

Financial Services Group

Claim or litigation buyout

Litigation can be expensive and time consuming, and the uncertainty of its outcome can cast a shadow over the present and future prospects of a business. Litigation buyout insurance can provide certainty and closure, especially in the context of a transaction where the allocation of risk is a key point of negotiation

Litigation buyout insurance covers the costs of a court judgment, or an approved settlement, and defence costs incurred in litigation up to an agreed limit. This insurance allows a degree of certainty and closure, so that a transaction, or strategic planning exercise can continue when previously hindered by an uncertain outcome.

Structure and coverage

The policy is bought by the party involved in the litigation after which the insurer ordinarily assumes the conduct of any litigation but the insured has a right of consultation in the course of the case, and has to agree to any settlement of the case. Public disclosure of the policy must be discussed with insurers on a case by case basis.

There is a self-insured excess up to an agreed limit. The limit usually reflects an assessment of a reasonably adverse outcome of the eventual claim likely to be awarded by the courts. This allows some headroom over the expected outcome of the case.

Where the liability is underinsured, this policy can sit in excess of the existing insurance.

Equally, if appropriate, the policy could supplement an indemnity given in a sale agreement to provide financial strength to that covenant or greater certainty to the party providing the indemnity as to the eventual liability.

Next Steps

Claim or litigation buyout insurance is always tailored to suit the specific circumstances faced. To discuss how this insurance could be used on a specific deal, or for more information, please get in touch with a member of the Aon team.

For more information,
please contact

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