

**IMPORTANT MATERIAL
TO BE IMPLEMENTED**

December 13, 2017

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: **Commercial Auto Loss Recoupment [REVISION]**.

This circular revises Circular RF-17-12 issued October 5, 2017

As this is a new recoupment surcharge, **this revised circular should be immediately brought to the attention of all interested personnel in your company responsible for programming, policy issuance or completing and submitting the monthly accounting reports to the NCRF.**

As previously announced, the **new** commercial auto (other than non-fleet private passenger automobile) loss recoupment surcharge will be implemented **October 1, 2018** for all new and renewal commercial auto policies effective on or after October 1, 2018 through September 30, 2019.

The surcharge will apply to **all commercial auto policies whether ceded to the NC Reinsurance Facility or retained as voluntary business by your company.** For purposes of determining applicability of the surcharge, the impacted commercial auto premium is defined below.

Commercial Auto loss recoupment applies to liability (bodily injury and property damage), medical payments, uninsured motorist and underinsured motorist premiums on all commercial auto policies for which the premiums are reported as North Carolina premium in the Annual Statement on statutory page 14, lines 19.3 and 19.4.

Exceptions to this are:

- (A) Vehicles listed in N.C.G.S. 58-37-1(6), and*
- (B) Companies classified by the North Carolina Insurance Commissioner as an "Authorized Surplus Lines Writer" or a "Risk Retention Group".*

We recognize the complexities of this change and the impact to the member companies, which is why we provided such advance notice. Additional information providing further details and support regarding web access, FTP (file transfer protocol) account setup, and testing options for companies who do not currently report monthly to the NCRF has been communicated by circular letter to all member companies (RF-17-13). For companies currently reporting non-fleet private passenger auto loss recoupment to the Facility, you will find the commercial auto loss recoupment process very similar. Companies will be required to report monthly **beginning with the July 2018 accounting report submission** to the Facility.

COMMERCIAL AUTO LOSS RECOUPMENT FACTOR

The following is the new commercial auto loss recoupment surcharge factor beginning **October 1, 2018**. The commercial auto loss recoupment surcharge is subject to the payment of agent compensation.

<u>Line code</u>	<u>Recoupment Type</u>	<u>Applicable to policies effective</u>	<u>Policy Type</u>	<u>Surcharge (before agent comp)</u>
CA51	Loss	10/1/18 - 9/30/19	Comm Auto	14.61% *

*Subject to applicable rounding rules

For commercial auto (other than non-fleet private passenger automobile) policies, a loss recoupment surcharge factor of **14.61% before loading for agent compensation and 16.23% including agent compensation** (with both percentages subject to applicable rounding rules) will be applied to all commercial auto (other than non-fleet private passenger) policies. This surcharge will be applicable in accordance with law to policies issued to become effective during the twelve months beginning **October 1, 2018**.

The revised applicable rules and procedures and other requirements relating to recoupment, attached as Exhibit 1, will replace those currently set forth in Standard Practice Manual Section 4, Chapter 13, Item C Surcharges, pages 13-2 through 13-3. These revised rules, procedures and requirements will be published in the NCRF Standard Practice Manual effective December 2017. We request that you review and carefully observe these rules, procedures and requirements.

The loss recoupment surcharge factor which is applied to premium should be the published percentage adjusted to include the agent compensation or commission paid on the loss recoupment amount. The surcharge must be rounded to the nearest hundredth of a percentage point in order to assure that proper agent compensation will be provided. Given a 10% commission on commercial auto (other than non-fleet private passenger) recoupment, the loss recoupment surcharge would be:

$$16.23\% (.1461 \div .90 = .1623).$$

Examples are provided on **Exhibit 2**.

CLOSINGS AND REPORTING REVISIONS

Reporting begins with the July 2018 Monthly Accounting Report submission to the NCRF.

1. The loss recoupment surcharge is required to be reported in the Monthly Accounting Report (submitted monthly).
2. The Recoupment Detail Report supports the summary amounts in the Monthly Accounting Report. All companies will be required to submit this report for the October 2018 accounting month. Later reports will be submitted upon request by the NCRF.
3. Both reports will need to have the surcharge identified by line code **CA51**. These reports are to be submitted in an electronic file submitted via FTP (file transfer protocol).

AMENDED REPORT FORMAT

Specifications for the Monthly Accounting Report are provided in the Standard Practice Manual, Section 4 exhibits C-1 and C-2. For the Recoupment Detail Report, the specifications can be located in exhibits D-1 and D-2 of the manual. Both are also included in the FTP Instruction Guide available on the NCRF website. These files may only be submitted via FTP.

Please see to it that the above is brought to the attention of all interested personnel in your company responsible for programming, policy issuance or completing and submitting the monthly accounting reports to the NCRF.

Questions regarding this circular should be directed to Bill Benton at 919-645-3187 or e-mail at: web@ncrb.org.

Sincerely,

Terry Collins,

Chief Operating Officer

North Carolina Reinsurance Facility

Attachments

RF-17-16

Exhibit 1

North Carolina Reinsurance Facility Standard Practice Manual Section 4, Chapter 13, Item C. Surcharges:

“The following are the guidelines applicable to the billing, collection, and recording of recoupment surcharges:

1. Surcharges apply on policies written to become effective during the time period announced by the Facility circulars. As to policies issued for a period of more than one year, the surcharge in effect at each anniversary of the policy effective date shall apply for the term, not to exceed one year, beginning on that date.
2. By statute, the surcharges are not considered or treated as written premiums but on policies and billing statements the surcharges shall be combined with and displayed as a part of the applicable premium charges.
 - a. For non-fleet private passenger auto:
 - Under a single-vehicle policy the total amount of the applicable recoupment surcharges is to be divided equally and combined with the bodily injury and property damage liability premiums only.
 - Under a multi-vehicle policy the total amount of the applicable recoupment surcharges is to be divided equally among all vehicles and the amount assigned to each vehicle is to be divided equally and combined with the bodily injury and property damage liability premiums only for each vehicle.
 - b. For other than non-fleet private passenger auto (commercial auto):
 - a member company may choose to apply the surcharge at a vehicle level (as above) or at the policy level. The company must be consistent in its application of this decision.
3. Since surcharges are not considered or treated as premiums
 - there are no escrow considerations;
 - there are no premium tax considerations;
 - there are no ceding or claim expense allowances on the surcharge amounts.
4. Surcharges are applicable only to liability coverages including bodily injury liability, property damage liability, medical payments, uninsured motorists, and underinsured motorists coverage premiums.
5. Recoupment surcharges for:
 - Non-fleet private passenger auto are to be applied to all vehicles insured on non-fleet private passenger auto policies.
 - Other than non-fleet private passenger auto (commercial auto) are to be applied to all vehicles insured on commercial auto policies regardless of vehicle type.

6. With respect to the charging and billing of the surcharge amount:
 - a. For non-fleet private passenger auto, the exact surcharge amount must be charged and billed in dollars and cents. Rounding is not permitted.
 - b. For other than non-fleet private passenger auto (commercial auto), the exact surcharge amount may be charged and billed in dollars and cents **OR** the surcharge amount may be rounded to the nearest dollar. A member company that chooses to round to the nearest dollar must be consistent in its application of this decision. The Facility recognizes that, if rounding to the nearest dollar is utilized, the whole dollar surcharge amount may be a slightly different percentage of the liability premium than the specific surcharge percentage.
7. Detail records of surcharges are maintained at the company level. When required under Chapter 3, Paragraph J., member companies must submit a detail transaction listing to support surcharges reported to the Facility.
8. Policies may be canceled for non-payment of surcharge.
9. If a surcharged policy is canceled, there is an appropriate (pro rata, short rate or total) refund of the surcharges to the insured. Similarly, the surcharge(s) is adjusted in relation to additional or return premiums on transactions occurring after policy issuance.
10. On non-fleet private passenger car business to which any deviation from Personal Auto Manual rates applies, the surcharge percentages otherwise applicable shall be adjusted so that the deviating company recovers the same dollar amount as would have been recovered had the surcharge percentages established by the Board of Governors been applied to the premium at the manual rates. This is only applicable to non-fleet private passenger auto recoupment.
11. The applicable general statutes require the Board of Governors to adopt and implement a plan for compensation of agents when recoupment surcharges are imposed. The guidelines for such compensation as adopted and implemented by the Board of Governors are as follows:
 - a. Compensation shall be paid by members of the North Carolina Reinsurance Facility to agents for the services performed by such agents in relation to the collection of recoupment surcharges applicable to policies subject to such recoupment surcharges.
 - b. The compensation amount required to be paid to agents by each member of the North Carolina Reinsurance Facility shall be equal to an amount determined by multiplying (i) the percentage rate of agent compensation by (ii) the amount of the recoupment surcharge including the agent compensation.
 - c. The percentage rate of agent compensation that is to be included in the recoupment surcharge and applied to policies as described above is
 - 10% for non-fleet private passenger auto
 - 10% for other than non-fleet private passenger auto (commercial auto)

The recoupment surcharge amount added to each policy premium subject thereto shall include the amount necessary for the member company to recover the compensation required to be paid to the agent (as described above) in addition to the amount determined by applying to such premium the percentage determined by the Board of Governors.

For example, if the determined recoupment surcharge is 11.7%:

Recoupment surcharge percentage: **11.7% OR .117**

Agent commission: **10% OR .10**

Recoupment surcharge percentage, including agent commission,
to be applied to liability premium: **.117 / (1-.10) = .130 OR 13.0%**

The amount of the recoupment surcharge shall be determined by multiplying the recoupment surcharge percentage (after inclusion of the 10% agent commission) by the policy premium subject thereto. Following the example above where the recoupment surcharge percentage including agent commission is 13.0%:

An example of calculating the recoupment surcharge amount including agent commission if policy premium = \$180.

Recoupment surcharge percentage: **13.0%**

Policy premium: **\$180**

Recoupment surcharge amount: **13.0% X \$180 = \$23.40**

- d. For each recoupment the surcharge percentage applied to each policy premium subject thereto shall be the same regardless of whether the policy is ceded to the Facility or voluntarily retained by the member company. If for any reason a member company should elect to pay on recoupment amounts a higher percentage rate of agent compensation than the 10% set forth above, the recoupment amounts included in the policy premium and reported monthly to the Facility as recoupments written must be the same as would be reported if the percentage rate of compensation was 10%.

For example, if the recoupment surcharge amount determined in accordance with the 10% rate set forth above is \$23.40, and the company elects for any reason to pay the agent compensation or commission on the recoupment at the rate of 15%, then the amount included in the policy premium would nonetheless be \$23.40 and the amount reported to the Facility as recoupment written net of agent compensation or commission must be $.90 \times \$23.40$ or \$21.06, not $.85 \times \$23.40$ or \$19.89.

Exhibit 2

SURCHARGE CALCULATION

The loss recoupment surcharge is to be **calculated on** liability (bodily injury and property damage), medical payments, uninsured motorists and underinsured motorists coverage premium amounts **on all commercial auto policies, including those ceded to the NCRF and those retained voluntarily by member companies.**

For example, consider a policy for a two-vehicle non-fleet private passenger or commercial auto policy where the surcharge is applied at the vehicle level as shown below with total liability, medical payments, uninsured motorists and underinsured motorists coverage premiums of \$1,060.00 subject to the loss recoupment surcharge. This policy would have a total surcharge of \$172.04 (\$1,060 x .1623).

Coverage	Premiums		Amounts to be charged after inclusion of recoupment surcharge	
	Vehicle 1	Vehicle 2	Vehicle 1	Vehicle 2
Bodily Injury	\$403.00	\$125.00	\$446.01 ^a	\$168.01 ^c
Property Damage	301.00	123.00	344.01 ^b	166.01 ^d
Medical Payments	38.00	19.00	38.00	19.00
Uninsured/Underinsured Motorists	35.00	16.00	35.00	16.00
Total	\$777.00	\$283.00	\$863.02	\$369.02

Note: Example assumes 10% agent commission.

Loss Recoupment surcharge 16.23%	$\frac{\text{Liability Premium X Surcharge \%}}{\text{\$172.04}}$	$\frac{\text{Surcharge \$ divided by 4 (2-BI,2-PD)}}{\text{\$43.01}}$
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- a: \$403.00+43.01
- b: \$301.00+43.01
- c: \$125.00+43.01
- d: \$123.00+43.01

Consider another example, where two vehicles are on a commercial auto policy and the surcharge is applied at the policy level.

Coverage	Premiums	
	Vehicle 1	Vehicle 2
Bodily Injury	\$403.00	\$125.00
Property Damage	301.00	123.00
Medical Payments	38.00	19.00
Uninsured/Underinsured Motorists	35.00	16.00
Total	\$777.00	\$283.00

Note: Example assumes 10% agent commission.

$\frac{\text{Liability Premium X Surcharge \%}}{\text{\$172.04}}$	$\frac{\text{Amount to be charged after inclusion of recoupment surcharge}}{\text{\$1,232.04}}$
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NOTE: Per N.C.G.S. 58-37-40(f) the surcharges shall be combined with and displayed as a part of the applicable premium charges.