



Risk Sharing Pool (RSP) Claims Guide

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Introduction

Mission

Facility Association's mission is to administer automobile insurance residual market mechanisms, enhance market stability, and guarantee the availability of automobile insurance to those eligible to obtain it. We strive to keep the market share of the residual markets as small as possible, so consumers may benefit from the competitive marketplace to the greatest extent possible.

Vision

Facility Association's vision is to be recognized and relied upon as a highly efficient and effective administrator of automobile insurance residual markets, whose objective opinion on residual markets and related issues is respected and sought by stakeholders.

Facility Association Plan of Operation, Operating Principles, Claims Procedures

Servicing Of Transferred Risks to the Risk Sharing Pool (RSP)

A member who has transferred a risk to the RSP will provide the same services in connection with administration, payment options, claims investigation and handling and other consumer services and facilities as it would if such risk had been retained by it for its own account.

Investigation and Settlement

In respect of every claim on insurance transferred to the RSP:

(1) It shall be the responsibility of the member concerned to investigate, defend and settle the claim or suit as it would in the absence of the RSP. The Association shall have the right and shall be given the opportunity of associating with the member in the defense of any claim or suit and shall receive the full co-operation of the member.

(2) The RSP shall contribute to the loss adjustment cost in connection with internal costs and external loss adjustment costs other than professional fees through payment of the amount determined on a basis to be established by the Board from time to time as set out in the applicable provisions of Article XI.1, Section 6(b) or Article XI.2, Section 5(b). The member shall be reimbursed in connection with expenses for professional fees on the basis established in the applicable Facility Association Risk Sharing Pool Claims Guide.

Transfer Forms

In respect of claims on transferred risk:

(1) Members shall promptly complete and submit individual Claim Transfer Forms and Claim Batch Control Forms by written, tape, disc or other approved method in respect of all claim payments and recoveries and all new reserves and reserve changes in accordance with procedures authorized by the Board and published by the Association. The individual forms shall contain all the applicable statistical information.

C. Large Claims

(1) When the cost of any one loss on a transferred risk is estimated by the member to reach or exceed such amount as may require reporting pursuant to the provisions of the Facility Association Risk Sharing Claims Guide as a large loss, the member shall comply with the procedures set out in the applicable Facility Association Risk Sharing Claims Guide as approved by the Board from time to time.

(2) When the total amount paid by the member and recoverable from the RSP in respect of one accident exceeds \$100,000.00 or such other amount as may from time to time be determined by the Board, it will upon the request of the member be paid such amount by special remittance immediately upon receipt by the RSP of the required information as stipulated in the applicable Risk Sharing Pool Procedures Manual.

D. Claims Reporting

(1) A member shall within twelve months from the date it receives a claim under a policy that has been transferred to an RSP, including any loss for which settlement expenses would be incurred by the member without there being any claims payment, report to the Association that it will be claiming against the RSP in connection therewith.

(2) If a member fails to comply with this requirement, the Association management may require the member to remove the claim from the RSP due to late reporting. In any such case the member shall have the right to appeal such decision to the Claims Committee and to the Board.

Right of Audit

The 'Plan' - Articles of Association – Article XVII states that: 'The Association may audit the records of any member relating to the subject matter of the Plan of Operation and may establish what policies, records, books of account, documents and related material it deems necessary to carry out its functions. Such material shall be provided by the members in the form and with the frequency reasonably required by the Association.'

The Articles of Association- Article XVI [Records and Reports] states that: 'The books of account, records, reports and other documents of the Association shall be open to inspection by any member at such times and under such conditions and directives as the Board shall determine.'

Appointment of Project Manager(s)

Member companies are required to designate a Project Manager to liaise with the FA. The designate will be the point of contact for all claims related correspondence between the Member and FA. Given the importance of the duties and responsibilities, a senior claims representative as a designate is strongly recommended. Consequently, it is also important that members immediately notify FA of any Project Manager changes.

Core Duties and Responsibilities

The core duties and responsibilities of Project Managers are:

- To ensure compliance with FA Claims Guides and procedures;
- To ensure that losses, as defined in this guide, are reported in their totality, including those claims that are separated by coverage or sub-lines.
- To provide updates on losses 'as required' and/or every 6 months from the date of reporting;
- To address any correspondence and inquiries from the FA Claims Committee and staff;
- To address any claims matters that are of concern to the FA;
- To distribute FA bulletins as required.

Facility Association (FA) Claims Committee

The FA Claims Committee is comprised of senior claims personnel from both Member Companies and Servicing Carriers. The Claims Committee usually meets approximately six (6) times annually. The Committee's objective is to lend its market expertise to FA claims processes or as instructed by the FA Board of Directors or any of the Board's Committees.

Committee Objectives

The mandate of the Claims Committee is to lend its market expertise to the claims processes of the Facility Association's Board of Directors or any of its Committees.

Committee Duties and Responsibilities:

The Claims Committee shall be responsible for advising Facility Association on Claims related matters including:

- Advising on issues which are industry related to properly interpret their meaning and impact in relation to Facility Association procedures.
- Advising on new court decisions and legislation and the impact it may have on claims.
- Providing direction, guidance and recommendations to Facility Association staff on large loss claims:
 - FA staff will review all large loss claims as outlined in the Claims Guide and bring any claims that require further guidance to the claims committee for discussion (this will include bad faith claims deemed necessary for further review).
 - FA staff will take those recommendations to the member companies as needed.
- As determined by FA staff, the committee will also provide expertise and recommendations on Uninsured Automobile files and Servicing Carrier run off files.
- Review any class action lawsuits where Facility Association is named.
- Supporting the Provincial Operating Committee in deciding on coverage and/or liability in disputed claims.
- Review any changes FA staff propose to the RSP and FARM Claims guides, before such changes are submitted to the Governance and HR committee for approval.
- Reviewing appeals when companies are fined for not reporting transmission to the RSP within 30 days.

Large Loss Reporting Criteria

The Facility Association Claims Review Team requires notice of any occurrence that meets **one or more** of the following criteria:

1. An aggregate total incurred (paid and outstanding) loss and reserves of **\$500,000** or more (total of all sub-files).

Note: FA bases its reporting on the total incurred for each file, i.e. all lines of paid to date/open reserves for the entire file.

If the file is separated by coverage, both the Accident Benefits total incurred and the Bodily Injury total incurred aspects of the file sections must be reported.

Note: This reporting will be accommodated under one FA claim number.

2. A claim with **reported theft** of a vehicle that has an aggregate total incurred (paid and outstanding) loss and reserves of **\$150,000** or more under the comprehensive coverage.
3. A claim reserved at 75% or greater of Third Party Liability, Uninsured or Underinsured policy limits.
4. A serious injury including but not limited to:
 - (a) Fatality with dependents.
 - (b) Brain injury with a Glasgow Coma Scale Score of 8 or less within 12 hours of the motor vehicle accident, and/or continuous hospital stay of more than 12 days in the 14 days subsequent to the motor vehicle accident.
 - (c) Any plegia (para, quadra, tetra, hemi, etc.).
 - (d) Amputation of a limb at or above the elbow or knee.
 - (e) Serious disfigurement.
 - (f) Loss of vision in both eyes.
 - (g) A class 4 or class 5 impairment in one or more areas of function that occurs 2 years or more post-accident.Note: These injuries shall be reported regardless of the member's assessment of liability or the amount of the incurred loss.
5. An Ontario Accident Benefits claim:
 - (a) That results in continuous payments and/or entitlement under the disability section of the policy for two (2) years or more for Income Replacement Benefit, Non-Earner Benefit and/or Caregiver Benefit.
 - (b) Claimant has been receiving Ontario Disability Support Plan (ODSP) and/or Canadian Pension Plan Disability (CPP-D), and/or Long-Term Disability payments at the time of the motor vehicle accident, and/or is expected to receive benefits under ODSP or CPP-D after the motor vehicle accident.
 - (c) Where the optional benefit of \$1,000,000 non-catastrophic injuries were purchased prior to the motor vehicle accident.
 - (d) Where the optional benefit of \$600, or \$800 or \$1,000 per week for Income Replacement Benefits was purchased prior to the motor vehicle accident.
 - (e) Where an insurer is in agreement with a submitted Application for Catastrophic Impairment Determination (OCF-19), either before proceeding to the Section 44 Insurer's Examination(s) or as a result of the Section 44 Insurer's Examination(s).
6. All class actions or situations where an action has been initiated naming FA or, where FA will be presented with the legal fees for defending such an action.

The Large Loss Review Process

All losses which qualify as a large loss must be reported within 60 days of the member's knowledge of meeting the reporting criteria using FAC 50 and FAC 51 forms accompanied by an **Initial Summary Report**. The FAC 50 should be marked "Initial Report". [Please refer to the instructions on completing each form and report]

Once the **"Initial Report"** to Facility Association has been received and the Claims Committee has reviewed the information contained on the FAC 50 and 51 and the Summary Report, an acknowledgement will be sent to the member company Project Manager with the Claims Committee comments, observations and suggestions.

Occasionally, the Claims Committee will either question or make a recommendation on the reserves being carried by the member company. In such cases, FA staff will advise the Project Manager of the Claims Committee's comments. The member company must respond by either:

- Modify or adjust the reserve level in accordance with the Claims Committee recommendations;
- Provide an explanation to the Claims Committee of the rationale of the reserving.

Note: *The setting of reserves for injuries in Ontario requires the consideration of whether the injury will meet the threshold criteria. The Claims Committee recommends that if it cannot be determined whether or not an injury will meet the threshold test, a reserve that reflects 100% of the assessed value be maintained.*

Members will be required to provide updates on Large Loss claims to the Claims Committee in accordance with a schedule (usually within 6 month periods) determined by FA staff.

How to Report a Large Loss

In order to report a large loss to the Facility Association, the following documents **must** be submitted to the FA to the claims mailbox claims@facilityassociation.com

- A. Summary Report
- B. FAC 50
- C. FAC 51

A. Summary

The objective of a "Summary Report" is to provide the FA Claims Committee with sufficient information to facilitate the Committees review of claims records. Therefore, the Committee expects that the following information is provided in Summary Reports:

- A complete overview of the claim including information pertinent to the file.
- A 'synopsis' of medical information, reconstruction reports, statements, legal summaries and any information relevant or unique to that particular claim.
- The intended action to bring the claim to conclusion.

Note: *The Claims Committee will not accept copies of full medical reports or assessments, legal opinions, reconstruction reports, etc. unless specifically requested.*

B. FAC 50 [Large Claims Report–General]

The FAC 50 form facilitates the reporting of claims meeting the reporting criteria in accordance with the categories provided in this Claims Guide in a condensed format. Accurate and full completion of this document allows sufficient information for the Claims Committee to adequately assess the claim. It is also important that the company reporting number is provided on this document. Note that any paid losses and the amounts of calculated reserve must only be reflected in the appropriate KOL sections.

C. FAC 51 [Bodily Injury and/or Accident Benefits Worksheet-General]

The FAC 51 form is intended to supplement the FAC 50 and provides the various reserve calculations for injury claimants and their respective Kind Of Loss (KOL) on the FAC 50. The FAC 51 is intended for individual claimants, e.g. only one claimant per FAC 51 but can demonstrate the calculation for that claimant for both Tort and Accident Benefits.

The FAC 51 is divided into two sections: i) Information and ii) Reserve calculation for Tort and Accident Benefits: The 'Information Section' provides pertinent individual information that supports the reserve calculation whereas the Reserve calculation is a worksheet that supports calculations for Tort and/or Accident Benefits. It is important to note that calculations for the reserves should **not** consider any "paid to date" amounts.

Claimants Eligible for Both Tort & Accident Benefits

In those circumstances wherein the claimant is eligible to make a claim under both the Tort and the Accident Benefits sections of the auto policy, the FAC 51 may be used to calculate both reserves.

Separation of Claims Files

In those circumstance whereby a separation of claims files is required due to a conflict of interest or member policy, separate FAC 51 forms may be completed; however both documents must be submitted along with the initial report.

If separate claim numbers were assigned then the respective FAC 51 form must reflect the assigned claim number for the appropriate KOL.

Where to Obtain Downloadable Forms

Downloadable forms can be obtained from the FA Website:

<https://www.facilityassociation.com/members/resources/Forms>

Where to Submit Claims Forms

All forms must be submitted to the following email address: claims@facilityassociation.com

What are the Compliance Requirements

- (1) For a policy already transferred to the RSP, any initial reserves, paid losses or expenses shall be reported to the RSP within 30 days from the date the claim is posted to the members own system. In addition, once the loss has been reported to the RSP, changes to loss amounts, expenses paid or reserves shall be updated to the RSP within 30 days of the company posting to its own system.

Non-compliance with Reporting Requirements

- (2) If a member has failed to comply with the reporting requirements with respect to a loss or losses reported to it, such member may be subject to a fine in the amount of \$500.00 for a first infraction, \$1,000.00 for a second infraction and \$2,000.00 for a third infraction within any three year period. The member may also as a result of such third infraction be barred from ceding risks to the RSP for a period of up to one year.
- (3) The penalties to be applied to the member in such circumstances shall be determined by FA Senior Management with a right of appeal by the member to the Claims Committee and subsequently to the Board of Directors.

How to Revise and/or Update Large Loss Information

In those circumstance that a loss increases or decreases by a minimum of \$100,000, a summary report containing pertinent information related to liability, medical and legal status of each claimant must be completed. The "Summary Report" must also accompany updated FAC 50 and FAC 51 forms. Any changes must also be submitted to FA within **30 days** of the change.

All reported claims must be updated every six (6) months or as required by senior management from the date of reporting with a one page summary of the Liability, Medical and Legal status of each claimant and forwarded to the Claims Committee and should include all lines of coverage

How to Close a Large Loss File

In circumstances wherein the claim has been concluded i.e. all sub-files or lines of reserves, must be reported to FA by completing the FAC 52 [Large Claim Closure Worksheet]. Please note that all closed claims must be reported within **30 days** of closure.

Best Practice

Our experience indicates that a best practice is for Members to routinely review and reconcile open claims reported to FA to those claims on Members' own records. A request for a detailed list of open claims can be submitted to the following email address: claims@facilityassociation.com

Eligible Legal and Professional Expenses

Only the following claims expenses under A & B are eligible for transfer to the Risk Sharing Pools:

A. First Party Legal Disbursements

Note: Any item included in first party legal disbursements which is investigative in nature (i.e. police and surveillance reports) **does not** qualify and is ineligible for transfer to the RSP's.

B. Alternate Dispute Resolution Services

Accounting Services

Actuarial Services

Architectural Services

Engineering Services

Notarial Services

Court Stenographers' Transcripts

Coroners' Court Transcripts

Medical Reports

Autopsy Reports

Arbitration

Translations

Salvage (Seller Fees Only)

Cost of Examinations (Insurer initiated examination) - invoiced on/after October 1, 2021

Appendix A: FAC 50: Large Claims Report- Used on Every Submission



FAC 50 – Large Claims Report Effective 2022

[illegible]

Appendix B: FAC 51: Bodily Injury Worksheet



FAC 51 - Bodily Injury Worksheet Effective 2022

Company Number:		TA Claim Number:		Company Name:		Company Claim Number:	
Date Form Is Completed:		Reporting Period Form Pertains To:		Completed By:			
Claimant Name:		Dependents:		Gender:		Occupation:	
Date of Birth:		Jurisdiction:		Other Insurers Involved (LTD, AB, Own Underinsured Coverage, etc.):			
Marital Status:		W/SB/ WCB: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>					
Position In Described Vehicle: Driver <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> TPV Vehicle Occupant <input type="checkbox"/> Cyclist <input type="checkbox"/>							
Optional Benefits:		Endorsements:		Date of Loss:		<div></div>	
Claimant Counsel Law Firm:		Carrier Counsel Firm:		Annual Income:			
Claimant Counsel Lawyer Name:		Carrier Counsel Lawyer Name:		Employment Status:			
Collaterals Being Received:							
Nature & Extent of Initial Injuries:							
Collateral Benefits Available:							
Time In Hospital:		Medical Interventions/Treatment:					
Current Status of Claimant:							
Status of Claim Proceedings:							
A		B		C			
General Damages:	\$	Wages:	\$	Future Wage Loss / LOCA:	\$		
FLA: (net)	\$	Other Wage:	\$	Housekeeping/Home Maintenance:	\$		
Deductible:	\$	Less Liability:	% \$	Future Meds:	\$		
Less Liability:	% \$	Sub Total:	\$	Less Liability:	% \$		
Sub Total:	\$	Less Accident Benefits:	\$	Sub Total:	\$		
Deductible:	\$	Less Collaterals:	\$	T/P Costs:	\$		
P/L:	X Years \$	Sub Total:	\$	Defense Costs:	\$		
Total of A: \$		P/L:	X Years \$	Total of C: \$			
		Total of B: \$	0.00	Grand Total of A + B + C: \$		0.00	
Please provide details of any coverage questions, contributory negligence, pre-existing, concurrent or subsequent injury, illness or medical conditions.							
Please provide details of any Present Values and Annuity Quotes.							



Appendix C: FAC 51: Accident Benefits Worksheet



FAC 51 - Accident Benefit Worksheet Effective 2022

Company Number:	FA Claim Number:	Company Name:	Company Claim Number:	
Date Form is Completed:	Reporting Period Form Pertains To:	Completed By:		
Claimant Name:	Dependents:	Gender:	Occupation:	
Date of Birth:	Underwriting Jurisdiction:	Priority:		
Marital Status:	WSIB/WCB: Yes <input type="checkbox"/> No <input type="checkbox"/>			
Position in Described Vehicle: Driver <input type="checkbox"/> Passenger <input checked="" type="checkbox"/> Pedestrian <input type="checkbox"/> TP Vehicle Occupant <input type="checkbox"/> Cyclist <input type="checkbox"/> Other Please Explain:				
Optional Benefits:	Endorsements:	Date of Loss (month/year):		
Claimant Counsel Law Firm:	Carrier Counsel Firm:	Annual Income:		
Claimant Counsel Lawyer Name:	Carrier Counsel Lawyer Name:	Employment Status:		
Nature & Extent of Initial Injuries:				
Collateral Benefits Available:				
Time in Hospital:	Medical Interventions/Treatment:			
Current Status of Claimant:				
Ontario Accident Benefits in Force/OMPP:	Bill 160 <input type="checkbox"/> Bill 59 <input type="checkbox"/> Bill 403/96 <input type="checkbox"/> Bill 34/10 2010 <input type="checkbox"/> Bill 34/10 2014 <input type="checkbox"/> Bill 34/10 2016 <input type="checkbox"/>			
Disability Income Weekly Benefit Calculation:	Income Replacement Benefit <input type="checkbox"/> Non-Earner Benefit <input type="checkbox"/> Caregiver Benefit <input type="checkbox"/>			
Gross = \$	70% of Gross = \$	Policy Maximum = \$	Monthly CPP-D & LTD Being Received: \$	
\$ x % = \$	Less Collaterals \$	= \$	x weeks = \$	
Applied for CPP-D:	Yes <input type="checkbox"/> No <input type="checkbox"/> In Dispute <input type="checkbox"/>			
Meets Post 104 Definition:	Yes <input type="checkbox"/> No <input type="checkbox"/> In Dispute <input type="checkbox"/>	HST Included Below: Yes <input type="checkbox"/> No <input type="checkbox"/>		
Meets Catastrophic Definition:	Yes <input type="checkbox"/> No <input type="checkbox"/> In Dispute <input type="checkbox"/>			
Tabular Reserves:	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes \$			
OCF-19 Expected:	Yes <input type="checkbox"/> No <input type="checkbox"/> OCF-19 Received? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Section 31 Exclusions:	Yes <input type="checkbox"/> No <input type="checkbox"/> In Dispute <input type="checkbox"/>			
Section 53 Material Misrepresentations:	Yes <input type="checkbox"/> No <input type="checkbox"/> In Dispute <input type="checkbox"/>			
LAT Application Received:	Yes <input type="checkbox"/> No <input type="checkbox"/> In Dispute <input type="checkbox"/>			
Loss Transfer Applicable:	Yes <input type="checkbox"/> No <input type="checkbox"/> In Dispute <input type="checkbox"/>			
	Paid To Date	Reserves	Total	Closed
Disability Income Weekly Benefit	\$	\$	\$	<input type="checkbox"/>
Caregiver Benefit (Dependent Care)	\$ x weeks	\$	\$	<input type="checkbox"/>
Attendant Care Benefit	\$ x months	\$	\$	<input type="checkbox"/>
Housekeeping	\$ x weeks	\$	\$	<input type="checkbox"/>
Medical (include transportation and Section 25 assessments)	\$	\$	\$	<input type="checkbox"/>
Rehabilitation Expenses	\$	\$	\$	<input type="checkbox"/>
Visitor Expenses Benefits	\$	\$	\$	<input type="checkbox"/>
Clothing Expenses Benefits	\$	\$	\$	<input type="checkbox"/>
Death Benefits	\$	\$	\$	<input type="checkbox"/>
Funeral Benefits	\$	\$	\$	<input type="checkbox"/>
Legal Expenses	\$	\$	\$	<input type="checkbox"/>
Cost of Section 46 Examinations and Section 25 Catastrophic Assessments	\$	\$	\$	<input type="checkbox"/>
If CAT - Case Management Expenses	\$	\$	\$	<input type="checkbox"/>
Total Accident Benefits	\$ 0.00	\$ 0.00	\$ 0.00	<input type="checkbox"/>
Please provide details of any issues that are in dispute.				
Please provide details on Present Values and Annuity Quotes on CAT.				

[illegible]

Appendix E: Summary Report



Summary Report Effective 2022

Company Number:		FA Claim Number:		Type of Claim Summary is Submitted For:	
Date Form is Completed:		Reporting Period Form Pertains To:		Completed By:	
Insured Name:		Gender:		Underwriting Jurisdiction:	
Optional Benefits:		Endorsements:		Date of Loss:	
Initial Report <input type="checkbox"/>	Name of Claimant Whom Summary Pertains To:			RSP Member <input type="checkbox"/>	Private Passenger <input type="checkbox"/>
Revision <input type="checkbox"/>				Working Center <input type="checkbox"/>	Commercial <input type="checkbox"/>
Update <input type="checkbox"/>					Other <input type="checkbox"/>
Company Name and Address:				Company Claim Number:	
Insured Address:				Company Policy Number:	
T.P. Liability Limits:	Location of Loss (City, Province/State):	Policy Effective Date (mm/AA/yyyy):	Policy Expiry Date (mm/AA/yyyy):	Loss Date (dd/Mon/yyyy)	
<p>Complete overview of the claim including pertinent information such as:</p> <ul style="list-style-type: none"> • Facts, liability, quantum, fraud identified, information relevant or unique to the claim • Claimants details and background (age at time of MVA, employment etc.) • Coverages (questions, exclusions, issues in dispute, optional coverage or collaterals) 					
<p>Synopsis of:</p> <ul style="list-style-type: none"> • Medical information (claimants injuries, current condition (including ongoing treatment, return to activities of daily living and work) and expected future condition/impairments) • Accident reconstruction reports/impairments • Recommendations and evaluation of counsel and the status of any legal proceedings including outstanding productions and dates of completed and pending matters 					
<p>The intended work plan including any action to bring the claim to conclusion. Also include any additional relevant information in this box.</p>					