk appetite, the growing R&W insurance market still makes it likely that quotes can be obtained.

Thank you for joining us, and we look forward to seeing you next month on "[In the Know](#)."