Contingent

Contingent insurance covers specific issues identified in the due diligence process, which may crystallise and lead to financial loss in the future.

It can address a wide variety of risks including potential or on-going litigation or arbitration, appeals or challenges to awards, as well as regulatory or other contingent issues.

Each Contingent policy is tailored to transfer the identified liability to the insurer and ring-fence the issue.

Benefits

- Provides certainty by transforming potential or on-going exposures that neither party will accept financial responsibility for into a quantified insurance cost.
- Removes the need for an indemnity, escrow or price adjustment in a deal and resolves negotiation issues surrounding gravity and quantum of the exposure.
- Helps both corporate and fund structures, as well as investors, with the policy removing exposures to the balance sheet and protecting the valuation of the business and/or investment.

Areas Covered

- Litigation
- Intellectual property or employment disputes
- Indirect insurance claims
- Legal interpretation risk for appeals
- Accounting treatment
- Regulatory exposure

Costs & Policy

- The policy is a non-renewable, one-off cost that can be arranged either pre or post transaction
- They are multiyear policies in line with the exposures being addressed.
- Premiums are calculated on the issues and the likelihood of them crystallising, along with the relevant jurisdiction. They typically range between 4-10%.

"Contingent insurance can remove deal-blockers, allowing a transaction to close that otherwise may have fallen over"

CASE STUDY

A transaction was looking to close and negotiations were going smoothly until days before closing when the target received news of a potential insurance claim under its professional indemnity policy.

At this stage, it was not a notification under the policy, nor a claim, however the European corporate buyer was concerned that should this materialise into a claim and it was not covered under the professional indemnity insurance policy, it could have a material impact on the valuation of the target.

A Contingent insurance policy was arranged to provide protection for the buyer in the event that the circumstance developed into a claim and that claim was not covered under the target's existing professional indemnity insurance policy.