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CBL collapse could leave builders and property owners exposed



Property lawyers said they are dealing with an increasing number of questions from clients wanting to know what they can do if CBL will not cover their claims. [Anna Kucera](#)

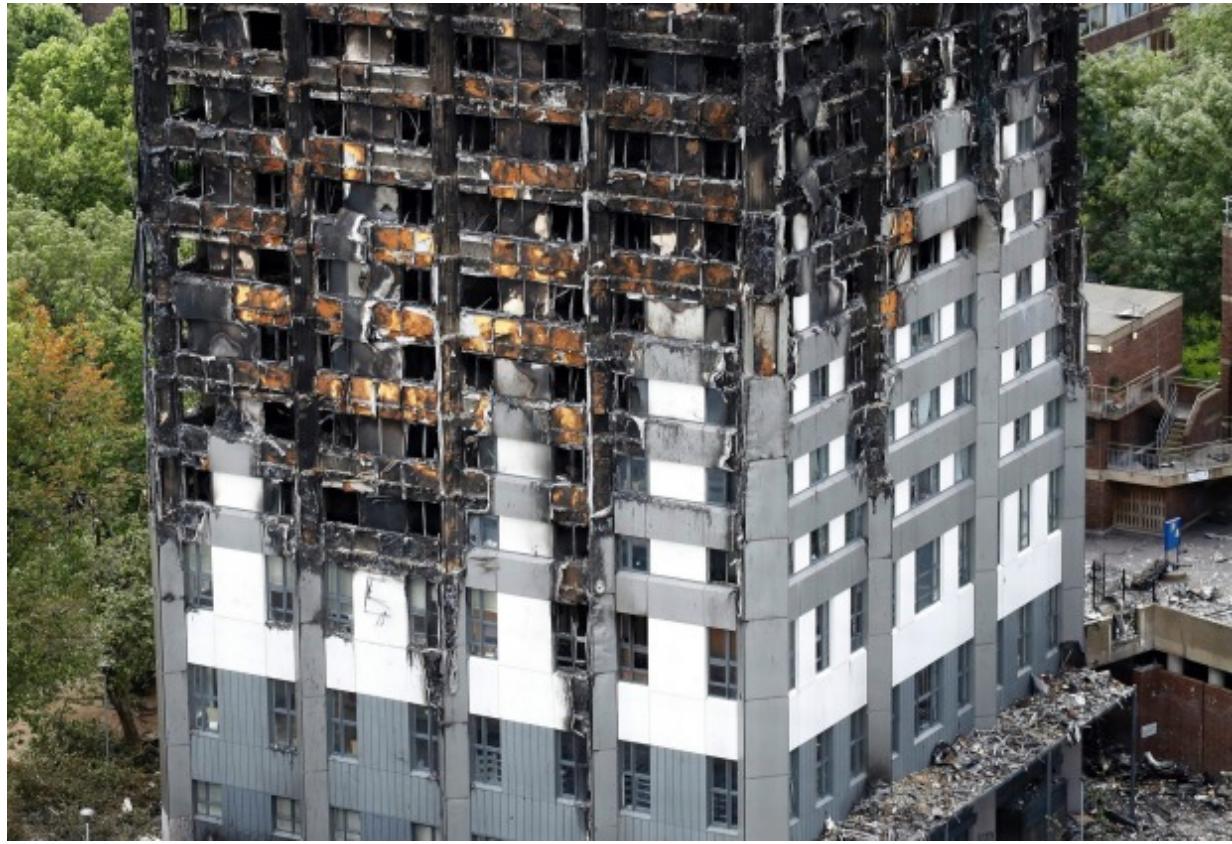
by Duncan Hughes

Builders and apartment owners could face massive bills to replace dangerous external cladding following the collapse of giant New Zealand-based insurer CBL, according to lawyers and insurers.

Aggrieved property buyers wanting compensation for poor workmanship, substandard materials, or non-completion because of the financial collapse of a builder could also be left without insurance cover, they warn.

The extent of CBL's exposure in the Australian market is unknown. In Victoria, where it was most active, it is thought to be the smaller player in a market dominated by the government's Victorian Risk Management and Insurance Authority (VMIA) scheme. The prospect of its building warranty insurance - taken out by builders and developers - lapsing, however, will send shock waves through a building industry that has strong memories of the \$5 billion collapse of HIH Australia in 2001. That caused widespread bankruptcies because exposed companies could not renew cover and faced crippling claims.

"This is very, very worrying," said Sahil Bhasin, national general manager of Roscon Group, an owners' corporation consultancy, which advises tenants and apartment owners.



The burnt Grenfell Tower in London... the outside cladding of the building is thought to have helped spread the fire, according to police, leaving dozens dead. AP

NZX and ASX-listed [CBL Corp went into voluntary administration last month](#) after the New Zealand High Court made orders appointing McGrath Nicol interim liquidator of CBL Insurance at the request of industry regulator the Reserve Bank of NZ.

CBL liquidators are warning policy holders there are "insufficient funds available to meet in full any claims made under insurance policies and bonds issued by CBL."

It adds the insurer is "not currently in a position to make any further claim payments to those policyholders with open claims made under builders' warranty insurance held by them. Policyholders should take appropriate measures to minimise any potential losses."

Costs made by claimants are likely to rank as unsecured creditor claims in the event it is placed in liquidation.

That means policy holders face long waits to be told their claims will be paid, partially paid, or rejected, which could force them to sue related parties or seek government compensation.

High cladding costs

Leading property lawyers said they are dealing with an increasing number of questions from clients wanting to know what they can do if CBL will not cover their claims.

A lawyer, who did not wish to be named, said it is potentially a "very big" issue because of the massive – and growing – costs of replacing dangerous, faulty or defective cladding on high rise buildings.

Kare Johnstone, a New Zealand-based interim liquidator and partner with McGrath Nicol, said it is still assessing CBL's exposure to Australian builders' warranty.

It is the third Australian CBL-linked business to be caught in the collapse that has, so far, hit at least 10,000 residential, commercial and property investors with exposure to deposit guarantees and reinsurance.

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"Policyholders and holders of surety and financial risk bonds are urged to obtain advice from their insurance brokers or other professional advisers to determine whether they need to purchase new insurance cover or secure additional or replacement bonds," according to a statement from the liquidator.

Builders' warranty cover indemnifies the homeowner against non-completion by the builder and, once completed, provides protection against the costs of any repairs – if these defects are not remedied by the builder – for up to six years.

Aussie impact still unknown

CBL's total exposure to the Australian market is unclear because as an underwriter it sold products under different names, usually Contractors Bonding.

According to the Australian Prudential Regulation Authority, CBL offered cover in Australia under its own name until March 31, 2009.

Assetinsure, another Australian finance company linked to troubled insurance giant, is seeking new equity partners, replacing some reinsurance lines and has removed two CBL directors from its board that it plans to replace with independents.

Assetinsure, which is owned by [CBL](#) Corporation - the head company of CBL Group - said its capital requirements are separate from CBL Group and only has limited exposure to one New Zealand company through some reinsurance. It declined to name the company.

In recent years CBL has been involved in legal actions in the Victorian Supreme Court.

That means policies covering buildings that took three years to complete, which is a reasonable construction period for an apartment complex, or high rise building, could be exposed.

In some states, such as Victoria, builders and owner builders are legally liable to purchase insurance on behalf of the homeowner for all domestic building projects over \$16,000.

It covers incomplete works, structural building defects up to six years after completion of work, or termination of the building contract, out of pocket expenses, such as removal and storage and non-structural building defects.

VMIA said: "All questions regarding CBL and claims on this matter should be directed to CBL."

Earlier this month, [Deposit Power](#), which provided interim finance to property buyers, closed its doors after the collapse of CBL's insurance, which was an issuer and guarantor of deposit bonds.

Liquidators warn an estimated 10,000 residential, commercial and property investors in the lurch about the fate of nearly \$300 million worth of deposits.

The Australian Institute of Building Surveyors has written to members warning "it is able to assist builders concerned about these developments"

It is advising members to "pay particular attention to the evidence of insurance provided" when working on projects requiring cover.