

M&A and Transaction Solutions for the Renewable Energy Sector

Tailored Warranty & Indemnity Insurance Solution

Companies within the renewable energy sector face a diverse array of risks that require a thoughtful and strategic approach to risk transfer. They require bespoke insurance solutions, including warranty and indemnity (W&I) insurance, to facilitate and support mergers and acquisitions (M&A) transactions. As the market has evolved, so too has insurers' appetite for renewable market transactions. There are now more insurers that will consider underwriting these transactions than in the past. Currently, the biggest hurdle to obtaining comprehensive coverage is the adequacy and thoroughness of diligence.

M&A Insurance Market Insights

The renewable energy sector is facing increasing investor demands and expectations for change, particularly in light of reducing greenhouse gas emissions, climate change issues, and global leader discussions at COP 26 UN Climate Change Conference resulting in the Paris Climate Agreement. We have seen an increase in M&A activity in the sector with a growing focus on Environment, Social, Governance (ESG) issues, and international players becoming more aware of potential opportunities in Australia and New Zealand given the nations' stable economies and access to natural resources, including wind and solar energy.

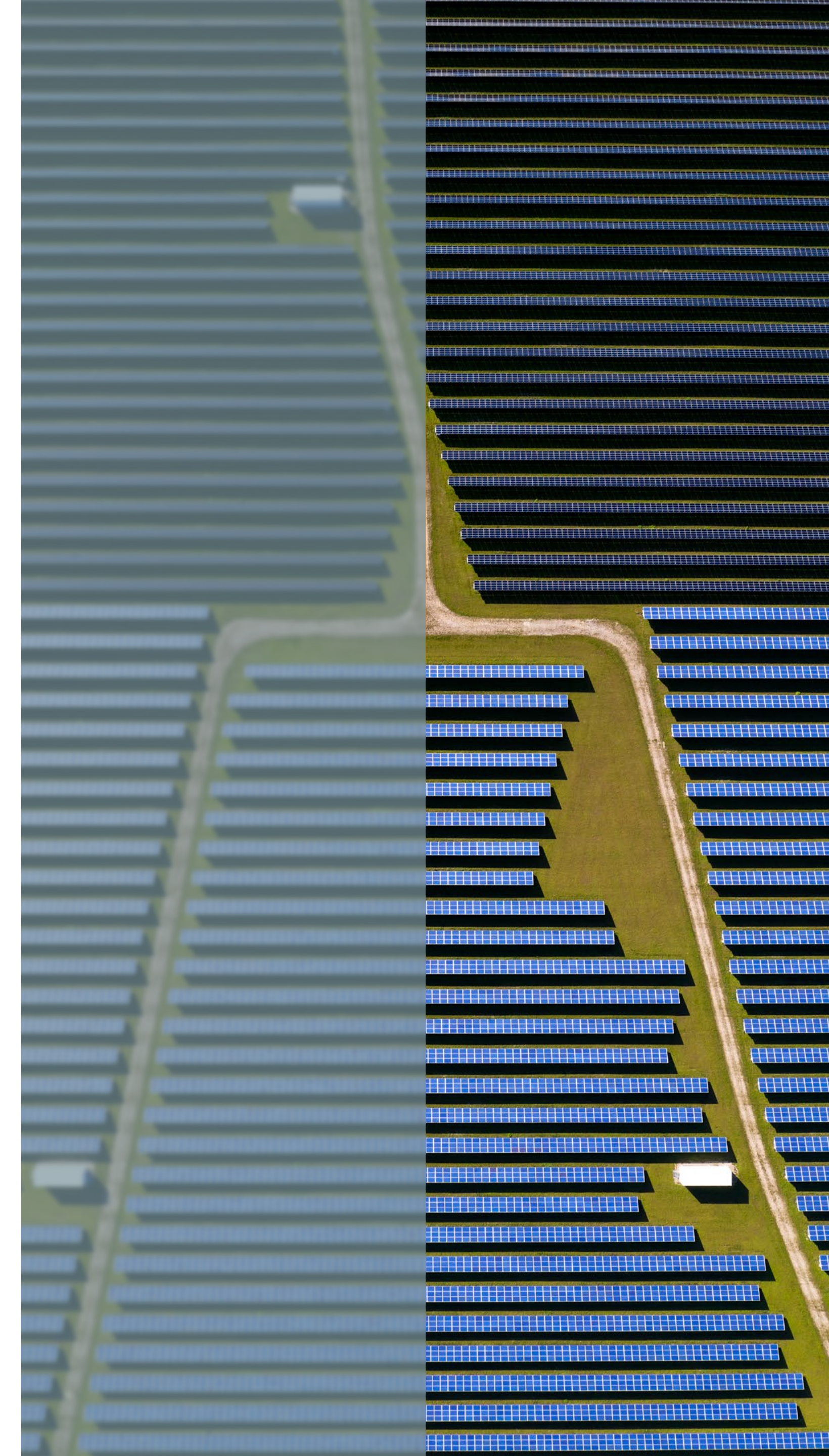
In addition, there is increasing investment into new energy power sources as businesses seek to expand their footprint and cut back on their carbon footprint. We have seen targets range from the acquisition of developed assets through to greenfield sites held by developers. Political scrutiny and environmental regulation are escalating across the sector, with asset owners considering whether they should be divesting or acquiring.

Energy transition and the growing commitment to lowering carbon emissions across sectors is bringing in non-traditional investment in infrastructure projects and new operational technologies. Access to capital is an area of growing focus amid ESG concerns with global financial and insurance markets.

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We have to mobilise private capital to scale the response to the challenges posed by climate change.”

Greg Case, CEO, Aon
COP26 UN Climate Change Conference



M&A Insurance Market Insights

The range of purchasers include power and energy companies, infrastructure funds and pension funds who acquire built assets, and EPC contractors and global companies which purchase sites and land, allowing them to bring their know-how and technological capabilities into Australia and New Zealand.

We expect the renewable energy sector to continue to consolidate through M&A activity in 2022 and beyond, despite impacts of the COVID-19 pandemic. As organisations focus on satisfying ESG demands, W&I insurers will likely continue to rebalance risk appetites in favour of clean(er) energy, hence the sector will be looked upon favourably by insurers. We also anticipate insurer focus on ESG practices and strategies will heighten, and insureds proactively presenting their corporate practices in submission and investor/market presentations will become common. Another area insurers will likely pay close attention to is cyber system capabilities and protections with cyber threats proliferating, drawing enhanced awareness and focus by top management.



How Can Aon Support You in This Market?

Partnering with a risk advisor who has a deep understanding of your business and your industry is critical, especially in an increasingly challenging insurance market.

Aon is a leading provider of risk financing and risk management services in Australia and globally. Locally we are invested in the renewable energy sector through our Sydney-based Power and Renewable Energy division. Whilst the sector is small in the Pacific region, we recognise it is unique, with different risks to that of the traditional thermal power market.

Our expertise in Australia includes:

- Industry Experience: wind, solar (PV and thermal), hydro, tidal and geothermal
- Turnkey: experience advising on all risk and insurance across a project's lifecycle – design, engineering, procurement, construction, operation, maintenance, and decommissioning
- Clients: broad representation across all participants in the sector, including public and private sector

entities, developers, owners, contractors, financiers, consultants, and subcontractors

- Services: ranging from traditional insurance broking – advisory, design, marketing, and placement – to more specialist risk consulting including contractual advice, risk engineering and valuation services

Aon's M&A and Transaction Solutions team provides bespoke insurance solutions designed to facilitate and support M&A transactions in the renewable energy sector, including W&I insurance. We provide risk advisory and due diligence services to:

- Entities buying, selling, or merging interests and assets
- Transaction sponsors
- Financiers of projects and acquisitions
- Private equity investors
- Governments conceding public infrastructure and services delivery to the private sector through PPP/ PFI initiatives



We work closely with our clients, liaising on their behalf with insurers to obtain input on the adequacy of the scope of the diligence being performed. We obtain early indications from the insurers on their focus points, enabling us to help clients navigate the diligence process accordingly.

It is critical clients focus on the quality of the information provided to insurers. To obtain a positive outcome, detailed underwriting is required with good lead time. Engaging early with Aon will increase the probability of favourable terms and coverage while reducing the risk of exclusions.

Key differentiators for Aon in the renewable energy sector include:

- Leverage: As one of the largest insurance brokers in Australia and New Zealand, Aon is well positioned to place insurance programs in a cost-effective manner, with the broadest possible coverage terms. The sheer volume of premium Aon places into the market on behalf of clients creates negotiating leverage.
- Experience: Aon's credentials demonstrate a deep expertise in W&I insurance processes, including experience running highly competitive auctions where it is necessary to manage multiple bidders from diverse jurisdictions.
- Renewable Energy Sector Expertise: Aon has extensive experience working with companies in the renewable energy sector. We have developed a strong understanding of the risk management and insurance needs in this industry through our dedicated Renewable Energy Industry Practice Group.
- Team Credentials: Aon has a dedicated W&I insurance team in the Australian and New Zealand market, with the majority of members having backgrounds in M&A law. We are complemented by the largest US transactional insurance team of any broker in the Americas, and by dedicated W&I broking team hubs in London, Singapore, and Hong Kong.
- The Aon Client Treaty: The Aon Client Treaty (ACT) is a unique broking solution available only to Aon clients. It provides an additional 15% of pre-secured Lloyd's insurance capacity to support the placement of large W&I programs.
- Global Client Base: In a competitive auction scenario, Aon often transitions from supporting sell side to supporting buy side in the placement of W&I insurance. This is de-risked by the size of Aon's global client base. Many of the bidders in large transactions are typically Aon clients and understand the quality of Aon's services and our position in the market.
- Dedicated Claims Resource: Aon has a dedicated Asia Pacific team of claims advocates who work to deliver the very best results for clients when claims arise. The significant premium volume Aon places into the market also affords Aon considerable market leverage to ensure clients' claims are paid.

Renewable Energy Sector W&I Insurance Basic Terms

Below are the basic terms expected on transactions in the renewable energy sector:

- Can place up to AU\$1 billion in policy limits
- Total costs for comprehensive coverage range from 1.5% to 3% of the amount of insurance purchased
- Retentions are typically 1% of the transaction value
- Policy periods can be up to 7 years for title and capacity and tax matters, and 3 years for general operational matters
- Coverage is provided for a breach of title and capacity warranties, tax warranties and operational warranties including litigation, employment and real estate warranties, and a general indemnity and tax indemnity (if ultimately negotiated in the sale agreement)
- Policy is written by highly rated insurance carriers



Key Risk Factors

W&I insurance policies have certain limited standard exclusions that W&I insurers will be unwilling to remove, and these generally track concepts in the sale agreement. Aon negotiates the wording of each insurer's template exclusions to ensure they are as narrow in scope as possible on every transaction. These include issues known to the Insured, forward-looking statements, matters included in, or that should properly be included in, any purchase price adjustments (including any earn-outs), consequential loss, certain tax matters such as transfer pricing, secondary tax liabilities, tax losses/anti-avoidance and criminal fines and penalties.

In a renewable energy sector transaction, insurers generally do not cover inability or failure to meet generation or productive capacity requirements, and any liability in connection with projects under development, or any construction upgrades.



Insurer Areas of Focus

Cyber Risks

With many high-profile cyber-attacks across 2020-21 in most sectors, this has become a heightened focus area for insurers. Where a target manages, stores, holds, and uses sensitive operating data through its infrastructure, insurers have little appetite to cover specific cyber warranties that address breaches of data privacy laws or the occurrence of cyber-related events. Insurers take the view that these risks are more appropriately covered under a cyber policy. Aon will review the adequacy of the target's insurance programs as part of the insurance due diligence and have cyber risk specialists who are available to assist with cyber due diligence.

COVID-19

COVID-19 has altered the risk profile of many transactions in the eyes of insurers. Across Australia and New Zealand insurers have been considering whether to insist on COVID-19 exclusions that have the potential to prejudice the coverage under a W&I insurance policy. However, on recent Australian and New Zealand deals, Aon has successfully negotiated with the insurer to not insist on such an exclusion. It is critical the buyer due diligence stacks up, though we can now ensure advisers are aware of the issues that need to be considered in order for any COVID-19 exclusion to be removed. Once more, we apply competitive pressure up front during our marketing phase to ensure we understand each insurer's intentions with regards to the imposition of a COVID-19 exclusion.

Structural Defects and Condition of Assets

To the extent the transaction involves the acquisition of real assets, insurers will consider whether to exclude coverage for any structural defects of the property or specific warranties as to the condition of the property. The general view is that property insurance should be responsive to these exposures. Insurers will underwrite to ensure that technical due diligence has been conducted on the condition of the assets, PP&E, CAPEX requirements, including site inspections to provide coverage for warranties. A key area insurers are looking closely at is flammable cladding (e.g., combustible panels) and they anticipate this to be a focus of the buyer's technical due diligence report (where relevant).

Pollution

For any business with contamination exposures (either as an owner or operator), regardless of the due diligence undertaken with respect to environmental liabilities, W&I insurers will not provide cover for any remediation or clean-up of pollution under a W&I insurance policy. Insurers take the view that such exposures are more appropriately covered under Environmental Liability Insurance. However, coverage is available for certain compliance with environmental related laws and regulations, provided adequate due diligence has been carried out to cover such warranties. Aon can assist with the placement of a policy.

Valuation

Another key area insurers focus heavily on, regarding renewable energy sector development projects, is the valuation methodology adopted of the target business, particularly where utilising an EV/trailing EBITDA multiple in the assessment of valuation is not an appropriate approach. Aon works with insurers to make certain they are comfortable with the valuation methodology adopted by the buyer as part of the transaction, so that they do not ultimately cap their liability for damages under the W&I insurance policy.

Our Experience with Renewable Energy Sector Assets

Aon has extensive experience arranging W&I insurance for renewable energy sector assets. Recent examples include:

- \$4 billion deal in the infrastructure and regulated assets sector where we structured and placed over \$500 million of W&I insurance for the ultimate buyer in a seller-mandated process
- \$3 billion deal in the infrastructure sector where we placed a program of \$200 million of W&I insurance for the buyer in a seller-mandated process
- \$500 million deal in the gas and infrastructure sector where we placed \$120 million of W&I insurance for the ultimate buyer as part of a seller-mandated process
- \$400 million deal in the energy and infrastructure sector where we placed \$120 million of W&I insurance for the buyer
- \$282 million deal involving a critical infrastructure provider where we placed \$115 million of W&I insurance
- \$170 million deal in the critical infrastructure sector, with a focus on energy and water utilities where we placed \$50 million of W&I insurance for the buyer
- \$21 million deal in the solar energy sector where we placed \$21 million of W&I insurance for the buyer
- \$16 million deal in the solar energy sector where we placed \$16 million of W&I insurance for the buyer



Renewable Energy Sector Case Studies

Offering the Seller a 'Clean Exit'

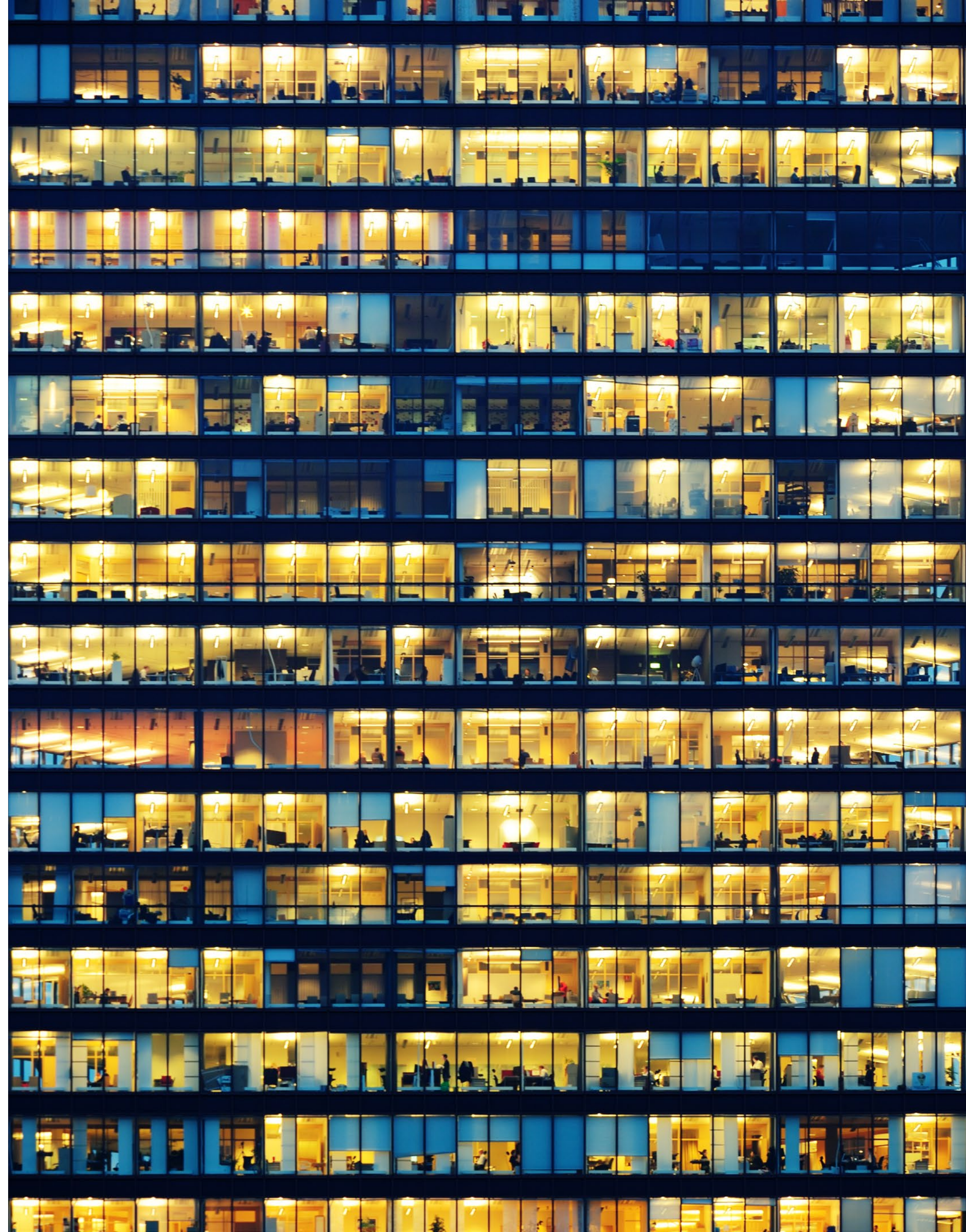
Transaction:	\$395 million sale by private equity Seller of a regional renewable energy provider to a corporate Buyer.
M&A Risk:	A competitive auction process was run by the Seller who were seeking a clean exit with no residual exposures. Once the Buyer was identified, they were seeking typical protection against post-closing liabilities.
Solution:	Buyer-side Warranty & Indemnity Insurance
Structure:	\$120 million limit of liability, with \$3.95 million retention, equivalent to the Buyer's basket in the underlying sale agreement.
Benefits:	The Seller obtained a clean exit without sacrificing the purchase price, enabling expedited returns to them. The Buyer procured the protection it required to proceed with the transaction. Transaction was expedited by easing the negotiations between the parties around the scope of warranties and indemnities and related thresholds and caps.



Renewable Energy Sector Case Studies

Buyer Structuring Greater Protection with Multiple Sellers

Transaction:	\$175 million sale by various family trust Sellers to a corporate Buyer of a critical infrastructure and utilities company in the renewable energy sector.
M&A Risk:	Given the disparate group of sellers, the Buyer was concerned around collectability of claims.
Solution:	Buyer-side Warranty & Indemnity Insurance
Structure:	\$50 million limit of liability, with \$1.7 million retention
Benefits:	W&I insurance was used to provide additional financial security behind the warranties for the Buyer, particularly as there were numerous disparate sellers through whom it would have been difficult to pursue a claim. The Buyer was able to seek greater protection for the amount or duration of recourse than what the Sellers were prepared to offer, and the Sellers were able to protect their purchase price and obtain a clean exit.





About Us

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M&A and Transaction Solutions

Aon M&A and Transaction Solutions is a leading provider of specialist due diligence services to the private equity, renewable energy, and M&A industry. Its capabilities extend across a broad suite of services from risk & insurance, human capital, cyber security and intellectual property. Clients also benefit from its expertise as the largest broker for transaction insurance instruments in Australia and New Zealand including warranty & indemnity, tax, litigation, credit and surety solutions.

For further information on how we secure investments and enhance returns for our clients, please visit: aon.com.au/m&a

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About

Aon plc (NYSE: AON) exists to shape decisions for the better—to protect and enrich the lives of people around the world. Our colleagues provide our clients in over 120 countries with advice and solutions that give them the clarity and confidence to make better decisions to protect and grow their business.

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