M&A Nugget: Representations And Warranties Insurance

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If you read a business purchase agreement carefully, you cannot help but notice that more pages are devoted to the seller's representations and warranties than any other topic. A substantial amount of time and costs are spent negotiating the representations and warranties. Sellers are left at risk for an indemnity claim, especially in deals in which part of the purchase price is held back, which is common. Buyers are somewhat at risk, as the ability to collect an indemnity claim against a seller is not guaranteed. To address all of this, a unique kind of insurance was developed several years ago and is in use with increased frequency. The insurance is known simply as Representations and Warranties Insurance (R & W Insurance), and protects the buyer or the seller from inaccuracies in or breaches of the seller's representations and warranties. The use of this insurance can allow the seller to avoid a purchase price holdback and the buyer to avoid having to collect an indemnity claim from the seller. There are many details that must be addressed with R & W Insurance, including the coverage limit, the deductible amount, the premium and the fact that certain representations and warranties will not be covered. R & W Insurance is typically used in transactions in the high-mid market to large market range. So, if your transaction falls within that range, consider exploring R & W Insurance.