

**IMPORTANT MATERIAL  
 TO BE IMPLEMENTED**

June 22, 2020

CIRCULAR LETTER TO ALL MEMBER COMPANIES FOR

**RE: COMMERCIAL AUTO LOSS RECOUPMENT**

- (1) **OTHER THAN NON-FLEET PRIVATE PASSENGER RECOUPMENTS**
- (2) Closing
- (3) Amended Report Format

A commercial auto (other than non-fleet private passenger automobile business) loss recoupment surcharge of **4.56%** will be implemented on **October 1, 2020** for all new and renewal commercial auto policies effective on or after October 1, 2020 through September 30, 2021.

The new commercial auto loss recoupment surcharge will apply to commercial (other than non-fleet private passenger) automobile business only as follows:

<u>Line code</u>	<u>Recoupment Type</u>	<u>Applicable to policies effective</u>	<u>Policy Type</u>	<u>Surcharge (before agent comp)</u>
<b>CA53</b>	<b>Loss</b>	<b>10/1/20-09/30/21</b>	<b>Commercial Auto</b>	<b>4.56%</b>
<b>CA52</b>	<b>Loss</b>	<b>10/1/19-09/30/20</b>	<b>Commercial Auto</b>	<b>7.07%</b>
<b>CA51</b>	<b>Loss</b>	<b>10/1/18-9/30/19</b>	<b>Commercial Auto</b>	<b>7.07%</b>

**COMMERCIAL AUTOMOBILE BUSINESS**

For commercial automobile business, the loss recoupment surcharge of **4.56% (before inclusion of agent compensation)** will be applicable in accordance with law to policies issued to become effective during the twelve months beginning **October 1, 2020**. The commercial auto loss recoupment surcharge is necessary to recoup losses sustained by the NC Reinsurance Facility on ceded commercial auto business.

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”.

**The applicable rules and procedures and other requirements from the NCRF Standard Practice Manual relating to recoupment are attached as Exhibit 1. We request that you review and carefully observe these rules, procedures and requirements.** Please note that the excerpt outlines procedures for recoupments on **both non-fleet private passenger business and commercial auto business.**

The loss recoupment surcharge percentage which is applied to premium should be the published percentage adjusted to include the agent compensation 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 10% agent compensation on commercial auto recoupment, the loss recoupment surcharge would be:

$$5.07\% (.0456 \div .90 = .0507)$$

To provide the greatest amount of flexibility to member companies, the Board of Governors is allowing the application of the surcharge to commercial auto to be at the vehicle level or at the policy level.

### **CLOSINGS AND REPORTING REVISIONS**

No recoupment line codes will be closed at this time. Your company’s NCRF Monthly Accounting Report and NCRF Monthly Recoupment Detail Report must be modified to reflect the new active line code CA53 effective with the **July 2020 accounting report submission (due by August 25, 2020)**. The recoupment surcharges are to be reported in the Monthly Recoupment Report (submitted monthly) and the Recoupment Detail Report (submitted upon request by the NCRF). These reports are to be submitted in an electronic file submitted via FTP (file transfer protocol).

1. 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 2020 accounting month.
2. Both reports will need to have the surcharge identified by the new line code CA53.

### **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 [Katie Lovelace at 919-719-3041](tel:919-719-3041) or e-mail at: [kml@ncrb.org](mailto:kml@ncrb.org).

Sincerely,

Terry F. Collins

Chief Operating Officer

North Carolina Reinsurance Facility

Attachments

RF-20-8

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 or at the policy level.
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. 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 compensation: **10% OR .10**

Recoupment surcharge percentage, including agent compensation,  
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 compensation) by the policy premium subject thereto. Following the example above where the recoupment surcharge percentage including agent compensation is 13.0%:

**An example of calculating the recoupment surcharge amount including agent compensation 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 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 must be  $.90 \times \$23.40$  or \$21.06, not  $.85 \times \$23.40$  or \$19.89.