



FACILITY
Association

**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 Procedures¹

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.

¹ Facility Association Plan of Operation, Section B, Operating Principles, Section 4, Claims Procedures, Page 53-54

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:

In accordance with the approved mandate the FA Claims Committee duties and responsibilities include:

- Reviewing large losses as outlined in the Claims Guides and make recommendations to Member's on case reserves and strategy to bring the claim to a conclusion;
- Reviewing uninsured automobile files and FA Servicing Carrier run off files to ensure proper handling by third parties;
- Supporting Provincial Operating Committee's in deciding on coverage and/or liability in disputed claims;
- Considering all claims related matters, both procedural and technical in accordance with the Claims Guides;
- Reviewing appeals when companies are fined for not reporting transmission to the RSP within 30 days;
- Advising on issues which are industry related to properly interpret their meaning and impact in relation to FA.

Large Loss Reporting Criteria

The Facility Association requires notice of any occurrence that meets any of the following conditions:

1. An aggregate incurred (paid and outstanding) loss of **\$250,000** or more (total of all sub-files). Note that FA bases its reporting on the total incurred for each file, i.e. all lines of reserve for the entire file;
2. If the file is separated by coverage, both the Accident Benefits incurred and the Tort incurred aspects of the file must be reported. This reporting will be accommodated under one FA claim number;
3. A claim reserved at policy limits;
4. A serious bodily injury including but not limited to:
 - (a) Fatality with dependants
 - (b) Brain damage
 - (c) Any plegia; (para, quadra, hemi, etc.)
 - (d) Amputation of a limb at or above the elbow or knee
 - (e) Serious disfigurement

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 that results in continuous payments under the disability section of the policy for two (2) years or more;
6. All class actions or situations where an action has been instituted naming FA or, where FA will be presented with the legal fees for defending such an action. In circumstances whereby a member may be exposed to an excess judgment under an endorsement 44; an estimate of the amount of legal fees the action might incur must immediately be reported to FA. The reporting must be done prior to any expenses being incurred in the defence of such an action. FA will subsequently provide instructions how a member may request reimbursement by way of a submission to the FA Board of Directors.

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. Completion instructions as well as a copy of the FAC 50 are provided on *Appendix A*. 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. Completion instructions as well as a copy of the FAC 50 are provided on *Appendix B*.

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: <http://www.facilityassociation.com/forms.asp>

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 circumstances 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]. Completion instructions as well as a copy of the FAC 50 are provided on **Appendix C**. Please note that all closed claims must be reported within **30 days** of closure.

Best Practise

Our experience indicates that a best practise 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)

Appendix A: FAC 50: Large Claims Report-General

Facility Association

FAC 50 – Large Claims Report

<input type="checkbox"/> Initial Report <input type="checkbox"/> Revision <input type="checkbox"/> Update		F.A. Claim # (Provided by FA after initial report)				Company #:				
Company Name and Address:						Claim #:				
Insured Name:						Policy #:				
Insured Address:										
Coverage Jurisdiction:										
T.P. Limits:		AB Schedule:		Policy From Date (d/m/y):		Policy To Date (d/m/y):	Loss Date (d/m/y):			
Describe Circumstances of Accident & Liability Issues:										
Location of Loss (City/Province):						Degree of Liability:				
<i>NOTE: Attach "Summary Report" and a FAC 51 for each claimant with initial report.</i>						<input type="checkbox"/> Insured %				
						<input type="checkbox"/> Third Party %				
						<input type="checkbox"/> Other %				
Name of Claimant (1 Claimant + 1 Kind of Claim (KOL) Per Line)	FAC 51	Kind of Loss							Paid to Date	Reserve
		B.I.	P.H.	P.D.	Under Ins.	Un-Insured	Acc. Rep.	Coll.		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Total All Coverages:									\$0.00	\$0.00
Name of Claims Rep:						Date (d/m/y):				

Completion Instructions

<p><i>Line 1:</i> Initial Report Revision Update</p> <p>F.A. Claim #</p>	<p>Please check box so that we can distinguish the status of information being submitted.</p> <p>Do not complete. The FA Claim number will be provided to the Member via the acknowledgement copy from the Claims Committee.</p>
<p><i>Line 2:</i> Company #</p> <p>Company Name & Address</p> <p>Claim #</p>	<p>Your Risk Sharing Pool Company #</p> <p>Reporting Company's name and address of underwriting Branch.</p> <p>Members reference number for that particular claim.</p>
<p><i>Line 3:</i> Assured & Address</p> <p>Policy #</p> <p>Coverage Jurisdiction</p>	<p>e.g., John Doe, City</p> <p>Policy that applies to this claim.</p> <p>Province of coverage</p>
<p><i>Line 4:</i> TP Limits</p> <p>AB Schedule</p> <p>Policy Term</p> <p>Loss Date</p>	<p>Section 3 policy limits.</p> <p>Indicate whether standard AB limits or the particular legislation applicable.</p> <p>Applicable term under which loss falls.</p> <p>Exact & correct Date of Loss for this occurrence (dd/mm/yy).</p>
<p><i>Line 5:</i> Describe Circumstances of Accident & Liability Issues</p>	<p>A brief description of the circumstances of this claim and any issues which may affect the liability.</p>
<p><i>Line 6:</i> Location of Loss</p> <p>Degree of Liability</p>	<p>Where did loss occur as opposed to underwriting province</p> <p>Please check box and enter percentage e.g., Insured 100%.</p>
<p><i>Line 7:</i> Note: Attach "Summary Report" and a FAC 51 For Each Claimant with Initial Report</p>	<p>This line only applies to the Initial Report. A "Summary Report", as described in this Guide must be enclosed. A FAC 51 for each claimant must also accompany the Initial Report.</p>

Completion Instructions (cont'd)

<p>Line 8: Name of Claimant (1 Claimant & 1 Kind of Claim (KOL))</p> <p>FAC 51</p> <p>Kind of Claims (KOL)</p> <p>Paid to Date</p> <p>Reserve</p>	<p>Provide the claimant's name for the 'Kind Of Claim (KOL)' the paid and reserve apply to on that line.</p> <p>Note: Only one KOL per line i.e., only BI or PH or PD etc. If that claimant also has a claim for another KOL, use a second line.</p> <p>If the reserve and paid require substantiation for that KOL then a FAC 51 must be completed and attached. Check this area if this applies for that claimant.</p> <p>Please check the applicable cover that applies. Only one KOL per line.</p> <p>Amounts paid for the checked KOL for that line and claimant.</p> <p>Amount of money anticipated to satisfy the indicated (checked) KOL.</p>
<p>Line 9: Signature of Claims Representative</p> <p>Date:</p>	<p>The Claims Representative or a Senior Claims Officer must review the submission to verify that it reflects the present position of the file.</p> <p>Mandatory field which must be filled in on the date the submission is made.</p>
<p>Line 10: Committee Comments</p>	<p>Leave Blank: This is for the F.A. Claims Committee use only.</p>

Appendix B: FAC 51: Bodily Injury and/or Accident Benefits Worksheet-General

**Facility Association
FAC 51 – Bodily Injury A/O Accident Benefit Worksheet**

Company #:	Company Name and Address :				Your Claim #:
Claimant:	Age:	Sex:	Employment: Annual Income:		
Marital Status:	Dependants:	Time in Hospital:	W.S.I.B. / <input type="checkbox"/> CB Benefits <input type="checkbox"/> Yes <input type="checkbox"/> No	Position in Accident: Asstd.Vehicle T.P. Vehicle	Driver Passenger Pedestrian

Nature & Extent of Injuries:

Ontario Tort <input type="checkbox"/>	Ontario AB <input type="checkbox"/>	Other Province <input type="checkbox"/>
OMPP <input type="checkbox"/>	Bill 164 <input type="checkbox"/>	Bill 59 <input type="checkbox"/> Bill 108 <input type="checkbox"/> Other <input type="checkbox"/>
A	B	C
General Damages: \$	Weekly Wages \$	Future Wage Loss / LOCA \$
FLA: (net) \$	Less Liability % \$	Other \$
Deductible \$	Sub Total: \$	T/P Costs \$
Less Liability % \$	Less Accident Benefits \$	Defense Costs \$
Sub Total: \$	Less Collaterals \$	Housekeeping / Home Maint \$
Deductible (Bill 164) \$	Sub Total: \$	Future Meds \$
P.J.L. X Years \$	P.J.L. X Years \$	Total of C: \$
Total of A: \$	Total of B: \$	Grand Total of A + B + C: \$

Disability Income Weekly Benefit Calculation:

Gross / Net = \$	+ Additional Income \$	
\$ X % =	Less Collaterals \$	= Weekly maximum \$
\$ X weeks = \$		
Meets Post 104 Definition	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Accepted as CAT	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Tabular Reserves	Yes <input type="checkbox"/> No <input type="checkbox"/>	If Yes \$
Ontario Accident Benefits:	OMPP <input type="checkbox"/> Bill 164 <input type="checkbox"/>	
Loss Transfer Applicable:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	\$
Disability Income Benefit (from above)		\$
Care Giver Benefit (Dependent Care)	\$ X weeks	\$
Attendant Care Benefit	\$ X weeks	\$
Housekeeping	\$ X weeks	\$
Dependant Care Benefit or O.D.B. or N.E.B.	\$ X weeks	\$
Medical (include transportation)		\$
Rehabilitation Expenses – Vocational		\$
Rehabilitation Expenses		\$
Visitor Expenses Benefits		\$
Clothing Expenses Benefits		\$
Death Benefits		\$
Funeral Benefits		\$
Other Pecuniary Losses		\$
If CAT - Case Management Expenses		\$
Grand Total of Accident Benefits		\$

Completion Instructions

<p>Line 1: Company Number</p> <p>Company Name & Address</p> <p>Your Claim #</p>	<p>Your Risk Sharing Pool Company #</p> <p>Reporting Company's name and address of underwriting branch.</p> <p>Report all reference claim numbers for this claimant; e.g., if file separated and separate claim numbers apply to Tort and Accident Benefits, show all applicable numbers.</p>
<p>Line 2: Claimant Name</p> <p>Age</p> <p>Sex</p> <p>Employment/Annual Income</p>	<p>Individual's name that is making claim only 1 claimant per FAC 51.</p> <p>The number of years since birth or the birth date (either is acceptable).</p> <p>Male or Female.</p> <p>If Tort issue: present status – type of work. If AB issue: present status plus any applicable previous employment that might affect the calculation.</p>
<p>Line 3: Marital Status</p> <p>Dependants</p> <p>Time in Hospital</p> <p>W.S.I.B. / W.C.B Benefits</p> <p>Position in Accident</p>	<p>Applicable status at the time of loss.</p> <p>Those that will affect the calculation.</p> <p>Number of day's claimant was in the hospital.</p> <p>Check appropriate box to determine if the entitlement or lack of entitlement will affect the reserve calculation.</p> <p>Check appropriate box for this claimant.</p>
<p>Line 4: Nature & Extent of Injuries</p>	<p>Complete description of the resultant injury or injuries suffered in this accident and/or any associative medical problems that may affect the reserve calculation.</p>

Appendix C: FAC 52: Tort Large Claims Closure Worksheet-General

Facility Association

FAC 52 (TORT) – Large Claim closure Worksheet

Company #:	Name:	Address:
Note : Final Closing Notice <u>on previously reported losses only</u>		
Name of Insured:		Policy #:
F.A. Claim #:	Co. claim #	Date of Loss (d/m/y):
Date of Closing (d/m/y):		

Kind of Loss Payments	BI	PH	PD	UIM/Under Ins.
Loss	\$	\$	\$	\$
Name of Claims Rep:			Date:	

Appendix C: FAC 52: Accident Benefit Large Claims Closure Worksheet-General

Facility Association

FAC 52 (AB) – Large Claim closure Worksheet

Company #:	Name:	Address:
Note : Final Closing Notice <u>on previously reported losses only</u>		
Name of Insured:		Policy #:
F.A. Claim #:	Co. Claim #	Date of Loss (d/m/y):
Date of Closing (d/m/y):		

Kind of Loss Payments	AB
Loss	\$

Name of Claims Rep:	Date:
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