INSURANCE AND BONDING

Canadian surety industry recovers from 2013 claims surge
Bonding companies respond to provide faster resolutions and accommodate P3 project requirements

The Canadian surety industry, despite some jolting losses because of a surge in major and minor claims last year, is rebounding and innovating new products and methodologies for the evolving marketplace, says Steve Ness, president of the Surety Association of Canada (SAC).

The industry loss ratio reached 55 per cent in 2013, Ness said. This is the amount of claims compared to the premiums collected. Ness said a few major claims, such as the ConCreate USL collapse, were compounded by several smaller claims.

Things look better this year, he said, and the industry is equipped to handle bad years. He indicated the situation now is nowhere near as severe as in the first few years of the 1990s, when the industry wrote off as much as it earned for the previous two decades.

(The surety industry, by its nature and low premiums to the size of contracts, operates much like a high-stakes roulette game – when things go wrong, fortunately infrequently, they can go very wrong.)

Ness says the industry is adapting to the trend for increased bundling, with much-larger P3 projects.

This includes introducing new types of surety that, unlike conventional products which only guarantee the projects will be completed, can provide cash financial compensation when a project goes off the rails or is delayed.

Trisura: Exceptional service ensures surety solutions for a diversity of construction businesses

Kucman says this means owners are seeing a greater need than ever to protect themselves with security such as bonding.

“Contractors need the advice, expertise and support from their broker and surety in order to differentiate themselves and take advantage of the opportunities that lie ahead.”

Bond purchasers, he says, need to understand the role a surety plays as both a performance guarantee for the owner and a prequalification tool for the contractor. He says surety bonds can also help mitigate potential problems that may come up on site, ensuring issues are resolved more quickly to keep the work moving forward.

While he says there may have been a bit of a shortfall in the past about communicating the value of the surety process, he suspects that it will continue to evolve in the coming years. He also says the surety product, which has essentially remained the same for several decades, will change to meet some of the new demands.

“Owners will be looking for surety products that are more responsive with speed, certainty and response times built in. While contractual disputes can be complicated, we are beginning to see changes that address these concerns and I expect there will be further evolution in this regard,” he said.

He added that new bond wordings are available (outside of the CCDC bonds) that are endorsed by the industry, and owners just need to educate themselves and adopt the forms as part of their procurement process.

Kucman says the strength of the construction industry over the past 10 to 15 years has provided opportunity for a lot of companies who may not have what it takes to continue that success with the coming changes.

“There are different ways contractors get qualified for surety. Some companies base it on black and white criteria. Trisura looks outside the box, ensuring we understand the clients we support and their specific needs. That individual approach is important in today’s challenging market and can be the difference in helping a company grow and take on the opportunities in order to reach maximum profitability.”

He says it is important for contractors to seek brokers who are experienced in surety and have a good handle on the construction climate. The ability to develop and maintain a long-term relationship is also crucial.

“Surety products have been around a long time and really, the bond itself is not a distinguishing factor when looking to partner with a broker and a surety,” Kucman said. “It is not the lowest price that is important, but rather the value of the relationship and what that means when supporting the client in securing opportunities or helping them get through the tougher times.”
The “liquidity” feature can be important when financing is part of the process required to complete and manage projects, Ness says. This type of bond, which may pay out as much as 10 per cent in cash, is only available for the larger P3 projects.

A second innovation, however, makes things better for smaller and middle-size projects. The “process enhanced” bond sets specific response time frames for the surety when the bond is called. The idea isn’t to totally eliminate delays when the contractor defaults; but to give some confidence in the time frame from resolution and project completion.

Ness says the tendency to bundling and larger projects is putting the squeeze on smaller contractors, but they won’t go away completely, and will still need surety. Contractors, brokers and bond providers, however, need to keep an eye on the businesses to make sure they remain viable and profitable in the enhanced competitive environment.

These views are shared by Chris Kucman, vice-president, surety of Trisura Guarantee Insurance Company.

“The biggest challenge in our marketplace is keeping the owners informed and educated about how the bonding process works,” he said. Construction contracts continue to increase in their complexity—especially as the size of these contracts are getting larger and owners are looking for them to be completed in much tighter time-frame than we’ve seen in the past.

“This puts more pressure on a contractors’ performance, and therefore can attract more disputes and defaults within a contract due to issues such as incomplete drawings, weather conditions, unsophisticated trades and so on,” Kucman said.

“Bonds are in place to guarantee the performance of the contract and sureties can often help mitigate potential issues before they become full blown defaults, however the owners need to understand how a bond works and the steps they need to take in order to get the best value for this. While the surety industry promotes the education of the bond process, it is up to the owner to proactively seek and understand the nuances of the claims process.”

Kucman says some owners, not educated on how a bond responds, “will assume the process is like an insurance policy.” However, “in a claim or default system, there are steps the owner needs to take in order for the bond to respond appropriately and effectively.”

“I would encourage all people who are involved with the procurement and purchasing of bonds, to ensure they read and understand the bond, and remain informed of various bond forms and communications in the marketplace through visiting such websites as SAC’s.”

Ness at SAC, meanwhile, urges both owners and contractors to “keep expectations realistic.”

However, he said the “surety industry is responding (to the marketplace) in ways like never before, doing different things to meet different needs.”

For more information about SAC, see www.surety-canada.com.