2025 New York Insurance Academy Key Takeaways

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Thank you to everyone who attended our Inaugural New York Insurance Academy on April 10. For more details on this event, click here.

Below, you will find a recap and key takeaways from the event.

1. As a general matter, this is a good time to be in the market for insurance products intended to manage risks associated with acquisition liability such as cyber, D&O, and reps & warranties insurance.

- For cyber: premiums have been declining, coverage terms are improving, companies are doing better at combatting and reducing the impact of ransomware attacks, and underwriting is improving.
- For D&O: premiums and retentions have been coming down or staying even, and coverage terms are improving.
- For R&W insurance: likewise, the market is buyer-friendly, with coverage as broad as it has ever been and more capacity in the market place as more insurers are in the space than ever before.

2. Minimizing acquisition risk requires the acquirer to focus on due diligence both in terms of assessing potential liability as well as the insurance to protect against the financial impacts of such liability.

- Determining liability risk requires the forecasting of future lawsuits based on past filings and related trends.
- If the liability is in a developing area, the analysis may be more complicated as there is less data to draw upon.
- On the insurance side, a detailed review of corporate histories and the tracking of prior transactions may be useful in informing the full measure of available insurance. This can sometimes require insurance archeology based on a single data point, such as a premium receipt, which can lead to actual policy information.

3. Likewise, minimizing acquisition risk associated with cyber risk, requires significant diligence into the threats against a target company, how the target company is protecting itself against such threats, and the insurance available to provide bottom-line protection in the event that cyber threat is realized.

- Cyber criminals are vigilant and always looking for new opportunities – using AI and monitoring the news to determine who, what, and when to target.
- Important to note that cyber insurance isn't the only source of coverage for cyber risks: many other types of policies (crime, D&O, EPLI, E&O, GL, K&R, and property) could also come into play depending upon the nature of an incident.

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4. While reps and warranties insurance is a good way to mitigate acquisition risk, and market conditions are favorable, the terms of these policies can and should be negotiated in tandem with brokers, coverage counsel, and deal counsel and other outside experts to ensure appropriate terms.

If you have any questions, please contact one of the Haynes Boone attorneys listed below.

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