

# How to Successfully Navigate a Warranty & Indemnity Claim

## FIVE TOP TIPS

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### I think I may have a claim. When should I notify?



If you become aware of an issue, contact Aon to discuss the next steps. Each matter will be fact specific but generally speaking:

- Third party claims should be notified as soon as possible
- For a first party loss, whilst it is prudent for a policyholder to put Insurers on notice, you may choose to liaise with Insurers first as to what information they are likely to need and provide further details thereafter (when available)

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### What should a notification include?



It is essential to notify the policy correctly and Aon has considerable experience in assisting policyholders with the drafting of claim notifications. Where possible, you may wish to involve the lawyers who acted for you in the sale/share transaction. The notification should include:

- Background information/timeline (i.e. when the matter was discovered and how)
- Detail of breach (i.e. which warranties the policyholder considers have been breached and how)
- Detail addressing knowledge, if applicable (e.g. warranties qualified by seller knowledge)
- A breakdown of loss (see "Quantum")
- Documentary evidence in support of the claim (where available)

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### Quantum



Generally, if a claim is covered, loss is determined by calculating the difference between:

- The fair market value of the target company with the warranty being true
- The fair market value of the target company with the warranty being false

Calculating loss is complex. In Aon's experience the appointment of forensic accountants, who will consider several methodologies to determine loss, can greatly assist in bringing a claim to a timely resolution.

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### What to expect



Your Insurers will provide initial comments on the notification. It is likely that they will request further information and documentation. Insurers may appoint a law firm to assist with their coverage investigation; this is common and no cause for alarm. Depending on complexity, although the process is quicker and more straight forward than pursuing the seller, assessment of the claim (including quantification of loss) can take time.

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### How can your Broker help?



Aon can assist at all stages of the claims process. We will:

- assist you with early consideration of whether there is a claim including, which warranties may have been breached in the SPA and how your policy might respond
- help draft the claim notification and put in place a claims strategy to suit your business needs
- represent your interests in all dialogues with the insurers
- provide you with helpful guidance in the investigation of losses

We aim to steer the process, drive confirmation of coverage and prompt settlement. Aon leverages market relationships to get the best for its clients.



**We provide you with the benefit of our specialist claims expertise, coupled with insight from the M&A placing team and our in-depth insurance market knowledge**

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## Key claims considerations



- Insurer selection (how long has the insurer been active in the market and do they have a claims paying track record)
- Broker relationships and services
- Choice of law and arbitration
- Policy retention level

## Claims trends



- Claims notifications are increasing throughout EMEA
- Most notifications occur within the first year, with 83%\* occurring within 18 months

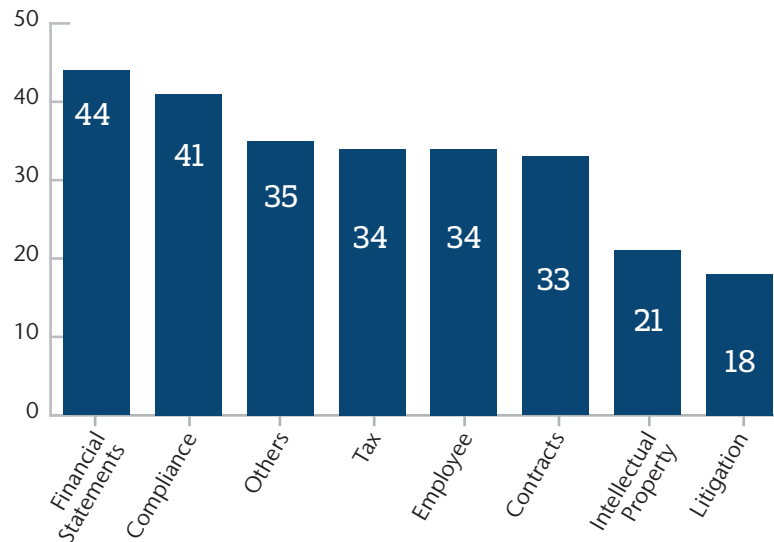
## Aon's claims capabilities



- Aon has a dedicated claims offering including two transaction liability specialists
- All claims handling and advocacy costs included in Aon's initial placement fee

Aon has been notified of **216 claims\*** on policies placed beginning in 2013 (13% of policies)

## Types of breaches\*



## About Us

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\*Source: Aon M&A and Transaction Solutions, United States