



CEO Comments



Moving Toward Digital Bonds – A Challenging but Necessary Endeavor

The Surety Association of Canada recently published an important and very timely white paper on moving toward digital bonds. I heartily commend the Surety Association of Canada for taking this critical step toward building awareness of the need to move in this direction, and I urge everyone to read this well-crafted white paper, which is available to read [here](#). The white paper provides a needed definition of what is a true digital bond versus, for example, just a copy of a hardcopy executed bond transmitted via email and the threshold attributes—integrity of content, secure access, and verifiability/enforceability—for a legitimate digital bond.

Earlier this year, NASBP together with SFAA advocated for emergency orders from governments at all levels to alleviate the necessity of having persons be physically together in order to process, execute, and deliver bonds. Because of the COVID-19 pandemic, social distancing and remote work arrangements made the “business-as-usual” processing and delivery of bonds imprudent, health-risking activities. Many producers, however, had no choice other than to affix “wet-ink” signatures and impressed seals on bonds, as obligees, both public and private, remained silent as to any accommodations to prevent or avoid physical presence in the execution and delivery of required bonds. NASBP did get traction for emergency orders or temporary directives from some state governors and from certain federal agencies, such as the US General Services Administration, the US Department of Defense, and the Office of Surety Guarantees of the US Small Business Administration. None the less, the vast majority of those governmental agencies contacted took no actions, temporary or otherwise, which underscores the significant and sustained effort that must be marshalled by the surety industry to make the case for a true and lasting transition to a digital bonding environment.

Furthermore, the request made of these governmental entities was not to move toward a long-term digital bond environment; rather, it was simply to remove on a temporary basis physical presence as soon as possible from the equation of bond execution and delivery to avoid the spread of COVID-19. Certainly, we hoped that the urgency of public health and safety would provide an impetus for those requiring bonds to reexamine the ways in which they would accept bonds, departing exclusively from hardcopies with wet-ink signatures and impressed seals and moving toward greater technology adoption and process efficiency.

What did we learn in the process? Quite a few bond obligees and public officials are looking toward the surety industry for guidance, which is why a unified voice from the surety industry is so critical now. Public officials and obligees often assume that hardcopy bonds with wet-ink signatures and impressed seals are the only forms that translate to legitimate bonds, a mindset which often is being reinforced by their legal advisers and their own unfamiliarity with anything else. They may not fully understand the rationale underlying each bond execution element and, therefore, cannot translate how to achieve the same policy ends in a digital environment. Also, a transition to a true digital environment will not likely happen in one, dramatic leap, but will likely require incremental steps —“baby” steps—to achieve the end goal and to spur broader buy-in and adoption by public authorities and others, especially given the diversity of public obligees in the United States. The legal underpinnings to permit such a transition are, at least in part, already in existence, as laws have been passed in most jurisdictions that give the same legal weight to digital signatures as to wet signatures. Yet these laws do not mandate procuring agencies to accept digital signatures or move toward technology adoption for bond acceptance. Much convincing and education remains for that to be a realistic objective, and the surety industry, as a united industry, speaking with one voice, must fashion our best elevator speech. The NASBP Automation and Technology Committee has formed a task force, comprised of producers and underwriters, to that end. Kudos to the Surety Association of Canada for articulating the importance of embarking on this journey!

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