Grant Thornton
An instinct for growth™

A smarter way to get deals done

International Survey: Identifying international market practice for equity value adjustments and Sale and Purchase Agreements

November 2017

International respondent breakdown

UK
Located in: 42%
Transacting in: 45%

Western Europe (not UK)
Located in: 26%
Transacting in: 34%

Eastern Europe
Located in: 4%
Transacting in: 7%

North America
Located in: 8%
Transacting in: 15%

Middle East and Africa
Located in: 0%
Transacting in: 2%

APAC
Located in: 20%
Transacting in: 22%

Europe (n=404)	**APAC (n=115)**	**N. America (n=44)**
UK (237)	Australia (50)	USA (23)
Italy (37)	Japan (29)	Canada (21)
Germany (34)	China (19)	
Netherlands (29)	New Zealand (17)	
Ireland (26)		
Hungary (22)		
France (19)		

Total 563

Introduction

With significant values at stake, negotiating the completion mechanism and Sale and Purchase Agreement (SPA) can be the difference between a successful and unsuccessful transaction.

With the absence of definitive rules or standards for completion mechanisms, parties to a transaction often cite 'market practice' when negotiating how the initial offer price is converted into the final equity value paid for a business.

However, there has thus far been limited, publicly available data to determine what is meant by 'market practice'.

As part of helping shape a vibrant economy, we are leading the way to establish and improve market best practice in SPAs. In 2016, we authored the Best Practice Guideline: Completion Mechanisms Determining the Equity Value in Transactions, published by the Institute of Chartered Accountants in England and Wales (ICAEW) and we published a UK market survey 'A smarter way to get deals done'.

This year we expanded our research to identify market best practice around the world, obtaining the views of 563 respondents from over 400 different organisations in 13 countries.

We believe there is a smarter way to get deals done, where parties take closer starting positions on non-contentious areas and tackle contentious areas earlier in the deal process.

We hope that used together, the ICAEW Best Practice Guideline and our SPA market survey findings will empower principals and advisers to achieve smoother, more successful transactions.

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This report presents the key themes identified by our international survey respondents. The detailed results are available in the appendices.

Our key findings this year include:

- The usage of the locked box mechanism has increased in the past five years (some 64% of respondents reported a rise – 70% in Europe, 45% in APAC, 43% in North America) and as advisors become increasingly familiar with the mechanism, we anticipate it will become more popular.
- Negotiating the value accrual differs internationally, with the 'cash profits' method being most popular in Europe. 71% of respondents agree that some form of 'value accrual' or 'ticker' adjustment is appropriate to compensate the seller for the time between the locked box date and completion, but there is no observed consensus on the conceptual basis or appropriate method for calculating this adjustment. In North America and APAC there is sometimes no value accrual applied.
- The working capital target is the most hotly debated area of price adjustment and deferred income is the most contentious individual balance sheet item. North America and APAC respondents were more likely to consider deferred income a working capital item (roughly 40% of respondents, compared to under 30% in Europe) rather than debt.
- Earn-outs are being used in around 40% of deals. The percentage was lowest in North America with earn-outs only used on around 30% of deals, and highest in APAC where earn-outs are used on almost half of deals. 76% of respondents reported that 'Earnings Before Interest, Tax, Depreciation, and Amortisation' (EBITDA) is the most common measurement basis for earn-outs.
- Completion accounts mechanisms and earn-out clauses take the longest time to negotiate and are the most common areas of post-deal dispute, with 23% of completion accounts mechanisms resulting in a dispute (formal or otherwise).

Key themes

1. The locked box mechanism is becoming more popular. Uptake is slower in APAC and North America, but increasing.

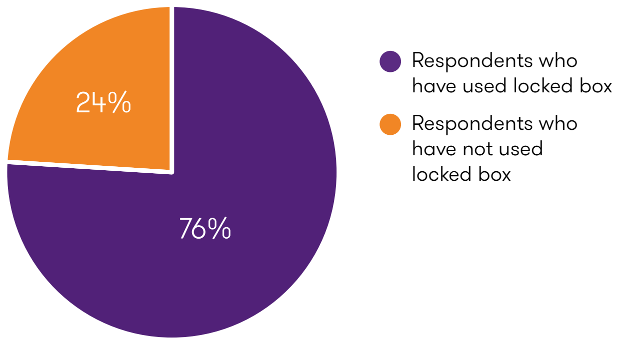
- Over three quarters of respondents used the locked box mechanism in the last 12 months.
  - It is most popular in Europe (83% used it at least once), and less popular, although growing in usage, in APAC (57%) and North America (39%).
  - The relative familiarity with the locked box mechanism is higher with private equity (PE) respondents, with 84% using the mechanism at least once in the last 12 months, compared to 53% of corporate respondents.
- On average, around 49% of transactions in Europe use the locked box mechanism.
  - The usage outside of Europe is generally lower (18% of transactions in APAC, 9% in North America).
  - 52% of PE and corporate finance respondents noted they used the mechanism in over half of their transactions.
- The usage of the locked box mechanism has increased in the past five years (some 64% of respondents reported a rise – 70% in Europe, 45% in APAC, 43% in North America).

Respondent's comment

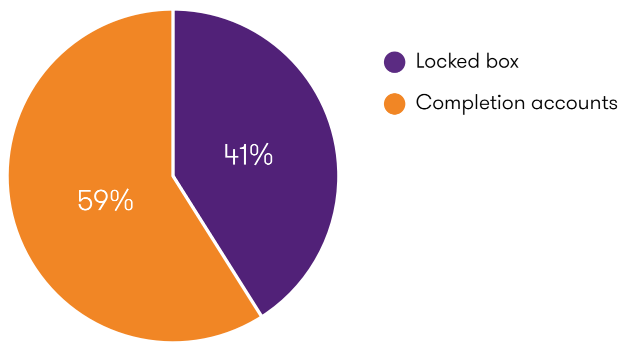
"They are absolutely the norm for PE sellers and buyers now, even routinely in the US. Now the more significant driver in the selection of completion mechanism is between trade/corporate parties and private equity parties, rather than geographical differences between Corporate Finance, Europe and US."

Corporate Finance, Europe

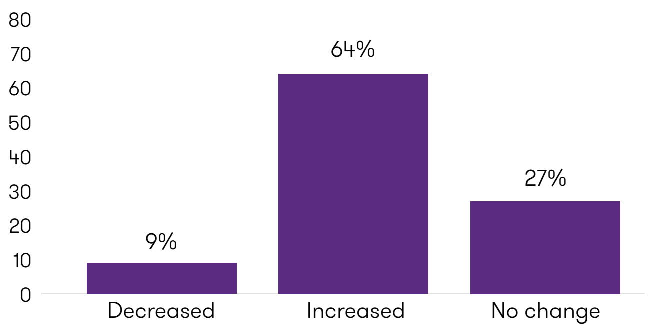
% of respondents who have used locked box in the last 12 months



Average % of transactions that used locked box



How have you seen the use of locked box on transactions change over the last five years?



Grant Thornton's insight

Theoretically, the choice of completion mechanism should not affect the final price paid for a business (the equity price). In practice, the result is likely to be different.

The advantages and disadvantages of each method depend on the specifics of the deal. The locked box mechanism is growing as an appropriate alternative to the more 'traditional' completion accounts. Frequently it is the preferred option, in particular on multi-bidder sale processes where final bids can be based on a known locked box position.

The most popular price adjustment mechanism remains completion accounts. The primary benefit is the opportunity to have a true-up post-deal to adjust the consideration (up or down) for the actual levels of working capital and net debt on completion. This is perceived to give the buyer some added protection by ensuring the equity price is based on the actual balance sheet it acquires.

In many instances, the completion accounts mechanism is the most appropriate mechanism, for example, on trade and asset deals. However, in some cases, parties require efficiency and clarity on an agreed position upfront for a deal to proceed. A locked box mechanism can be an attractive approach because:

- It allows the buyer and seller to fix the equity price at completion.
- The locked box balance sheet is agreed before signing the SPA.
- It avoids the need for completion accounts and reduces the incidence of disputes post-deal, which can be costly and distract from running the business.

Corporate respondents on average prefer the opportunity to true-up the price based on the exact position at completion, compared to the potentially quicker locked box method (only 36% of their deals used the locked box method).

Private equity respondents prefer the locked box approach mainly due to it delivering closure on the final price at completion.

The global increase in locked box usage could mean a greater volume of deals, as parties can be brought together using a locked box who might not agree under a completion mechanism.

The locked box mechanism may be less popular outside of Europe because of:

- A lack of familiarity with the mechanism leading deal-makers to choose the more familiar and well-understood completion accounts (also known as closing accounts) process.
- The use of earn-out incentives post-completion. Earn-out incentives do not align with the certainty and finality of the locked box mechanism. Deal-makers who would commonly use an earn-out incentive may be less inclined to use the locked box, although they can do.
- The volatility of financial markets over the past decade slowed the uptake of the locked box mechanism in North America and APAC. Locked boxes were a global phenomenon and were well established in the UK before the financial crisis. Although their usage decreased in 2008, the cultural familiarity remained. Locked boxes then quickly regained popularity with UK dealmakers when the market recovered.

2. Negotiating the value accrual differs internationally, with the 'cash profits' method being most popular in Europe, whilst in North America and APAC there is often no value accrual adjustment.

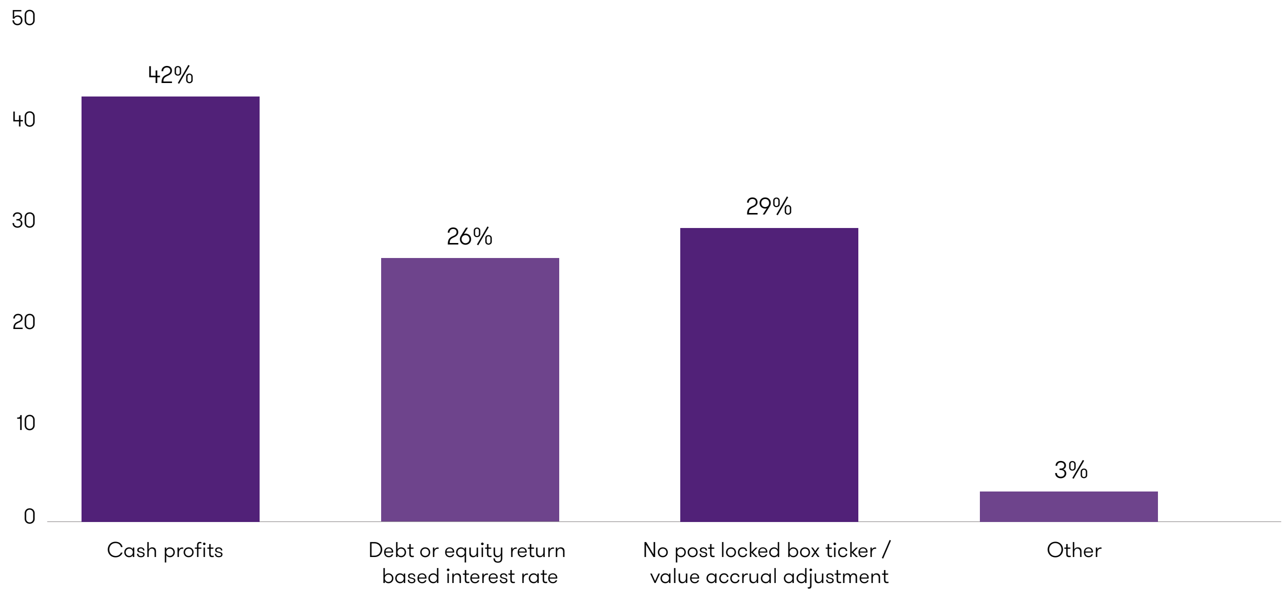
- 71% of respondents agree that some form of 'value accrual' or 'ticker' adjustment is appropriate to compensate the seller for the time lag between the locked box date and completion. There is no observed consensus on the conceptual basis or appropriate method for calculating this adjustment.
  - The use of a ticker is less common outside of Europe. 55% of APAC respondents and 42% of North American respondents noted they do not usually apply a post locked box value accrual.
- Of those respondents who used a value accrual, 59% noted the 'cash profits' basis was preferred, compared to other methods such as the debt based interest rate (17%) or equity based interest rate (20%).
  - APAC respondents were least likely to use an equity return-based interest rate (3% versus 16% in Europe and North America).

Respondent's comment

"I was surprised to see so many respondents included no value accrual at all. Even though cash profits may be regarded as highly seller friendly, most would at least expect to see some form of cost of capital adjustment."

Lawyer, Europe

Most common way of calculating seller compensation between locked box date and completion



Grant Thornton’s insight

Under a locked box mechanism, the economic risks and returns of the acquired business are effectively transferred to the buyer at the locked box date. However, the seller has capital invested in the target business until completion (when the legal title passes to the buyer and consideration is paid), and continues to run the business, potentially generating profits for the benefit of the buyer. Hence, the seller will typically seek compensation for this through a ‘value accrual’.

An estimate of expected cash profits for the period between the locked box date and completion is normally derived from a combination of actual results (usually covered by the management accounts warranty in the SPA), to the extent available and forecast results for the period.

The cash profits method is commonly based on earnings after tax and interest (excluding depreciation and amortisation) less, in some cases, capital expenditure.

This can be viewed as rolling forward the equity price at the locked box date to estimate what the equity price would be at completion, as a proxy for the completion accounts mechanism. However, as an approximation of the completion accounts it likely includes an element of projection. There is a risk for the buyer of over-paying (or indeed for the seller of under-selling) versus what the outcome would have been under completion accounts.

The cash profits basis may be considered seller friendly, but we would usually expect to see some form of seller compensation for the period from the locked box to completion.

Sellers typically prefer a higher equity-based return, and buyers typically prefer a lower debt-return-based rate or no return at all. Buyers and sellers can sometimes disagree on the interest rate, whilst using actual cash profits is less subjective.

Using a locked box date that is as close as possible to the completion date can alleviate debates on the value accrual (as well as reducing leakage risk for the buyer) as its impact is reduced.

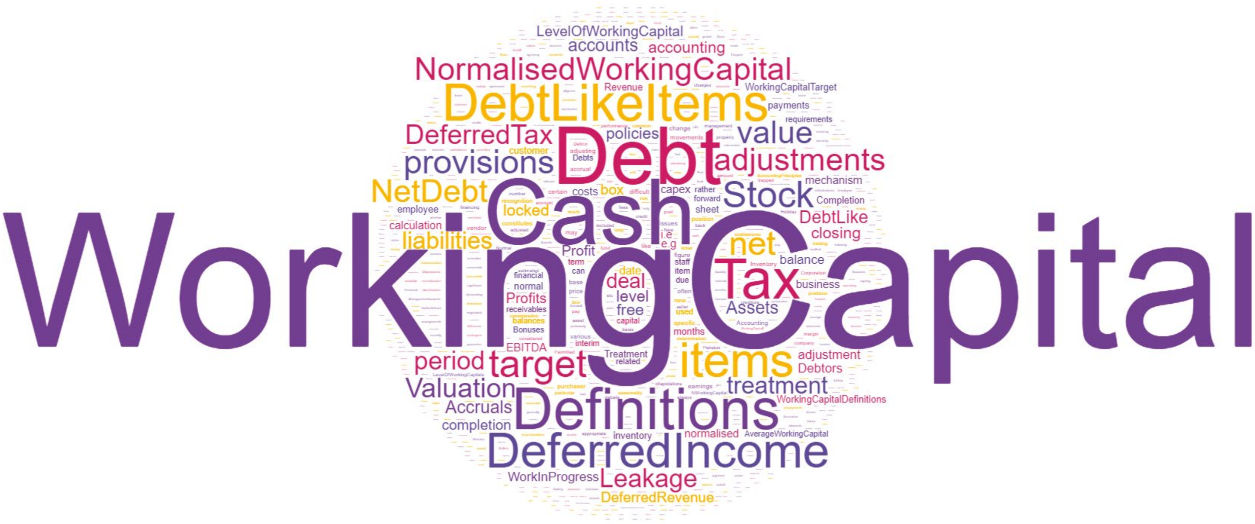
In the same way other enterprise value to equity price adjustments can be negotiated, traded and settled, the value accrual can form part of the overall deal negotiation and a ticker may perhaps be waived by a seller in favour of getting payment for an agreement on other contentious adjustments, particularly where the locked box period is relatively short and a ticker may be immaterial to the overall consideration.

The difference in usage worldwide may reflect the increased cultural familiarity with the value accrual/ticker concept and a greater awareness of the theory and mechanics of the locked box mechanism outside of the APAC region.

Negotiating the value accrual can have a significant impact on the equity price. Both parties should focus on the concept, and spend sufficient time and effort to understand the impact of their choice of method and its calculation on the price.

3. Defining the ‘working capital’ and ‘net debt’ equity price adjusters varies from deal to deal.

What are the most hotly debated or contentious value-adjusting items in the completion mechanism?



Grant Thornton’s insight

Working capital does not have a standard legal definition and is not defined in International Financial Reporting Standards (IFRS) or Generally Accepted Accounting Principles (GAAP) of many countries internationally. Parties to a deal typically start with an assumption that the working capital includes current operating assets (excluding cash) such as stock, trade debtors, and prepayments, less current operating liabilities (excluding loans and overdrafts) such as trade creditors, accruals, and payroll liabilities. The price is then adjusted to the extent that net working capital is higher or lower than ‘normal’.

There are often assets and liabilities that less clearly fall within working capital or net debt. The treatment of such items in the transaction price adjustments can have a significant impact on a deal’s equity price.

There are often multiple items on a deal where a buyer’s view of their treatment in the price adjustment mechanism may differ from the seller’s view. It is helpful for each party to be aware of all the contentious items, and the rationale for and against different treatments.

It is preferable to identify each party’s positions on contentious items early in the transaction process. Potentially do this as early as the offer stage (before exclusivity is granted), to avoid transactions falling through or causing unnecessary delay.

We encourage principals and their advisors to have open discussions to reach agreement, and ensure that one party is not disadvantaged by a lack of awareness.

3a. The working capital target typically averages the 'Last 12 Months', but not always.

- 63% of respondents reported that the 'Last 12 Months' (LTM) period before the completion date was the typical reference period for assessing the working capital target. However, 24% of respondents used some combination of historical and forecast results or an entirely forecast period to calculate the target.
- This result is relatively consistent worldwide:
  - 74% of North America respondents noted the LTM was used as the reference period in the majority of deals, with only 10% using a part-historical, part-forecast, and 0% using an entirely forecast period.
  - 55% of APAC respondents used the LTM, with 10% using the 'Last Six Months', 23% using a part historical part forecast, and 4% using an entirely forecast period.
  - 64% in Europe indicated LTM, 23% use part-historical part-forecast, whilst only 4% noted 'last six months' and 1% an entirely forecast period.

Respondents' comments

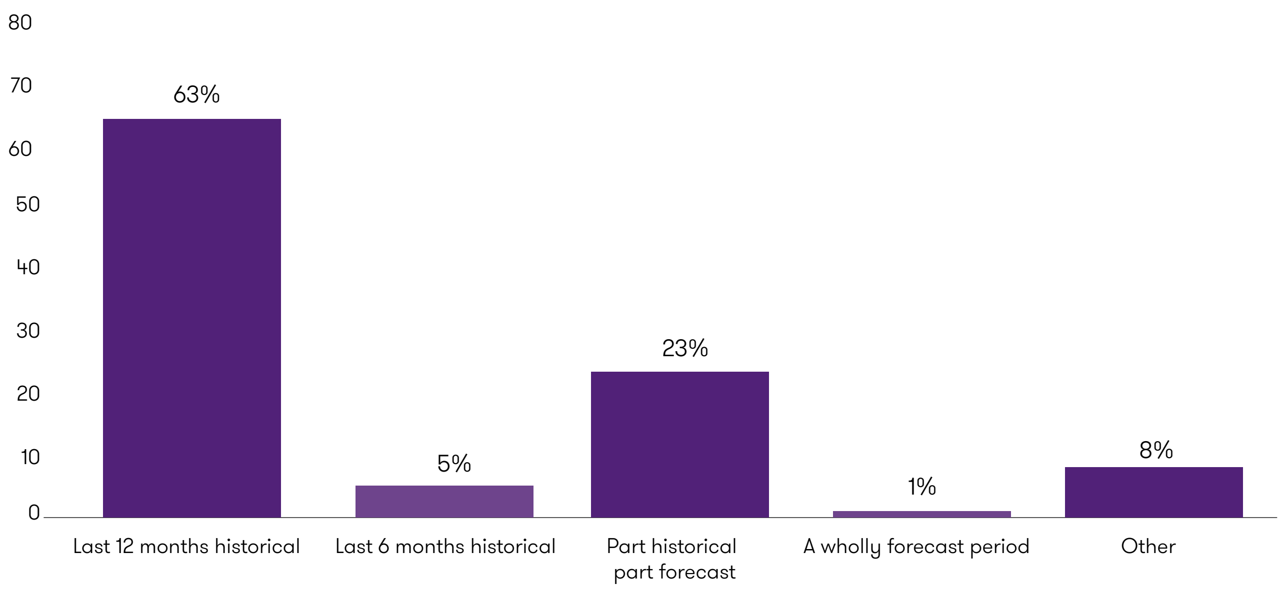
"The Last 12 Months is the normal metric. Commercially it is difficult to agree upon forecast working capital projections. We have considered shorter periods for fast-growing businesses, but LTM appears to be a market norm."

Corporate, Europe

"There are exceptions to the rule; in particular, the forecast is included in the case of significant growth."

Accounting, APAC

What reference period is typically used to calculate the working capital target?



Grant Thornton's insight

The calculation of a working capital target can cause a significant change in the equity price. Parties often struggle to reach agreement on what normal working capital really looks like, which can be a highly subjective area. Typically, working capital is measured over an extended period and an average is taken. This can remove the effects of seasonality and monthly fluctuations.

Where a business has a growing, positive working capital, buyers typically prefer a more recent or future working capital reference period. This is more likely to yield a higher target working capital to which the actual working capital delivered is compared, and result in a lower final equity value.

One methodology in selecting the reference period is to align the working capital reference period to the EBITDA period that underpins the enterprise value. This uses the rationale that the working capital target represents the requirements of the business at the level of earnings used for the headline price. For example, in a deal where the enterprise value is directly based on the growth potential of the business, it may be appropriate to include an element of forecast in the working capital target.

3b. Deferred income is the most contentious balance sheet item.

- 44% of all respondents said the treatment of deferred income depends on the nature of the deal, with 30% considering it to be working capital, and 26% debt-like.
- North America and APAC respondents were more likely to consider deferred income a working capital item (roughly 40% of respondents, compared to under 30% in Europe) rather than debt.

Respondents' comments

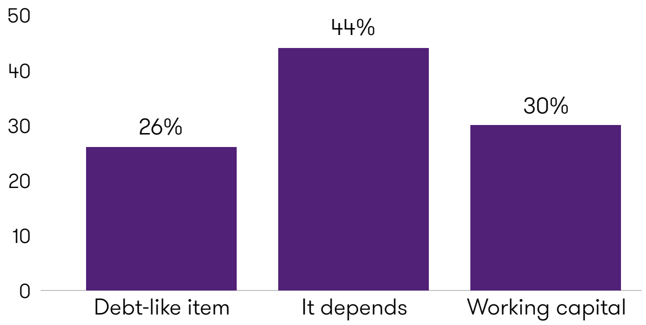
"In most cases, at least a proportion is debt-like if there are significant costs to service the income."

Corporate, Europe

"Anyone treating deferred income in a way to suit them only (either as debt or cash, in a way that didn't reflect the actual nature of the deferred income) would lose credibility in negotiations."

Private Equity, Europe

Is deferred income typically considered to be a debt-like item or working capital item for the purpose of an equity value adjustment?



Grant Thornton's insight

In general terms, deferred income represents a liability on the balance sheet for goods or services invoiced to the customer in advance of the obligation (such as a product or service) being delivered. The liability is released and income recognised once the performance obligations are met.

The treatment of deferred income is not straight forward. It must be considered on a deal-by-deal basis, taking into account the headline valuation basis for the business and the specific attributes of the deferred income. For example, how consistent and short-term the cycle is and the extent to which the buyer will incur costs post completion, whether it is increasing or decreasing in order to meet the associated performance obligations. It is however unusual for non-cash backed deferred income to be treated as debt.

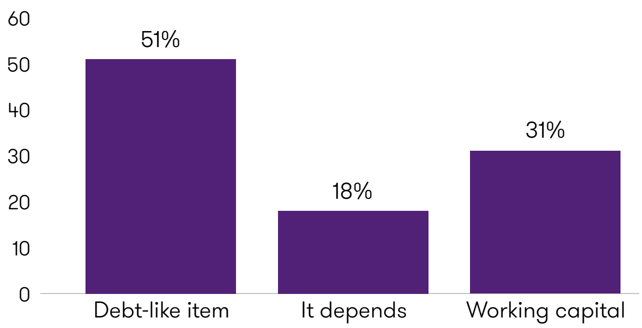
To avoid potential derailment of the deal at a later stage, we recommend the parties identify and agree upon the treatment of deferred income on deals where it exists as early as possible in the process.

3c. Invoice discounting and debt factoring can be a divisive area.

Invoice discounting and debt factoring is less hotly contested than deferred income, but can still be divisive.

- 18% of respondents said the treatment depends on the nature of the deal, with 51% considering it to be debt-like, and 31% working capital.
- Over half of North America respondents considered it working capital, whereas this was around 30% in APAC and Europe.
  - Accounting (24%) and private equity respondents (17%) were less likely to treat it as working capital.
- European respondents were more inclined to treat it as debt-like (54%) versus around 40% in APAC and North America.

Are invoice discounting/debt factoring typically a debt-like item or part of working capital?



Grant Thornton's insight

Invoice financing with recourse (i.e. the business still bears the risk if the debtor does not ultimately pay) is typically accounted for as a liability on the balance sheet. A facility without recourse usually results in a reduction to trade receivables (working capital) by the amount of cash received from the facility provider in advance of settlement by its customers.

In both cases the equity price will increase as the actual cash balance is inflated. This may then be offset by a debt-like liability in the case of financing with recourse. For non-recourse usually a buyer will view the reportedly lower working capital as not being representative of the true underlying working capital and will require a normalisation adjustment to reinstate the working capital as if the invoice financing were not in place, thereby offsetting the increased cash. The rationale for this is that the working capital is reduced presentationally only due to the business electing to finance its working capital with this type of facility and is therefore not representative of the actual credit terms with its customers.

Respondents' comments

"I see invoice discounting as unequivocally a debt-like item, as it represents a funding gap and has to be repaid – it is not simply a timing difference, but a liability to a third party debt provider, similar to an overdraft."

Lawyer, Europe

"(Invoice financing) is simply an adjustment to reduce trade debtors, and is, therefore, part of working capital. This may be seen as a fairly aggressive sell-side view, and we would expect it to be challenged by most buyers."

Private Equity, Europe

3d. Deferred tax assets can be a point of contention in a deal negotiation.

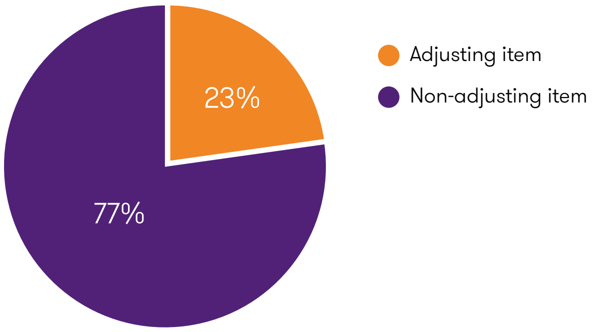
- 23% of respondents see deferred tax assets based on trading losses as an adjusting item.
  - This was lower in APAC (15%).
  - Corporate finance (32%) and private equity (29%) respondents were more likely to treat it as an adjusting item compared to accountancy (15%) and corporate respondents (15%).
- 20% of respondents see deferred tax assets based on capital allowances as an adjusting item.
  - This was lower in APAC (10%).
  - Corporate finance and private equity (27%) respondents were more likely to include a value for it in the equity price compared to accountancy and corporate respondents (16%).

Respondent's comment

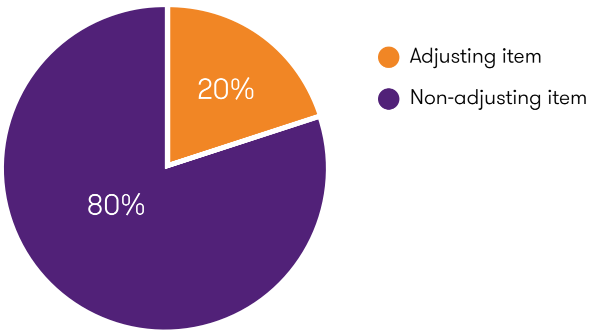
"Often deal teams can find themselves in silos, and the tax team's input can be limited to simply just providing or reviewing an effective tax percentage applied in management accounts or input on what is price adjusting or excluded. This can cause post-completion disputes over tax specifics, which can be difficult to quantify, as no specifics were considered at the time. The more the silo-approach is reduced, the fewer disputes there would be."

Corporate Finance, Europe

Average % of deals in which deferred tax assets based on losses is an adjusting item



Average % of deals in which deferred tax based on capital allowances is an adjusting item



Grant Thornton's insight

There is some consensus on certain tax items, for example, corporation tax is typically treated as a debt-like item and normal payroll and sales taxes are treated as part of working capital. Deferred tax assets or liabilities can still be a point of contention in deal negotiations.

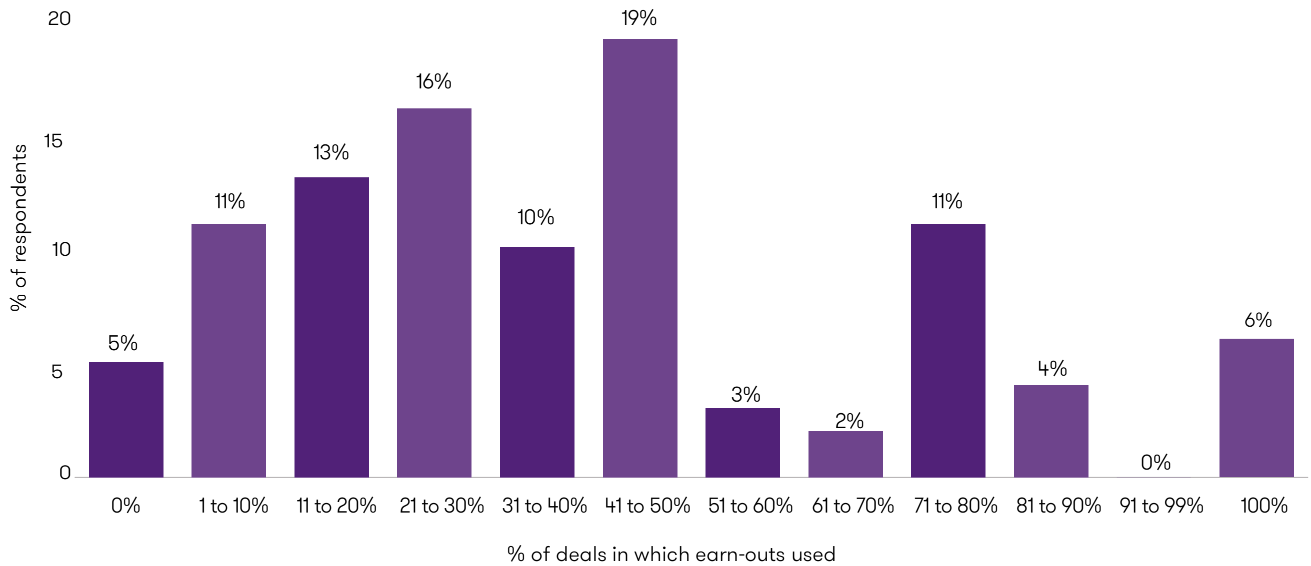
It is relatively rare for a buyer to initially offer value for deferred tax losses. A seller's starting position may often include at least some value for various deferred tax assets. Where value is given for any deferred tax losses, protection is typically put in place for the buyer in case they cannot use the tax losses in the way they had expected. The drafting is key to ensure it is entirely clear to which deferred tax assets, if any value is being attributed.

Where value is given, this is sometimes only in the future, when the benefit (i.e. the cash inflow) is received or it may be discounted to take into account the uncertainty and timing.

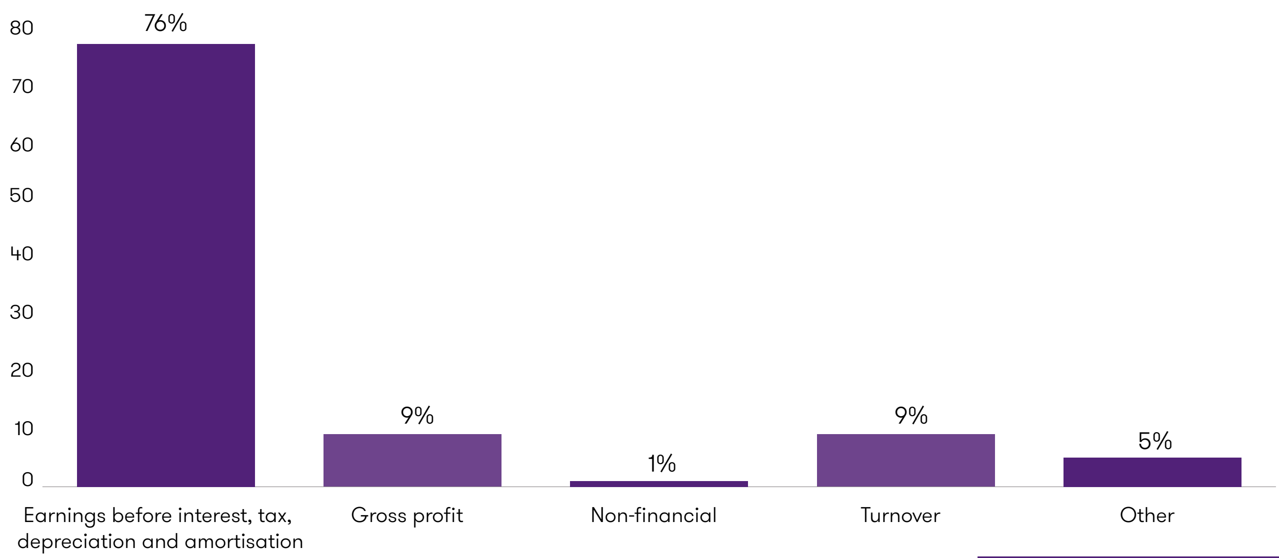
4. Earn-out clauses are commonly used.

- Earn-outs are used in around 40% of deals. North America has the lowest percentage with respondents noting earn-outs were only used on around 30% of deals. They were highest in APAC where earn-outs are used on almost half of deals.
- Earn-out clauses take the longest to negotiate pre-deal in all regions.
  - 60% of lawyer respondents noted that earn-out clauses took the longest to negotiate.
- 50% of respondents stated that more time is spent negotiating earn-out clauses than any other item in the SPA.
- 76% of respondents reported that EBITDA is the most common measurement basis.
  - 84% of accountants noted that EBITDA was the most common measurement basis. Corporate respondents were more inclined than others to note turnover as the most common basis (15% of respondents versus 9% average across all respondents).
- Earn-outs are more popular with corporate buyers and sellers than private equity respondents, being used in 55% of deals and 36% of deals respectively. 14% of private equity respondents noted they use earn-outs in 0% of their deals, versus an average of under 3% of other respondents.

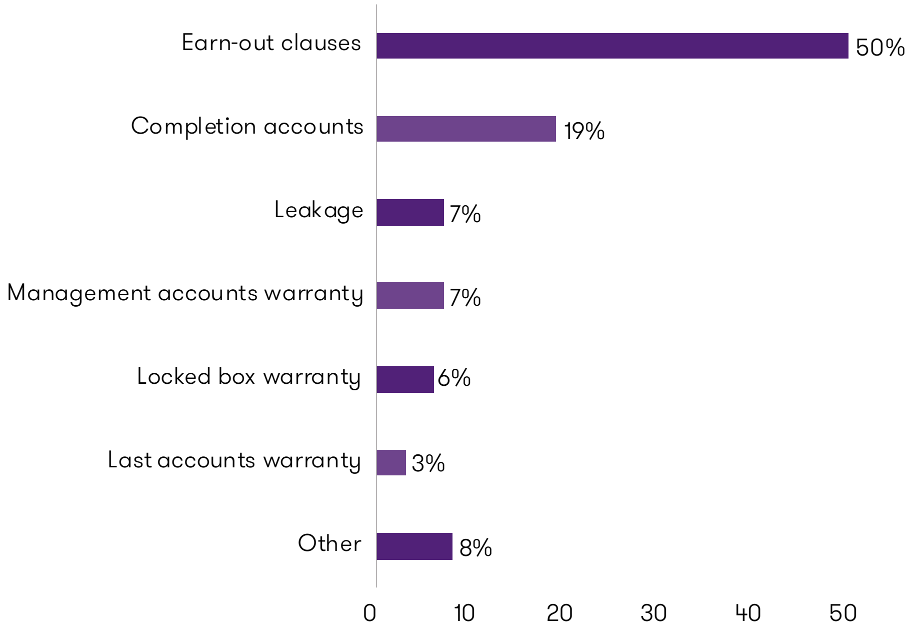
% of deals in which earn-outs used



What is the most common measurement basis for earn-outs?



When drafting SPAs, which items take the longest to negotiate ?



Respondents' comments

"A further benefit of using earn-outs is that they defer an element of consideration and thus form part of our risk management on deals, if there is any dispute post-completion, we can offset this against money in escrow for earn-outs."

Corporate, North America

"Earn-out disputes can be avoided through careful drafting and considering the context of the business's future post-completion. If the earn-out is intended to allow both the buyer and seller to share in the further growth of the business, it should not lead to dispute. Earn-outs can be an effective way to reward the seller for selling and allowing growth, and the buyer because the business has grown since their acquisition. If the earn-out clauses incentivise sellers to help with succession, earn-out disputes can be more effectively avoided."

Lawyer, APAC

"As a general rule, I expect profits in year one, after completion, to be 80% of the profits in the year to completion (prior to a much improved up-tick). This is because year one should all be about investment improvements. As such – any earn-out period should probably be based on three years. If it's one year, you won't hit targets and shouldn't be trying to. If it's more than three years, you can't predict it. Three years is great."

Corporate, Europe

"I always remember to keep any earn-out provisions firmly grounded in reality. It is risky when the business is changing significantly post-completion, as more change equals more chance of a dispute. They work in a relatively predictable business, but these aren't always the case"

Lawyer, Europe

Grant Thornton's insight

When used properly, earn-outs do more than simply provide the parties with an additional opportunity to true-up and validate the headline price post-deal. Earn-out clauses are particularly useful when:

- The buyers are acquiring a business in a new market or industry.
- Where retaining the expertise of and incentivising existing management is beneficial to ensure the future success of the business.
- When bridging a value perception gap between the parties.

This reduces the risk for the buyer, and provides opportunities to the seller to benefit from outperformance.

EBITDA is a familiar measure for deal-makers, as the enterprise value is often based on an industry multiple applied to EBITDA. The earn-out period EBITDA is usually calculated as operating profits before interest, tax, depreciation and amortisation of the business (as determined in accordance with GAAP) but applied and calculated in a manner consistent with the reference accounts. This EBITDA figure would then be adjusted for specific items as determined by the parties in the drafting of the SPA.

Given the prevalence of earn-outs, it is well worth spending the extra time thinking through the implications of an earn-out at an early stage in the SPA drafting. Are the conditions attached to the earn-out clauses clear, measurable and fair? If the targets are unreasonable, this may damage a future working relationship with the seller from the outset, or present a cause for future disputes. Usually, it will be in both parties' interests that the business meets its targets and the earn-out is achievable.

Frequently earn-out clauses are given the most attention in the SPA, and with good reason. It is often hard to predict all the changes a business will undergo following a deal and the factors impacting its performance. Buyers may expect the acquired business to benefit from synergies and their plans to change the target business. It can sometimes be difficult to fairly attribute any performance improvements between the pre-existing business and the buyer's initiatives. If earn-out targets and associated clauses in the SPA are not drafted carefully, this can increase the risk of disputes.

As noted above, there is an increasing prevalence of earn-outs, which naturally leads to an increased number of disputes. If the results of the business during the earn-out period are close to the top or bottom of the earn-out threshold, it is likely to lead to close scrutiny of the earn-out clauses to ensure compliance.

Earn-out provisions should be sufficiently detailed, avoid ambiguity, and take account of known and anticipated changes to the business during the earn-out period. Integration post-deal with other businesses or entities in the buyer's group or changes to systems and personnel can make performance more difficult to measure, and lead to disputes.

5. Completion accounts and earn-outs are the most disputed areas of SPAs.

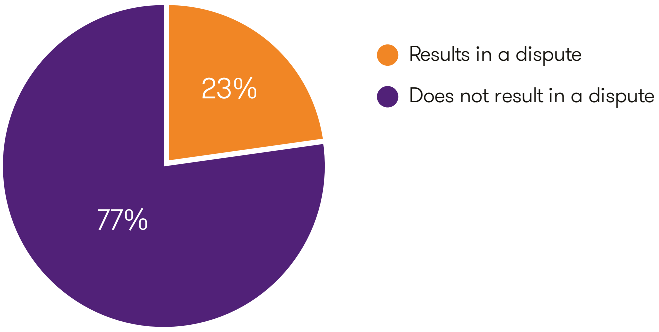
- Completion accounts and earn-outs are the most common areas of a post-deal dispute or claim across regions.
- 23% of completion accounts mechanisms result in a dispute (formal or otherwise). The percentage is lowest in North America where respondents stated that 15% of completion accounts mechanisms resulted in a dispute.
- Misrepresentation is the other significant cause of disputes.
- 5% of disputed completion accounts mechanisms require an expert determination to resolve outstanding differences between the buyers and sellers.

The most contentious financial areas of SPAs are completion accounts mechanisms and earn-out clauses. This is demonstrated by results showing that these areas take the longest amount of time to negotiate and are the most common areas of post-deal dispute. Although, with respondents citing that only 5% of disputed completion accounts mechanisms result in an expert determination, this implies the vast majority of completion accounts disputes are agreed between the parties without the need for a formal process.

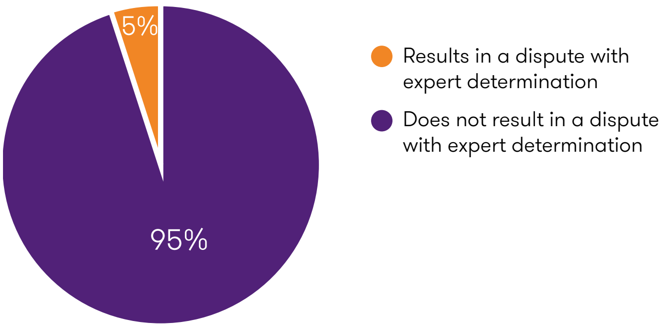
Misrepresentation (by the sellers), was named the most common area of dispute by 17% of respondents. The distinction between a warranty and a representation can sometimes be misunderstood. A warranty is a term of the contract itself. A representation is generally a statement of fact (or an opinion) given by one party to another before the SPA is entered into. If a buyer enters into the contract in reliance on the representation of the seller and the seller's representation turns out to be incorrect, the buyer may bring a claim for misrepresentation and the SPA may be rescinded. If the SPA is rescinded the parties are put back into the position that they were in before the SPA was entered into (though monetary damages are more usual).

Most disputed areas of SPA post-deal

Average % completion accounts mechanisms resulting in a dispute (formal or otherwise)

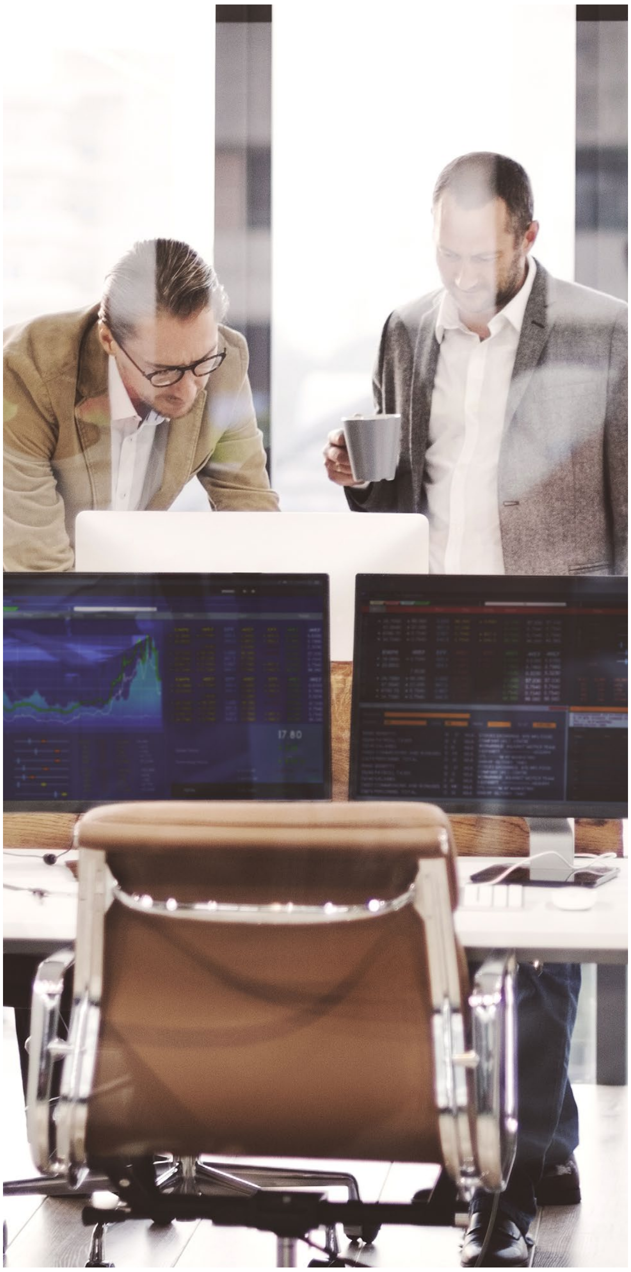


Average % disputed completion accounts mechanisms resulting in a formal dispute with expert determination



Grant Thornton's insight

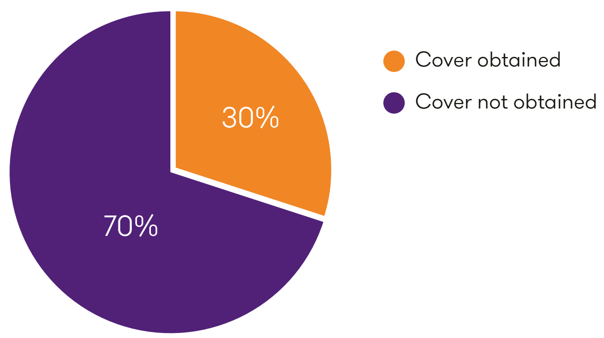
The likelihood of completion accounts and earn-out disputes can be reduced by identifying potentially contentious areas of accounting up front. Contentious areas include management judgement and enshrining the required treatment in the SPA, and ensuring the provisions accurately reflect the commercial intentions of the parties and ambiguity in drafting is avoided.



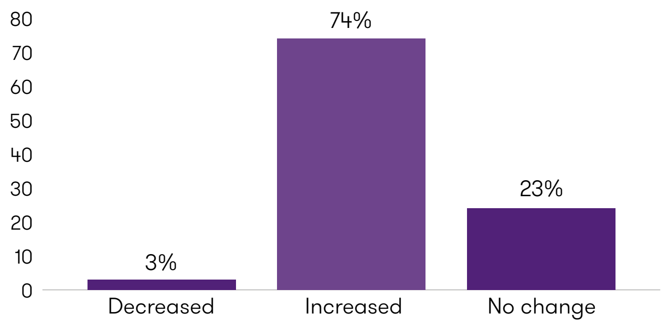
6. Warranty & Indemnity (W&I) insurance is increasingly popular across all regions.

- The majority of respondents (74%) reported an increase in the usage of W&I insurance within the last five years in the following regions.
  - 86% in North America
  - 72% in Europe
  - 77% in APAC
- 30% of deals include some level of W&I insurance cover being obtained. Our survey noted this was highest in North America (36%) versus 28% in APAC and 30% in Europe.
- Insurance costs are typically between 1-2% of the total consideration (69% of respondents), with 11% of respondents reporting premiums under 1%.
- Accountants, private equity or corporate finance advisors see W&I insurance cover taken out in about 40% of transactions. It is less commonly observed by lawyers and corporate respondents who reported that around 25% of transactions have W&I cover.

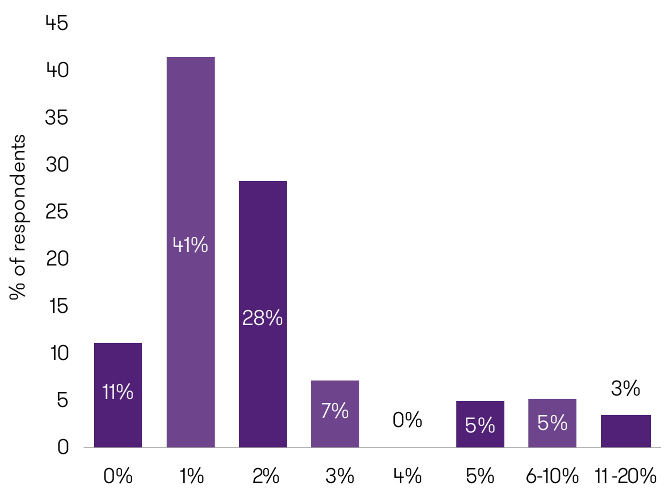
Average % of deals in which W&I insurance cover is obtained



How usage of warranty and indemnity insurance cover has changed over the last five years



Cost of W&I insurance as a % of the deal



Grant Thornton's insight

W&I insurance can be an attractive option for both sellers and buyers. In the event of a warranty claim, the insurer manages the defence and/or settlement of the claim, reducing the administrative burden and potential cash outflow for the seller. The seller avoids a situation where they find sale proceeds held in escrow accounts and claims reducing the consideration of the deal. Buyers gain additional comfort over the warranties and indemnities being provided during the transaction, knowing they have protection in the event a seller is unwilling to, or unable to, settle a warranty claim. It can also help to preserve the ongoing relations between buyer and seller.

The falling premiums and increased level of cover increase the attractiveness of W&I insurance to both parties. Typically unknown risk W&I insurance premiums are around 0.5%-1.5% of the deal value, with increased premiums usually where the insurance covers a wider category of risks or known risks. Our UK respondents observed a significant capacity in the market, with around 30 underwriters (compared to 3-4 some years ago).

The increasing preference for clarity, efficiency and speed in M&A transactions, is demonstrated internationally through the desire for W&I insurance. This preference is due to the possibility of removing lengthy negotiations of warranties, caps and coverage which is deferred to insurance providers.

W&I insurance is not a substitute for due diligence/disclosure processes, and in most cases, risks identified through these processes will be excluded from standard W&I insurance policies. Other exclusions are likely to include warranties covering future events, underfunding of defined-benefit pension funds, fraud by the seller, completion mechanisms and some tax matters.

Some jurisdictions (e.g. China) may be less favourable for insurers to underwrite W&I policies. Further, there are differences between sectors, where obtaining W&I insurance may be less straightforward – typically parties to deals involving industries with greater levels of intangible assets. Assets such as valuable intellectual property, are less likely to obtain W&I cover due to the subjective nature of the value which can be influenced by alternative accounting treatments. In general, however, insurers are offering increasing flexibility around W&I insurance cover.

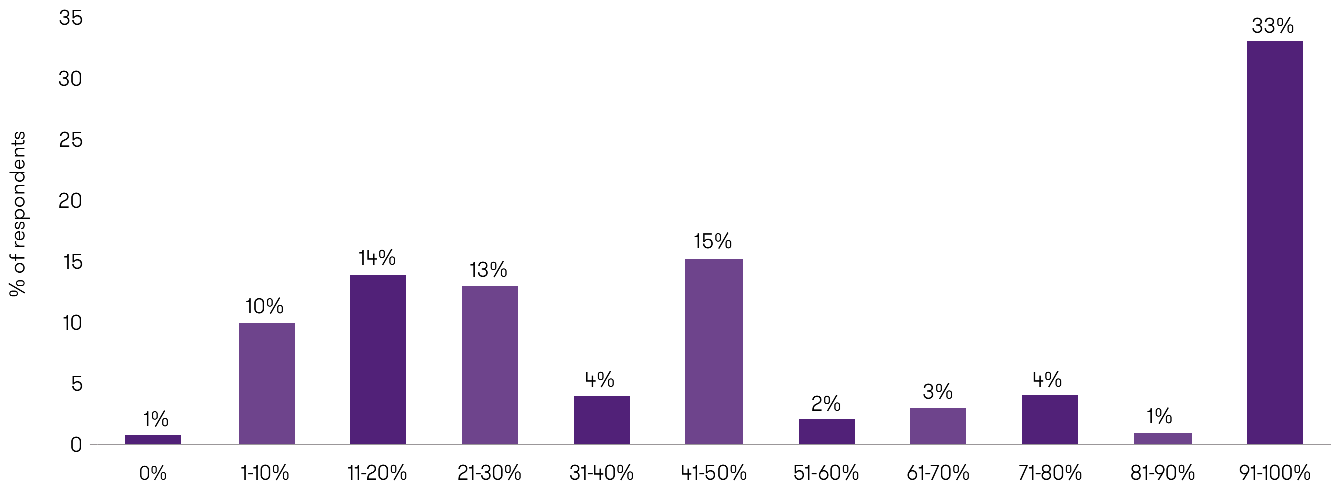
Respondent's comment

"Only a few claims have actually been made to date – so it is difficult to quantify how effective W&I insurance is. There is a lot of evidence about lower premiums and increased usage, but a lot less about the recoveries made under W&I insurance. In particular, US insurers are selling it to deal specialists as if coverage is perfect, and any claim would be covered – but we do not know what pay-outs are actually being provided. It's quite possible insurers will find ways to avoid paying out (as they do with other types of insurance)."

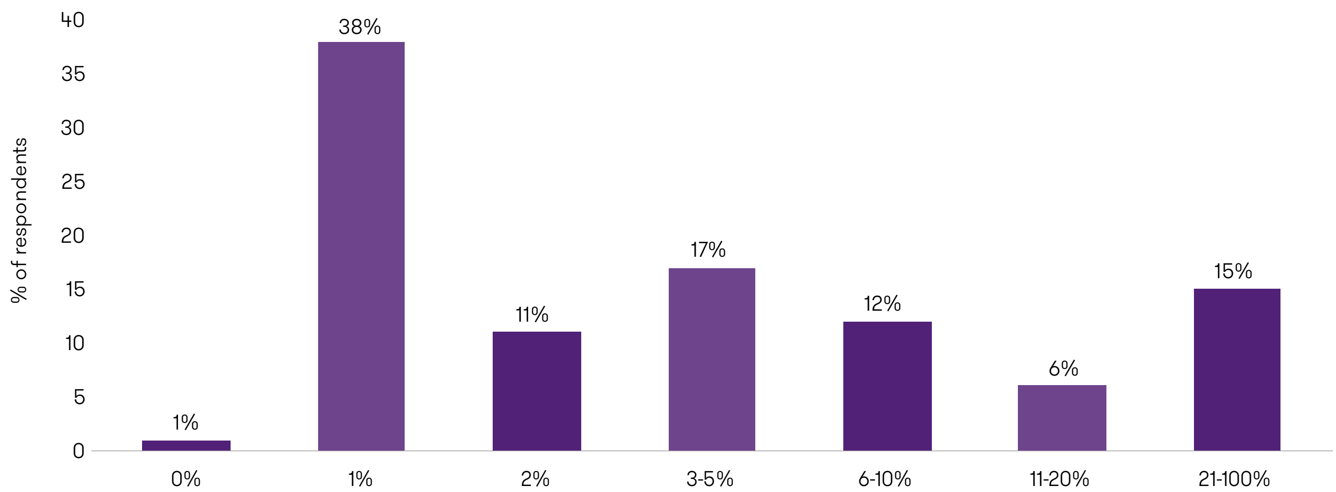
Lawyer, Europe

7. Warranty caps and thresholds are decreasing as a percentage of consideration, with 14% of deals resulting in a warranty claim.

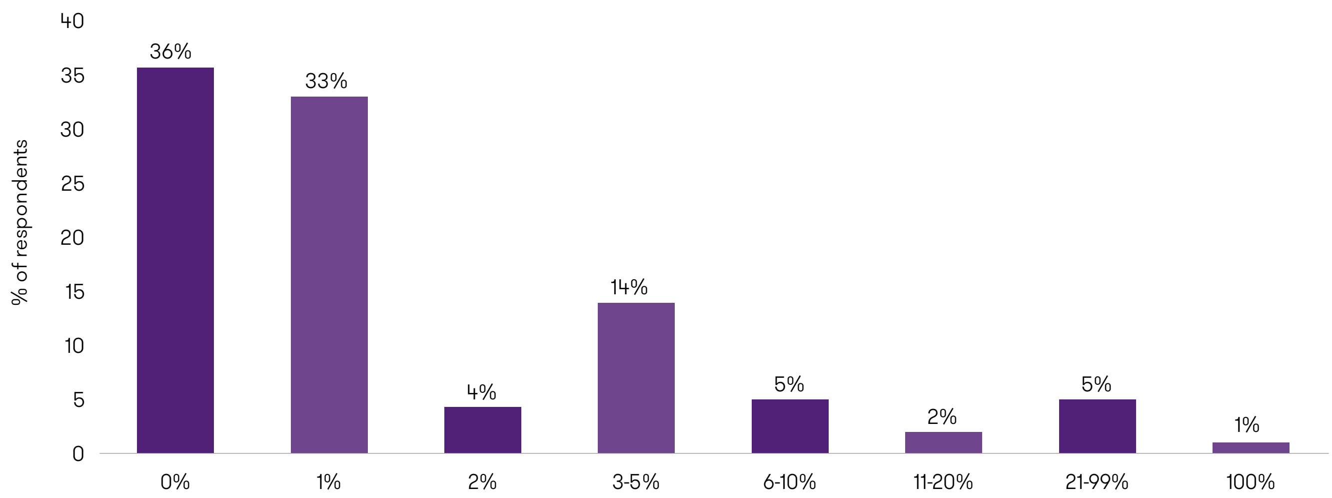
- 33% of respondents stated warranty caps of 91-100% as the most typical percentage of consideration. The average warranty cap based on all respondents' selections is around 55%, although this falls to around 30% in North America.
- 38% of respondents stated aggregate/basket thresholds are based on 1% of consideration, with 85% of respondents stating that the threshold was 20% or less.
- Typically, the de minimis threshold in warranty claims is less than 2% of the deal (69% of respondents).
- Our respondents see on average 14% of SPAs concluding in warranty or indemnity claims, with 52% of respondents stating that between 1% and 10% of SPAs result in a warranty or indemnity claim.



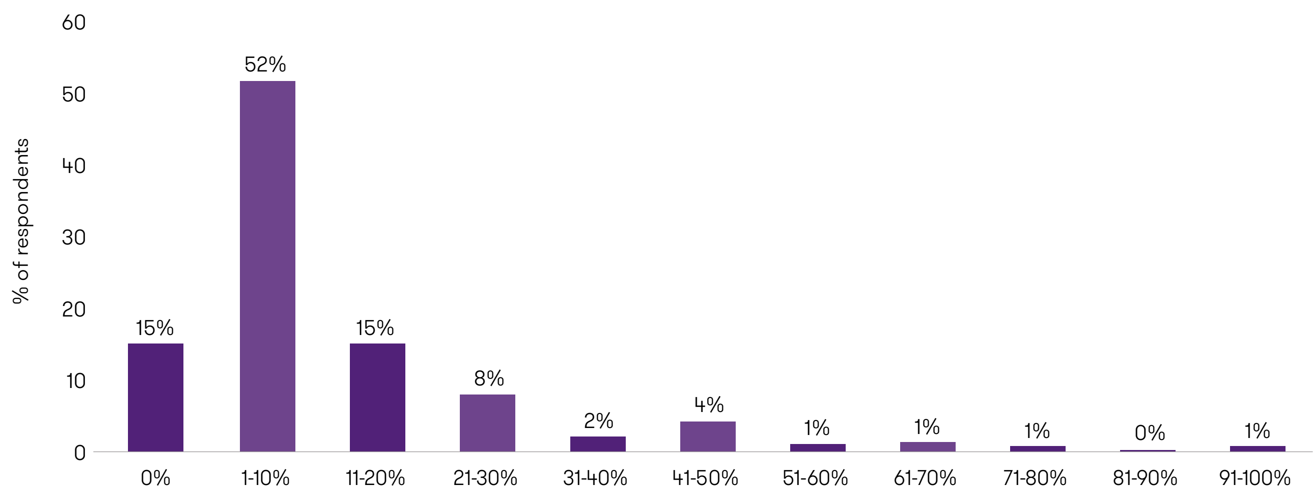
% of consideration on which overall warranty caps based



% of consideration on which overall basket/threshold caps based



% of consideration on which de minimis thresholds based



% of deals resulting in a warranty or indemnity claim

Grant Thornton's insight

Financial warranty caps on warranty claims usually comprise:

- An overall financial cap which is the maximum aggregate amount payable due to breaches of warranties.
- 'De minimis' amount below which breaches will not be considered.
- An aggregate (or 'basket') threshold over which the aggregate losses of all breaches must exceed in order for the buyer to be entitled to compensation.

Traditionally warranty caps at 100% of the deal value were the norm, and 33% of respondents still noted the warranty cap was at least 90%. However, it is now more common to see a warranty cap of 50% (as 15% of respondents noted), or as low as 10% to 30% of the deal value (as 37% of respondents noted).

Although post-completion disputes can be lengthy, distracting and costly, respondents said warranty and indemnity claims are made on 14% of deals. Disputes may be avoided through identification of value-adjusting items and smarter negotiation pre-deal, and clear SPA drafting.

Management accounts and last accounts warranties are often not given the attention they deserve, particularly given the variety of pro-forma warranties used and recent changes in accounting standards.

The reduction from the traditionally used 100% warranty cap could be due to a number of reasons:

- The increasing use of W&I insurance (with insurance covering the risk above the capped level).
- Auction processes allowing sellers to force buyers to accept lower caps.
- Private equity buyers or sellers accepting and insisting on lower caps based on the rarity of claims exceeding 50% of the price (the average warranty cap for PE respondents was approximately 50%, 5% lower than the average amongst all participants).

Parties should consider the interaction of the warranty caps in their deals with the W&I insurance cover, to ensure there are no unintended gaps in coverage, and that de minimis and basket thresholds are appropriate in the context of each party's risk appetite.

The increasing prevalence of warranty and indemnity claims may be impacted by the increased use of the locked box mechanism, as there is no other recourse available to the buyer post completion, the increased use of W&I insurance as insurers become responsible for the settling of any claims and the increasing sophistication in the drafting and preparation of SPAs.

Respondents' comments

"I am seeing more £1 liability caps on deals, particularly on any deal with an auction process, with W&I insurance covering any amounts over this cap. However, along with the increase in insurance usage, there is more rigour on the disclosure process."

Corporate Finance, Europe

"Certain matters tend to be excluded from the threshold cap, such as fraud – which many might consider to be the biggest risk and as such, it might not be worth getting more than 30% coverage anyway."

Lawyer, Europe

Conclusion: A roadmap for smarter SPAs

In a time of ever-increasing internationalisation in mergers and acquisitions, understanding the differences in regional market practice is crucial.

Whilst this report highlights regional differences, the underlying principles of how to arrive at the final equity value and reflect this in the SPA are, in fact, relatively consistent.

We hope that taken together with the ICAEW Best Practice Guideline on completion mechanisms, this international survey report will help principals and advisers to achieve smoother and successful transactions.

About Grant Thornton's international research

This report is based on responses to an online survey carried out by consultancy Meridian West, on behalf of Grant Thornton. 563 respondents from 400 different organisations in 13 countries shared their views about SPAs. These respondents represent a broad cohort of market experts, who collectively have worked on many thousands of deals.

Following completion of the online survey, Grant Thornton UK LLP convened a series of roundtable and one-to-one discussions with respondents to debate and analyse the preliminary research findings and to help define what constitutes market practice. Insights and observations from those discussions are also included in this report.

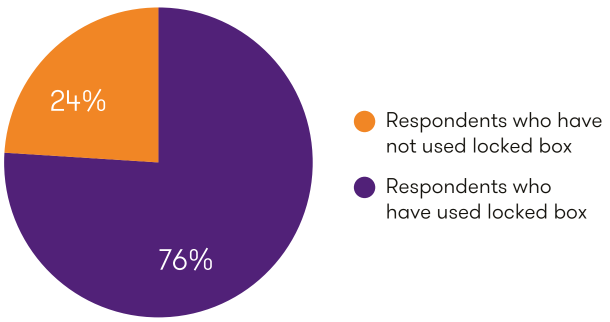
Grant Thornton would like to thank all the contributors to our research for their time and insights, particularly those who gave up additional time to attend one-to-one conversations or roundtable discussions.

Appendix: the detailed findings

Q1 In the last 12 months, approximately what proportion of transactions that you were involved in used locked box rather than completion accounts?

Base size: All respondents offering a view (472) (No view: 91)

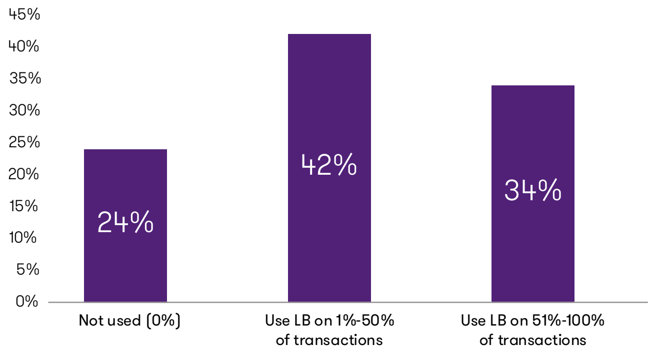
% of respondents who have used locked box in last 12 months



- 57% of APAC respondents used locked box
- 83% of Europe respondents used locked box
- 39% of N. American respondents used locked box

Q1 In the last 12 months, approximately what proportion of transactions that you were involved in used locked box rather than completion accounts?

Base size: All respondents offering a view (472) (No view: 91)



Not used

APAC	43%	Europe	17%	N. America	61%

Use LB on 1%-50% of transactions

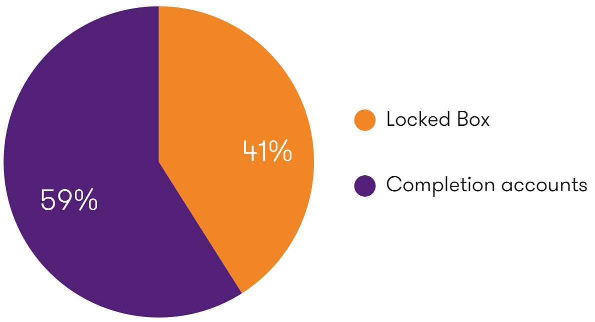
APAC	46%	Europe	41%	N. America	35%

Use LB on 51%-100% of transactions

APAC	11%	Europe	42%	N. America	3%

Q1 In the last 12 months, approximately what proportion of transactions that you were involved in used locked box rather than completion accounts?

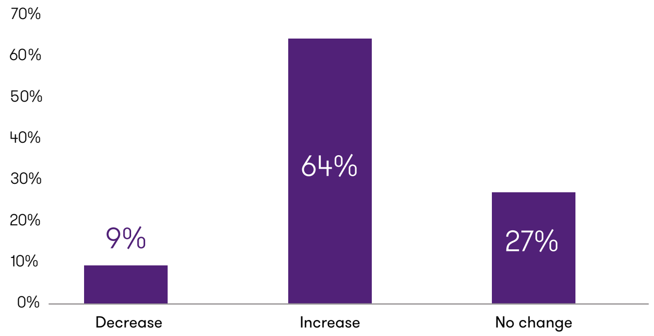
Base size: All respondents offering a view (472) (No view: 91)



- 18% of transactions in APAC
- 49% of transactions in Europe
- 9% of transactions in N. America

Q2 How have you seen the use of locked box on transactions change over the last five years?

Base size: All respondents offering a view (426) (No view: 137)



Decrease

APAC	11%	Europe	8%	N. America	5%

Increase

APAC	45%	Europe	70%	N. America	43%

No change

APAC	44%	Europe	22%	N. America	52%

Q3 What is the most common way of calculating seller compensation for the period of ownership between the locked box date and completion (often referred to as the "ticker" or "value accrual")?

Base size: All respondents offering a view (412) (No view: 151)

'Cash profits'

APAC	31%	Europe	45%	N. America	21%

Debt return based interest rate

APAC	11%	Europe	12%	N. America	16%

Equity return based interest rate

APAC	3%	Europe	16%	N. America	16%

No post locked box ticker/value accrual adjustment

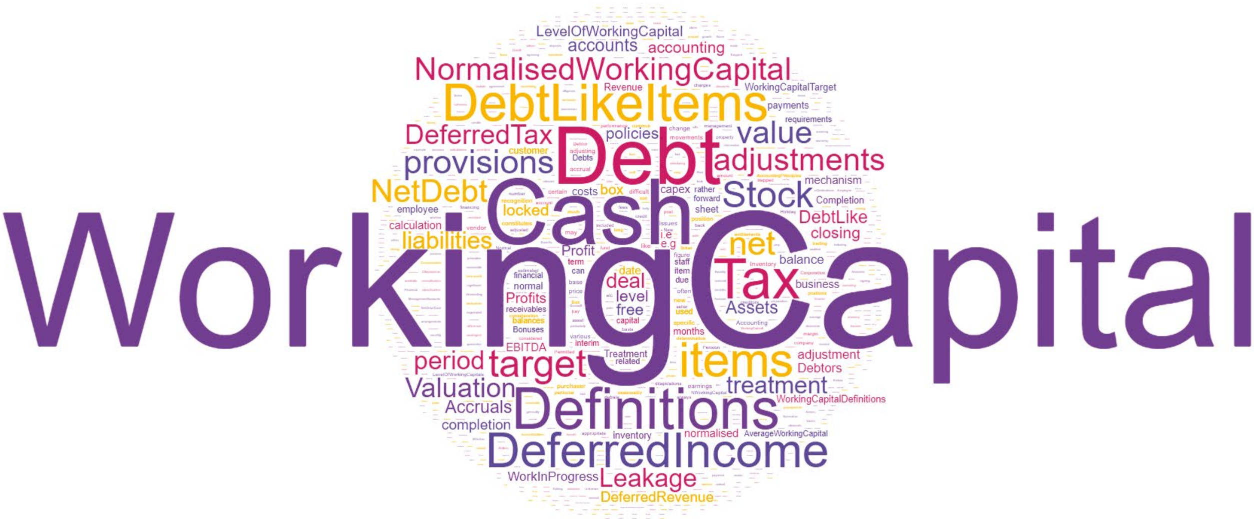
APAC	55%	Europe	24%	N. America	42%

Other, please specify

APAC	0%	Europe	4%	N. America	5%

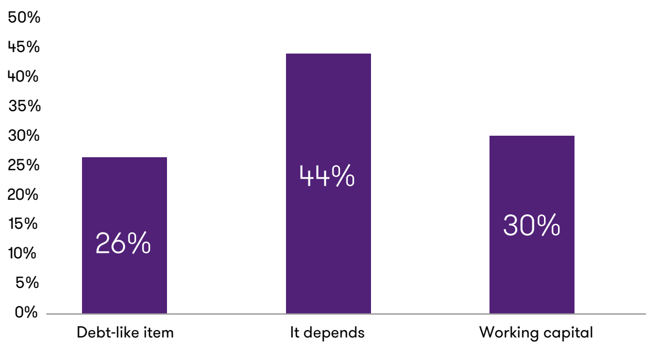
Q4 What are the most hotly debated or contentious value-adjusting items in the completion mechanism?

Open answer. All words mentioned 20 times or more
All respondents answering (458)



Q5a Is deferred income typically considered to be a debt-like item or working capital item for the purposes of an equity value adjustment?

Base size: All respondents offering a view (454) (No view 109)



Debt-like item

APAC	23%	Europe	27%	N. America	25%

It depends

APAC	39%	Europe	46%	N. America	35%

Working capital

APAC	38%	Europe	27%	N. America	40%

Q5b Deferred income - further comments

Base size: All respondents offering a view (142)

Treatment depends on the deal

"There is no typical case. Classification of items between debt-like and w/c depend on the strength of each party's relative negotiating position."

Anonymous, Accountancy, Europe

"My view on this would largely depend on a number of factors such as whether or not the deferred income balance was deemed to be a recurring creditor or not, how it broke down across customer contracts/sales, its size relative to sales/contract value and whether or not it is ever at risk of having to be repaid."

Anonymous, Private Equity, Europe

"Will depend on the cost of servicing those deferred revenues - in which case often there will be only a proportion allowed."

Anonymous, Private Equity, Europe

Deferred income is debt-like

"In most cases at least a proportion is debt-like if there are significant costs to service the income. There are few examples where this is so immaterial that I would not seek to adjust for this."

Anonymous, Corporate, Europe

Deferred income is working capital

"For real estate based deals, it always tends to be treated as part of the working capital. Unless the deferred income figure is very large, we are not seeing treated as a debt-like item."

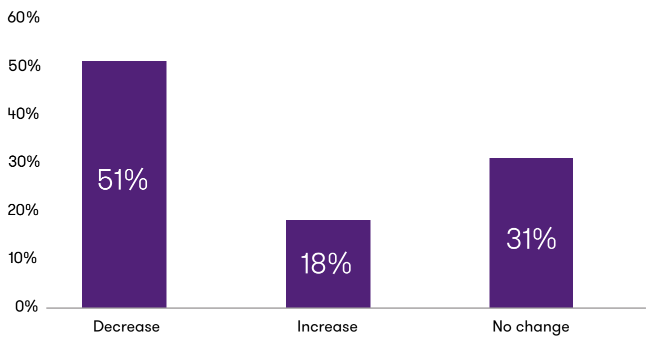
Anonymous, Law Firm, Europe

"Going to depend on future cost to serve. If low (as is typical) buyers generally will treat as WC rather than debt."

Anonymous, Private Equity, North America

Q6 Are liabilities or reductions to trade debtors in respect of cash received from debt factoring, invoice discounting or similar arrangements typically a debt-like item to be deducted from the equity value, or part of working capital?

Base size: All respondents offering a view (436) (No view 127)



Debt-like item

APAC	44%	Europe	54%	N. America	38%

It depends

APAC	24%	Europe	18%	N. America	9%

Working capital

APAC	32%	Europe	28%	N. America	53%

Q6b Debt factoring - further comments

Base size: All respondents offering a view (64)

Treatment depends on the deal

"It is related to the way such tools are used to generate cash for the company: is it a recurring practice or is it an extraordinary usage? It is also a matter of what type of financial debt is relevant: is it the debt in a specific date, or is it an average over a number of time periods (typically months)?"

Anonymous, CF Boutique/Advisory Firm, Europe

"If trade debtors are reduced because of the debt factoring, ID etc, then it should be in working capital. If they are not reduced, then they must be classified as debt like items."

Anonymous, Private Equity, Europe

"Depends on the accounting."

Anonymous, Corporate, Europe

"Typically working capital, however, could be manipulated without proper protections for leakage (for example a seller who never factored or discounted doing so between the locked box date and closing)."

Anonymous, Accountancy, North America

Liabilities or reductions to trade debtors are debt-like

"This is always debt for us as this is required to be settled as part of wider financing arrangements."

Anonymous, Corporate, Europe

Liabilities or reductions to trade debtors are part of working capital

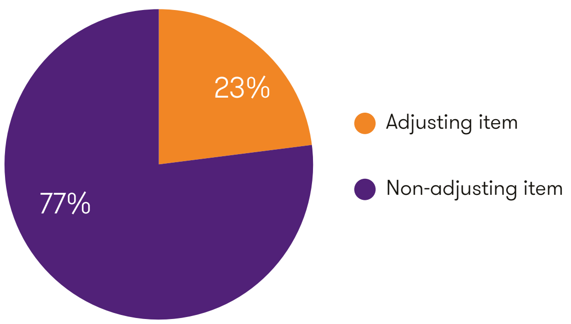
"Definitely should be part of working capital. We have an entire thrust of working capital products as a Bank (receivables payables and inventory based products) and I would not view them at all as equity influencers. They comprise working capital."

Anonymous, Corporate Investment Bank, Europe

Q7a On approximately what proportion of deals is deferred tax assets based on losses an adjusting item to the equity value?

Base size: All respondents offering a view to both Q7a and Q7b (197) No view (366)

Average % of deals in which deferred tax assets based on losses is an adjusting item



- APAC 15%
- Europe 24%
- N. America 26%

Q7a Comments

Base size: All respondents offering a view (28)

"Variable. Highly dependent on accessibility of DT assets, reliance on external third party opinions and any tax risks off balance sheet that are likely to erode DTAs."

Anonymous, Corporate, Europe

"It depends whether the tax asset can be utilised under new buyer and how quickly."

Anonymous, CF Boutique/Advisory Firm, Europe

"Depends on whether the buyer can use those losses post completion. If not, then there is no value to the buyer."

Anonymous, CF Boutique/Advisory Firm, APAC

"Depends on Target's country and situations. In some countries, change of ownership will result in write-off on deferred tax losses."

Anonymous, CF Boutique/Advisory Firm, APAC

"Normally a difficult point to agree with a well advised buyer."

Anonymous, Law Firm, Europe

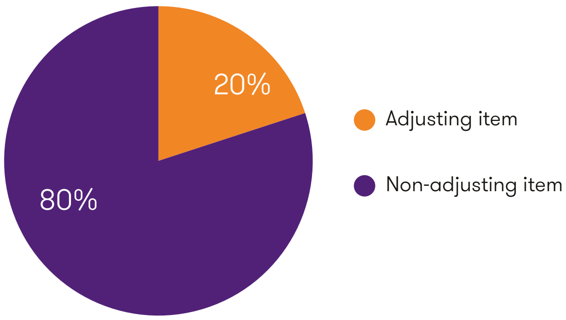
"Really depends on the facts and circumstances and the confidence in the business moving forward that you can get the benefit; have certainly seen buyers give value of it but I try not to."

Anonymous, Corporate, North America

Q7b On approximately what proportion of deals is deferred tax based on capital allowances an adjusting item?

Base size: All respondents offering a view to both Q7a and Q7b (197) No view (366)

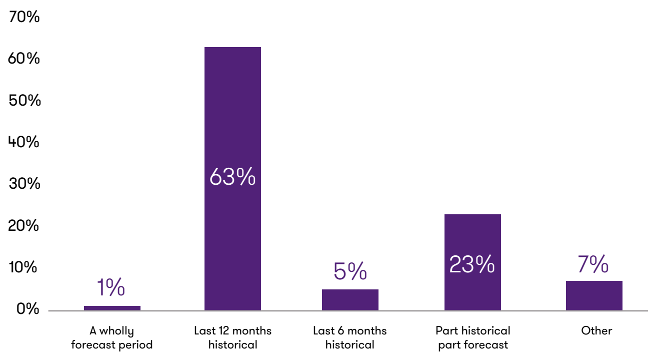
Average % of deals in which deferred tax based on capital allowances is an adjusting item



- APAC 10%
- Europe 22%
- N. America 23%

Q8 On transactions involving a working capital target in the completion mechanism adjustment, what reference period is typically used to calculate the working capital target?

Base size: All respondents offering a view (495) No view (68)



Last 12 months historical

APAC	55%	Europe	64%	N. America	74%

Last 6 months historical

APAC	10%	Europe	4%	N. America	7%

Part historical part forecast

APAC	23%	Europe	25%	N. America	10%

A wholly forecast period

APAC	4%	Europe	1%	N. America	0%

Other

APAC	10%	Europe	6%	N. America	10%

Q8b Please add any further comments on the rationale for your selection

Base size: All respondents offering a view (96)

Last 12 months historical

"We have mostly seen this based on looking at a last 12 months basis. One comment is that we often see cases where the selling company has operated historically with the benefit of a large amount of cash. Hence, they may have been paying suppliers more quickly than required or taking advantage of bulk discounts to acquire more stock. These areas seem to be the main points of debate - with the argument from the purchaser that if this was not required for the ordinary running of the business, why was it done. "

Anonymous, Accountancy, Europe

"LTM is the normal metric. Commercially it is difficult to agree forecast working capital projections. We have considered shorter periods for fast growing businesses, but LTM appears to be a market norm."

Anonymous, Corporate, Europe

"Usually actuals because the forecast often does not match to the historic periods (particularly in the case of big deviations). But there are exceptions to the rule, in particular, the forecast is included in the case of significant growth."

Anonymous, CF Boutique/Advisory Firm, Europe

"Unless there is a forecast step-up in earnings, in which case we look for the business to have sufficient working capital in the target to achieve this step-up, which would constitute a wholly forecast period."

Anonymous, Private Equity, APAC

"LTM as long as the period in question is representative of the business. If there is heavy growth or loss then a different peg methodology should be used."

Anonymous, Private Equity, North America

Depends on…

"Depends on the type of business and its growth profile."

Anonymous, Accountancy, Europe

"Depends on the business as to which method is appropriate. Often a negotiation around this point."

Anonymous, Law Firm, APAC

"Depends on what EBITDA figure is used to calculate the enterprise value (historical, 6+6, forecast)."

Anonymous, Accountancy, Europe

"Depends on the specific business and industry and whether there is any cyclicality to their working capital that would require a different look-back period to get a proper target level."

Anonymous, Corporate, North America, North America

"Very contentious discussions on this item. In some cases, there is seasonality in others, there are changes so that historical look-back periods are not valid, it really depends on the situation."

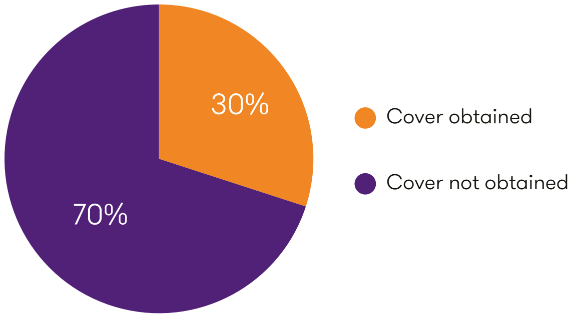
Anonymous, Wholesale Distribution, North America

Q9 On approximately what proportion of deals is warranty and indemnity insurance cover obtained?

Base size: All respondents offering a view (449)

No view (114)

Average % of deals in which W&I insurance cover is obtained

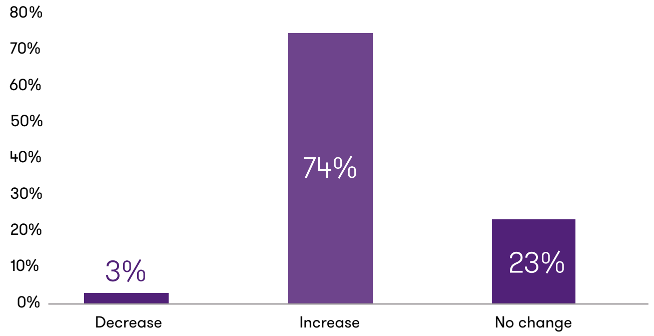


- 28% of transactions in APAC
- 30% of transactions in Europe
- 36% of transactions in N. America

Q10 How has usage of warranty and indemnity insurance cover changed over the last five years?

Base size: All respondents offering a view (429)

No view (134)



Decrease

APAC	3%	Europe	3%	N. America	0%

Increase

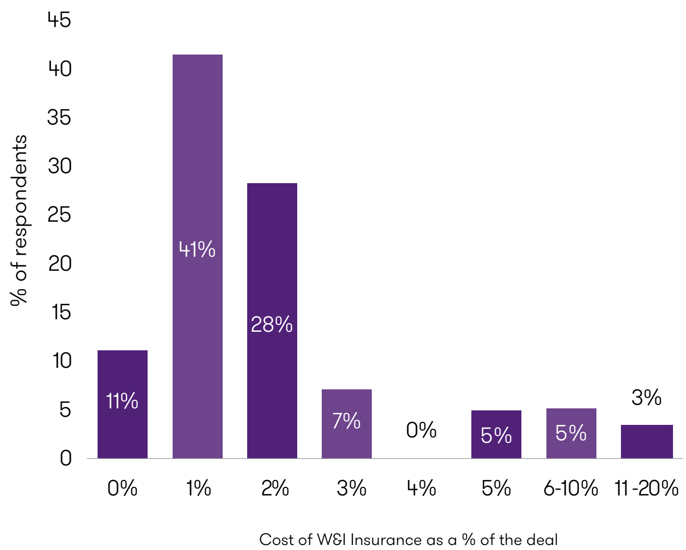
APAC	77%	Europe	72%	N. America	86%

No change

APAC	20%	Europe	25%	N. America	14%

Q11 What is the typical cost of warranty and indemnity insurance as a percentage of the size of the deal?

Base size: All respondents offering a view, excluding outliers (over 20%) (222) No view (332) Over 20% (9)



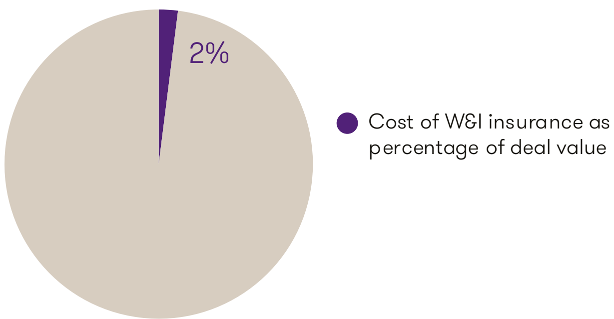
Mean averages

Overall	2%
APAC	2%
Europe	2%
N. America	2%
Accountancy	3%
Corporate	3%
Corporate Finance	3%
Legal	2%
Private Equity	1%

Q11 What is the typical cost of warranty and indemnity insurance as a percentage of the size of the deal?

Base size: All respondents offering a view, excluding outliers (over 20%)(222), No view (332) Over 20% (9)

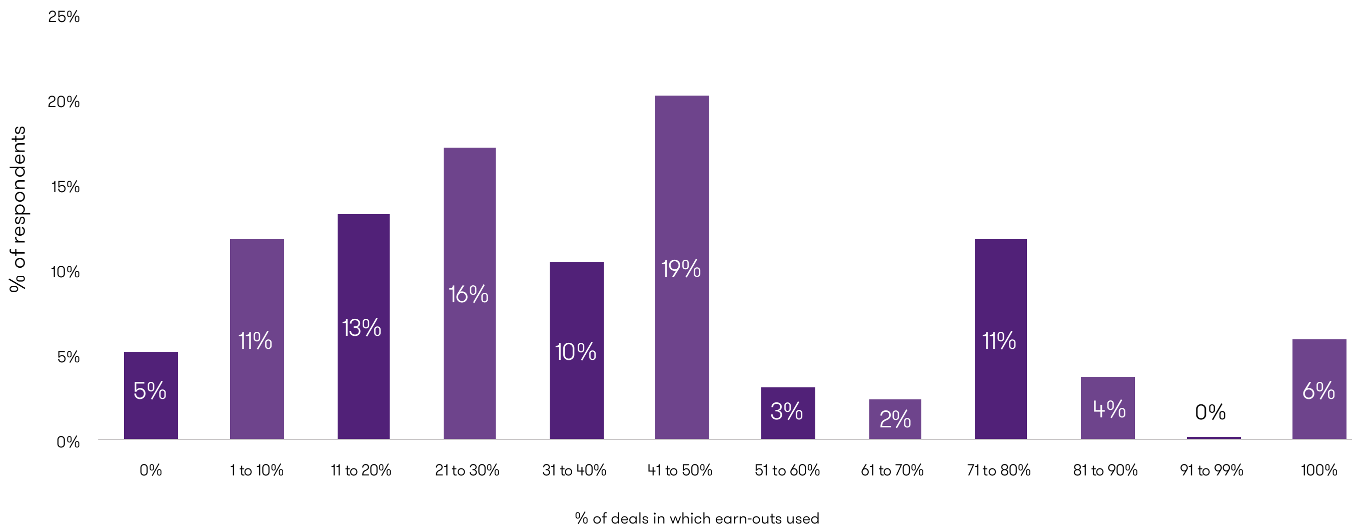
Average cost of W&I insurance as a % of the size of the deal



- 2% of transaction value in APAC
- 2% of transaction value in Europe
- 2% of transaction value in N. America

Q12 On what proportion of deals do you see earn-outs being used?

Base size: All respondents offering a view (483)
No view (80)



0%

APAC	4%	Europe	5%	N. America	8%

100%

APAC	6%	Europe	6%	N. America	3%

Mean averages

Overall	42%

APAC	46%
Europe	42%
N. America	29%

Accountancy	45%
Corporate	55%
Corporate Finance	46%
Legal	36%
Private Equity	36%

Q13 What is the main reason for including an earn-out in a deal?

Open answer
Base size: All respondents offering a view (390)

Bridging the gap between buyer and seller; aligning interests

"Maximising value for the selling shareholder(s) and maximising results for the buying shareholder."

Anonymous, Accountancy, Europe

"To bridge the valuation gap between buyer and seller."

Anonymous, Corporate, APAC

"Bridging vendor value expectations based on immediate growth prospects and buyer expectations/risks."

Anonymous, Private Equity, Europe

"Balance different purchase price expectations between both parties."

Anonymous, Law Firm, Europe

"Bridging gap between vendor and purchaser expectation of future performance of the company."

Anonymous, Accountancy, North America

"To align the buyers and sellers on a long term business plan."

Anonymous, Corporate, North America

De-risking

"De-risk the deal for the buyer and increase the opportunity for the seller."

Anonymous, Wholesale Distribution, North America

"Seller buys into the future success of the business."

Anonymous, Law Firm, APAC

"Valuation gap. Seller needs to prove out projections."

Anonymous, Private Equity, North America

"Uncertainty or volatility in earnings."

Anonymous, Private Equity, Europe

"Ensure projected financial performance is achieved."

Anonymous, Law Firm, APAC

"Volatile historical earnings with highly optimistic forecast"

Anonymous, Bank, North America

Incentivise existing management

"Ensures vendor management stick around long enough to ensure the business doesn't collapse."

Anonymous, Accountancy, Europe

"Acquisition of a new type of business where existing management is critical."

Anonymous, Corporate, Europe

"Incentivising retention of founders."

Anonymous, Law Firm, APAC

"Retain the owner to continue to manage the company and help in transition period. Motivate the owner to continue to run the company properly during the earn-out period."

Anonymous, CF Boutique/Advisory Firm, APAC

"Keep the owners vested in the business on an ongoing basis such that their success contributes to a larger success of the organization."

Anonymous, Corporate, North America

"Retaining CEO and company talent."

Anonymous, CF Boutique/Advisory Firm, North America

Q13 What is the main reason for including an earn-out in a deal?

Open answer
Base size: All respondents offering a view (390)

Uncertainty about company performance/ forecast

"Uncertainty in forecasts (mainly in cases there is significant growth in business or a turnaround that the seller wants to be compensated for)."

Anonymous, Accountancy, Europe

"Where purchase price is based on a multiple of forecast earnings rather than historical earnings."

Anonymous, Law Firm, APAC

"Forecasts of sellers materially differ from historical financials."

Anonymous, Law Firm, APAC

"Uncertainty over forecasted projections and business growth."

Anonymous, Accountancy, North America

"Uncertainty over future performance."

Anonymous, Accountancy, North America

"To increase comfort that the historical results are reflective of future results."

Anonymous, Accountancy, North America

"Our buy side focus is on recapitalisation transactions, therefore, we do not enter in earn outs. On exit, we very rarely do, but it may be a way to bridge a valuation gap and is therefore usually a very low % of the transaction value."-

Anonymous, Private Equity, Europe

"Latterly on individual vendor exits I've dealt with founders [who] haven't stayed on so there's been no need for an earn out."

Anonymous, Law Firm, Europe

"…Clearly earn outs are only used in the case where there is substance behind the forecast uplift in performance."

Anonymous, Private Equity, Europe

"It is often intended as an incentive to retain key management but often it can be burdensome to negotiate and is frequently scrapped quite soon after the deal."

Anonymous, Law Firm, Europe

"Have considered earn-outs, but difficult due to integration with the existing business to attribute performance, therefore have generally avoided this."

Anonymous, Corporate, Europe

"Less common than they used to be."

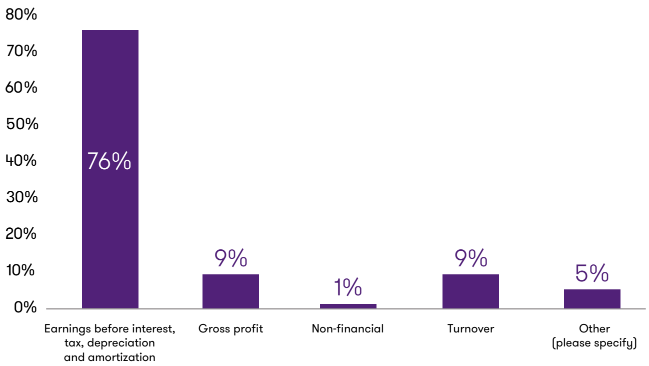
Anonymous, Private Equity, Europe

"We did one earn out on EBITDA and would not do another. Unnatural desire to hold back synergies. We would consider revenue based targets."

Anonymous, Manufacturing, North America

Q14 What is the most common measurement basis for earn-outs?

Base size: All respondents offering a view (496)
No view (67)



Earnings before interest, tax, depreciation and amortisation

APAC	75%	Europe	77%	N. America	71%

Gross profit

APAC	13%	Europe	8%	N. America	10%

Non-financial

APAC	2%	Europe	1%	N. America	0%

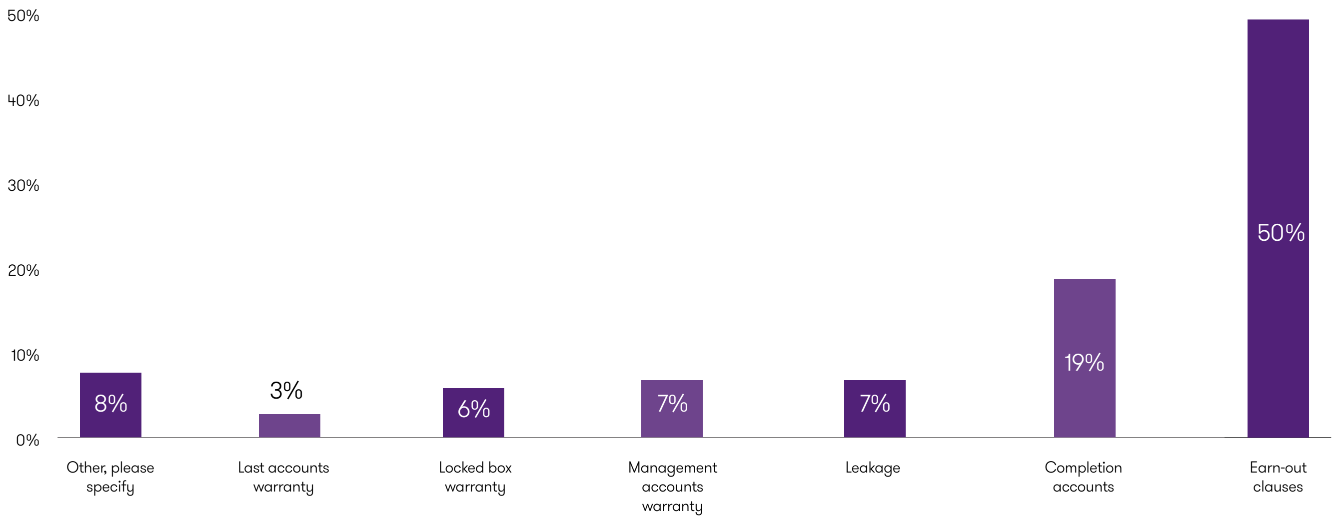
Turnover

APAC	7%	Europe	9%	N. America	12%

Other please specify

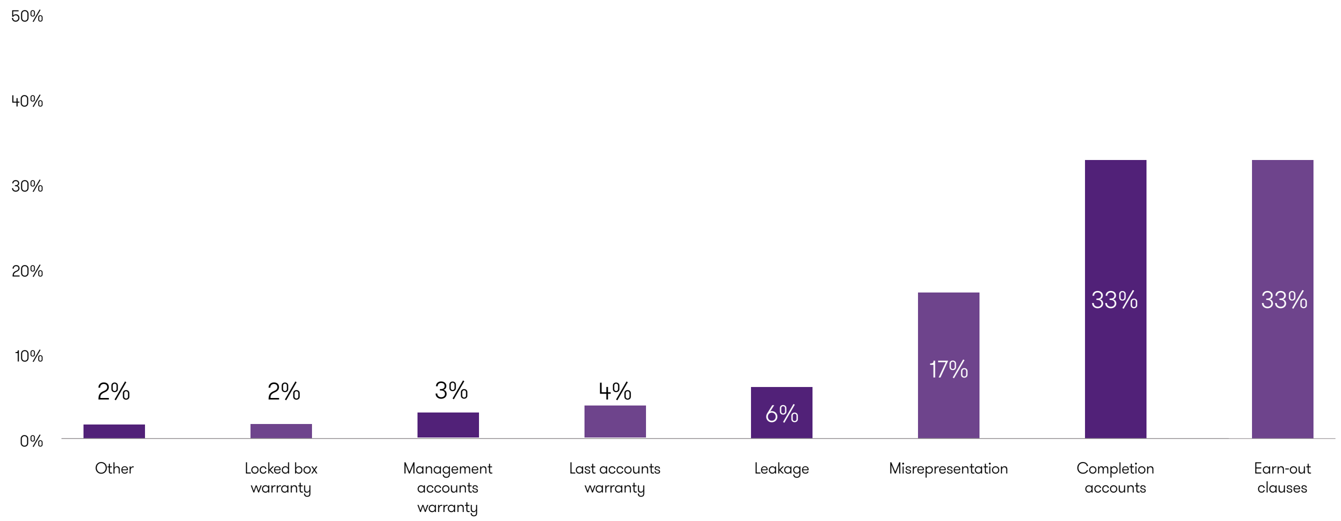
APAC	3%	Europe	5%	N. America	7%

Q15 When drafting SPAs, which items take the longest to negotiate?



Q16 What are the most common areas of financial/accounting/tax post-deal SPA dispute or claim?

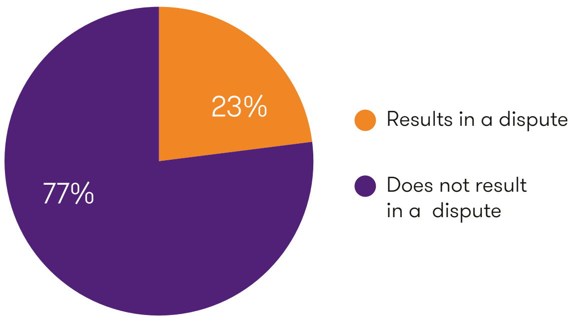
Base size: All respondents offering a view (Q15.484, Q16.430), No view (Q15.79, Q16.133)



Q17 Approximately what percentage of completion accounts mechanisms result in a dispute (formal or otherwise)?

Base size: All respondents offering a view (337)
No view (226)

Average % completion accounts mechanisms resulting in a dispute (formal or otherwise)

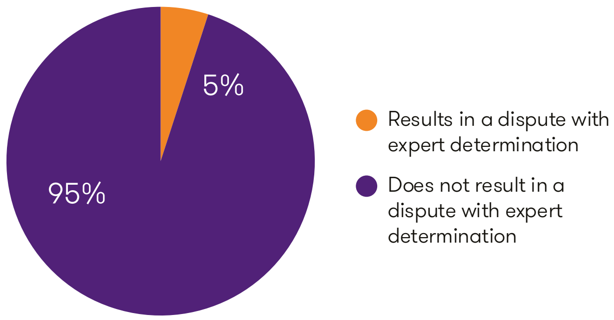


- 25% of transactions in APAC
- 23% of transactions in Europe
- 15% of transactions in N. America

Q18 Approximately what percentage of completion accounts mechanisms result in a formal dispute with expert determination post-deal?

Base size: All respondents offering a view, excluding outliers (over 20%) (284)
No view (253)/ Excluded over 20% views (26)

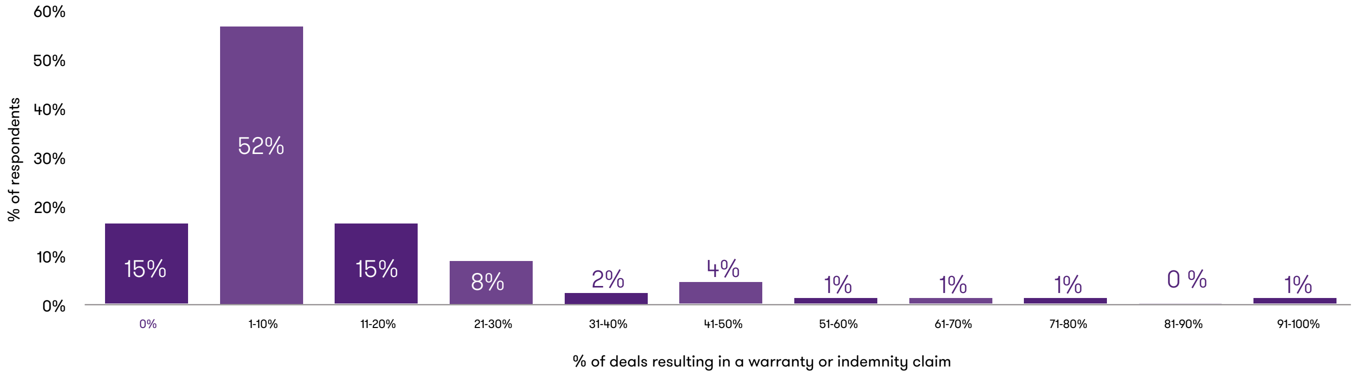
Average % completion accounts mechanisms resulting in a formal dispute with expert determination



- 6% of transactions in APAC
- 4% of transactions in Europe
- 4% of transactions in N. America

Q19 Approximately what percentage of SPAs result in a warranty or indemnity claim post-deal, regardless of whether or not it is settled pre-litigation?

Base size: All respondents offering a view (368)
No view: (195)

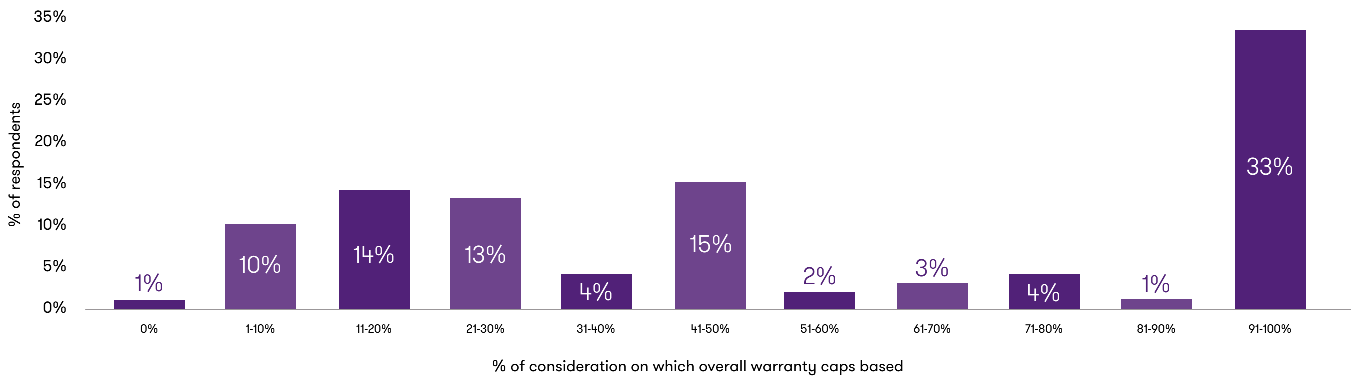


Mean averages

Overall	14%
APAC	15%
Europe	14%
N. America	14%
Accountancy	19%
Corporate	17%
Corporate Finance	12%
Legal	12%
Private Equity	14%

Q20 In your experience, typically on what percentage of consideration are overall warranty caps based?

Base size: All respondents offering a view (411)
No view (152)

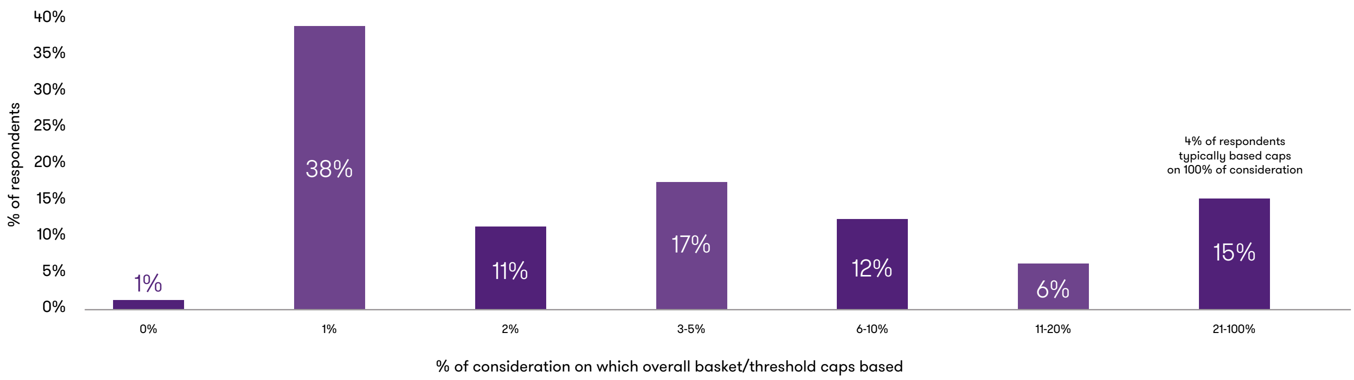


Mean averages

Overall	56%
APAC	61%
Europe	58%
N. America	28%
Accountancy	57%
Corporate	51%
Corporate Finance	46%
Legal	63%
Private Equity	51%

Q21 In your experience, typically on what percentage of consideration are overall basket/threshold caps based?

Base size: All respondents offering a view (343)
No view (220)

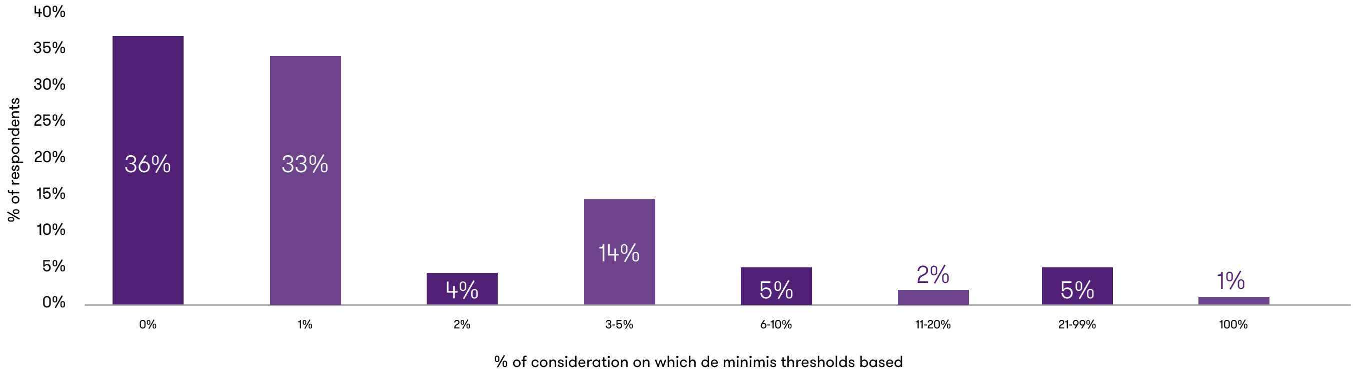


Mean averages

Overall	14%
APAC	18%
Europe	13%
N. America	14%
Accountancy	19%
Corporate	16%
Corporate Finance	19%
Legal	10%
Private Equity	15%

Q22 In your experience, typically on what percentage of consideration are de minimis thresholds based?

Base size: All respondents offering a view (342)
No view (221)

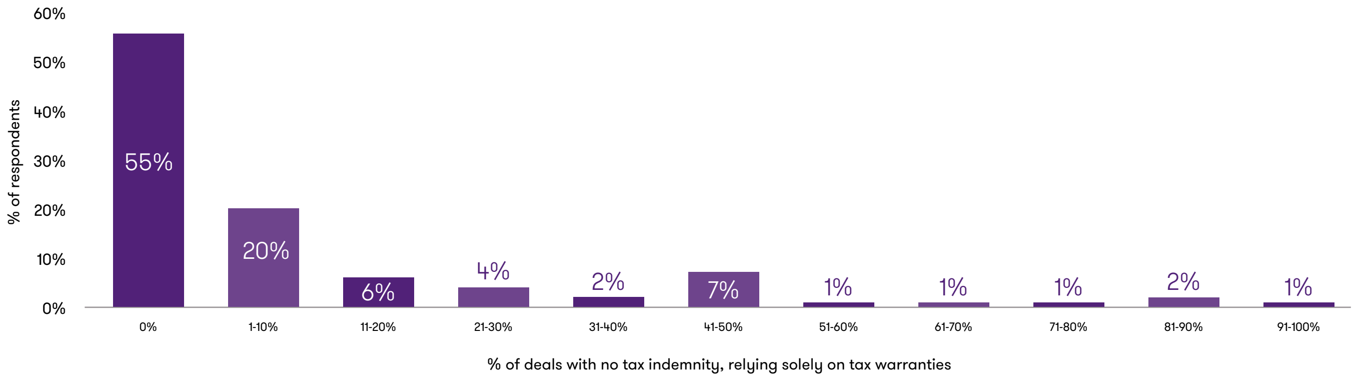


Mean averages

Overall	6%
APAC	3%
Europe	7%
N. America	7%
Accountancy	10%
Corporate	11%
Corporate Finance	9%
Legal	3%
Private Equity	5%

Q23 In your experience, in what percentage of deals has there been no tax indemnity, with the purchaser relying solely on the tax warranties?

Base size: All respondents offering a view (394)
No view (169)



Mean averages

Overall	12%
APAC	14%
Europe	11%
N. America	12%
Accountancy	14%
Corporate	14%
Corporate Finance	6%
Legal	11%
Private Equity	13%

About Grant Thornton's UK SPA advisory team

Our team combines price adjustment and dispute specialists to help principals and advisers to reach an agreement that optimises the equity value and protects our client, whilst reducing the risk of disputes.

Grant Thornton UK LLP offers our clients this specialised expertise, for both domestic and cross-border transactions across a full range of sectors.

Our team brings their insights and experience to support clients on the full range of issues that can arise during the deal process: from negotiating locked box or completion mechanisms and accounting warranties, to finalising completion accounts, earn-outs, negotiating disputes and undertaking expert determinations.

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