

W&I claim

Insurance Group
2026 Webinar Programme

Lead Partner

Chris Bradshaw, UK

Panel Members

Federico Montanaro, Italy
Remko van Baarlen, The Netherlands
Magnus Forssman, Sweden

Agenda

Claim trends in the UK, the Netherlands, Italy and Sweden

Streamlining the claims process

Proof and quantification of losses



Speakers

W&I claim
Insurance Group
2026 Webinar Programme



Chris Bradshaw
Partner
London, UK



Federico Montanaro
Senior Associate
Milan, Italy



Magnus Forssman
Partner
Stockholm, Sweden



Remko van Baarlen
Advocaat
Amsterdam, Netherlands

Claims Trends - UK

- Claims notified more quickly post-closing
- Wide range of warranty breaches, but themes include accounts, material customer/contract, breach of law/regulation, IP/licenses
- Recurring claim-handling matters include disclosed matters, materiality, access to information, quantification of loss



Claims Trends - Netherlands

- Tax warranties / tax indemnities, information warranties, interim period breaches
- In addition to recurring claim-handling matters, causation between breach and loss, attribution of knowledge



Claims Trends - Italy

- Increasing of notification rate (16,28%)
- Financial statements and tax warranties remain the most frequent grounds for claims (respectively, 25% and 21%). Further claims relate to breaches of contract, compliance, litigation and employment matters.
- Recurring claim-handling issues: disclosed matters, sellers' knowledge qualifier, interpretation of warranties and exclusions, quantification of loss



Claims Trends - Sweden

- Large increase in number of claims
- More complicated and high value claims
- More aggressive claims process from Insureds
- Out of period claims and claims for delay interest



Streamlining the claim process

Key issue: asymmetry of information at start of the claim process

Practical experience:

- A comprehensive claim notice provides details and evidence of breach, and addresses causal link to/quantification of loss
- An effective RFI is clearly structured, explains what information is required and why, and comprehensive (but proportionate)
- Consider breach and loss sequentially, or in parallel
- Consider whether some issues may be better addressed in a meeting rather than correspondence – but timing of any meeting is important too
- Expert to expert discussions
- Find ways to address concerns about confidentiality and privilege



Quantifying and proving loss (1) - Legal issues



English Law

- Diminution in value of Target co shares
- Objective market value, but buyer's valuation / negotiation of deal may be relevant
- Calculated at date of breach, generally cannot use hindsight (but post transaction events may be relevant if shed light on what reasonable buyer/seller would have done if breach was disclosed)

Quantifying and proving loss (1) - Legal issues



Dutch Law

- Statutory provisions on loss. Broad definition, can include loss of profit, provided that the loss is reasonably attributable
- SPA further determines whose loss and what loss may be claimed
- 'What if-test' - fact based to the extent possible, supplemented with a best estimate derived from facts available

Quantifying and proving loss (1)

- Legal issues



Italian Law

- Loss must be a direct and immediate consequence of the breach of R&Ws (art. 1223 Civil Code) - actual loss and loss of profits
- Losses are usually liquidated on an indemnity basis (Eur for Eur)
- No codified diminution-in-value rule
- Exclusion of multiples
- Gross-up

Quantifying and proving loss (1)

- Legal issues



Swedish Law

- Buyer's or Target's loss?
- Application of multiples
- Indirect loss

Quantifying and proving loss (2)

- Practical Issues

Even where breach is clearly established, proving and quantifying loss may be more difficult



English Law

- Access to contemporaneous valuation documents / offers
- Requirement for expert input
- Competing methodologies can give rise to significant variation in loss (eg whether multiplier is applied)

Quantifying and proving loss (2)

- Practical Issues



Italian Law

- Burden of proof lies on the insured
- Example of tax claim from the Italian Tax Authority
- Defence costs reasonable and proportionate to the value of the claim – Insurers may wish to review retainer letters and timesheet
- Requirement for expert input to assess loss in case of breach of financial statements' warranties
- Aggregation of series of acts for Loss post-closing

Quantifying and proving loss (2)

- Practical Issues



Swedish Law

- Valuation often simplified by application of pure profit multiple when claim is made
- Difficult to assess effects on mitigation costs, other benefits due to breach such as additional capacity
- Difficult to verify claimed loss for practical reasons

Q&A