



Circular

APRIL 3, 2009

ANNOUNCEMENT

PLAN-2009-04

Plan–Item RM-W-8034–Establishment of Basic Manual Rule 4-F–Take-Out Credit Program

ACTION NEEDED

Please review the changes outlined in the attachments to this circular for impact on your company's systems and procedures. Also review the *Status of Item Filings* circular for state approval of this item.

Caution: At the time of distribution of this circular, this item has been filed with the regulator, except in the state of Alaska, **but is not yet approved**. We expect it will be filed in Alaska in the near future. Additionally, it has been submitted to the independent bureaus of Indiana and North Carolina for their consideration.

This information is provided for your convenience and analysis. Please do not use this information until the regulator has approved the filing.

BACKGROUND

This item:

1. Creates a national residual market Take-Out Credit (TOC) Program to be located in NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance* as Rule 4-F.
2. Eliminates the state-specific Take-Out Credit Programs located in the Assigned Risk Miscellaneous Rules of NCCI's *Basic Manual*; establishes state rule exceptions for national TOC as necessary.
3. Implements a TOC Program in West Virginia.

The TOC Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a TOC.

The current TOC Programs became effective in specific jurisdictions on various dates. Although the programs are state specific, they have many common features, such as identifiable program lengths, ratios, and other requirements.

Similar to the approach taken with the revision of other NCCI manuals, rating plans, and programs, NCCI, as Plan Administrator, initiated a complete review and update of the individual programs to:

- Create a national TOC Program to appear as *Basic Manual* Rule 4-F
- Address state exceptions to the TOC Programs in the same manner as *Basic Manual* Rule 4-A to incorporate state special rules into the national TOC Program where appropriate
- Clarify material by simplifying the rules and presentation with a plain language approach that incorporates carrier and regulator feedback

IMPACT

There is no expected impact to statewide premium as a result of this item.

As in the past, NCCI will continue to issue an annual TOC circular, which includes topics such as the enrollment process and corresponding deadlines.

NCCI ACTION

NCCI's *Status of Item Filings* circular will provide you with the latest information on state approvals for RM-W-8034 in addition to all NCCI item filings. The *Status of Item Filings* circular is updated weekly on ncci.com.

NCCI anticipates publishing Rule 4-F in the national ***Basic Manual*** in the fourth quarter of 2009. If you would like to subscribe to any of our manuals, please call our Customer Service Center at 800-NCCI-123.

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FILING MEMORANDUM

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

PURPOSE

This item:

1. Creates a national residual market Take-Out Credit (TOC) Program to be located in NCCI's **Basic Manual for Workers Compensation and Employers Liability Insurance** as Rule 4-F.
2. Eliminates the state-specific Take-Out Credit Programs located in the Assigned Risk Miscellaneous Rules of NCCI's **Basic Manual**; establishes state rule exceptions for national TOC as necessary.
3. Implements a TOC Program in West Virginia.

BACKGROUND

The TOC Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a TOC.

The current TOC Programs became effective in specific jurisdictions on various dates. Although the programs are state specific, they have many common features, such as identifiable program lengths, ratios, and other requirements.

Similar to the approach taken with the revision of other NCCI manuals, rating plans, and programs, NCCI, as Plan Administrator, initiated a complete review and update of the individual programs to:

- Create a national TOC Program to appear as **Basic Manual** Rule 4-F
- Address state exceptions to the TOC Programs in the same manner as **Basic Manual** Rule 4-A to incorporate state special rules into the national TOC Program where appropriate
- Clarify material by simplifying the rules and presentation with a plain language approach that incorporates carrier and regulator feedback

PROPOSAL

The revisions proposed in this item identify three themes that provide the focus for improving this program:

1. **National Approach**
In creating a national TOC Program, all individual state programs were reviewed to determine the consistent elements among all of the states. This review determined that the vast majority of the state-specific programs were similar and often the same when compared to each other. Individual state programs have been incorporated within the new national **Basic Manual** Rule 4-F where appropriate.
2. **Accessibility and Usability**
The creation of the national TOC Program as **Basic Manual** Rule 4-F enables the user to immediately access information without navigating through numerous state programs.
3. **Use of Plain Language**
Customers have responded favorably to the plain language presentation of NCCI's 2001 **Basic Manual**, 2003 **Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance**, and the 2006 residual market rules incorporated as **Basic**

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FILING MEMORANDUM

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

Manual Rule 4. To continue with this approach, **Basic Manual** Rule 4-F is written in simpler language and presented in a more suitable manner.

The proposed TOC Program is clarified, where necessary, by use of simplified text.

IMPACT

There is no expected impact to statewide premium as a result of this item.

As in the past, NCCI will continue to issue an annual TOC circular, which includes topics such as the enrollment process and corresponding deadlines.

IMPLEMENTATION

For all states except Virginia, it is proposed that **Basic Manual** Rule 4-F become effective January 1, 2010. It is proposed that the TOC Program be implemented, applicable to employers' policies removed from the residual market and written on a voluntary market basis, on or after the effective date of this program as contained in the attached exhibit(s).

In Virginia, it is proposed that **Basic Manual** Rule 4-F become effective for policies effective on and after January 1, 2010. It is proposed that the TOC Program be implemented, applicable to employers' policies removed from the residual market and written on a voluntary market basis on or after the effective date of this program as contained in the attached exhibit(s).

Further, for all states except West Virginia, the individual state programs are discontinued effective January 1, 2010. However, a transition program is not needed because program length, ratios, and policy qualifications have not changed. Therefore, employers' policies in a state specific TOC Program effective on or before December 31, 2009 will not be impacted. Since this program is initially established in West Virginia policies effective on or before December 31, 2009 will not be impacted.

The following is a summary of the exhibits included in this item:

- **Exhibit 1** contains the national **Basic Manual** Rule 4-F
- **Exhibit 2** contains state rule exceptions for Georgia, North Carolina, and Oregon only

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ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

F. TAKE-OUT CREDIT PROGRAM

1. General Information

- a. The Take-Out Credit Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis.
- b. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a take-out credit (TOC). The TOC is applied against the premium used to calculate the voluntary market carrier's Plan participation base as defined in **Basic Manual** Rule 4-A-5-d or applicable state workers compensation insurance plan.
- c. All carriers licensed in a TOC Program-approved jurisdiction and writing workers compensation and employers liability insurance coverage are eligible to participate in the TOC Program.
- d. It is the voluntary market carrier's responsibility to:
 - (1) Enroll with the Plan Administrator as well as update enrollment information on an annual basis as required in accordance with the enrollment procedures established by the Plan Administrator.
 - (2) Submit an annual request for TOC in accordance with Rule 4-F-5 and any procedures established by the Plan Administrator.
 - (3) Provide supporting data as may be required by the Plan Administrator.
- e. TOCs are not issued to carriers that do not enroll in the program.
- f. TOCs are not issued to enrolled carriers that do not submit an annual request for credit.
- g. The Plan Administrator determines the applicability of all TOC Program rules.

2. General Terms

a. **Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14)**

Refers to a carrier's Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) contained in its Annual Statement.

b. **Employer**

Employer refers to an insured or a policyholder, in accordance with **Basic Manual** Rule 4-A-2-i or applicable state workers compensation insurance plan.

c. **Experience Rating Threshold Average**

A specific jurisdiction's experience rating threshold average is located in NCCI's **Experience Rating Plan Manual**. For purposes of TOC, the threshold is used as a parameter. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

d. **Individual Reported Policy Premium**

For purposes of TOC, individual reported policy premium is the amount of policy premium included for specific employers in the carrier's Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) of the carrier's Annual Statement for the most recent calendar year. This premium is also the basis for carrier participation in the Plan. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

e. Plan

Plan refers to NCCI's Workers Compensation Insurance Plan (WCIP), as defined in **Basic Manual** Rule 4-A-2-y or applicable state workers compensation insurance plan.

f. Plan Administrator

The organization designated to administer the affairs of the Plan as approved by the regulatory authority in a jurisdiction. For purposes of TOC, the Plan Administrator may also be referred to as the TOC Administrator.

g. Plan Participation Base

Plan participation base refers to the basis of a carrier's participation in the Workers Compensation Insurance Plan in accordance with **Basic Manual** Rule 4-A-5-d or applicable state workers compensation insurance plan.

h. Program Length

Program length refers to the maximum number of consecutive years that a specific employer's initial and renewal voluntary market policies may qualify for a TOC. For instance, a three year program length means that a voluntary market employer's initial policy and two subsequent renewals may qualify for TOC. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

i. TOC

TOC refers to the Take-Out Credit Program. The term is also used to refer to the actual credit (e.g., a carrier may qualify for a TOC to be applied to its Plan participation base). TOC is a residual market depopulation incentive program, with state-specific program parameters.

j. Program Year

Program year refers to the individual year that an employer's initial and renewal voluntary market policies may participate in TOC. For instance, an eligible initial voluntary market policy would be Program Year 1. The consecutive renewals would be Program Years 2 and 3, respectively.

k. TOC Ratio

Each jurisdiction has a ratio that is multiplied against the individual reported policy premium. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

l. Voluntary Market Carrier

For purposes of TOC, a voluntary market carrier removes an employer from a specific jurisdiction's residual market and writes the employer on a voluntary basis. For purposes of TOC, voluntary market carrier(s) will be referred to only as carrier(s).

3. TOC Requirements

- a. Any carrier, other than the last voluntary carrier of record, may remove an employer without any restriction on the length of time that the employer was written in the residual market. For purposes of TOC, these requirements apply to a carrier's group/affiliate as well as the carrier.
- b. A carrier will not receive a TOC for any employer removed from the residual market within 12 months of that carrier, or a member of that carrier's group, writing the employer in the voluntary market.

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

- c. In no instance may a carrier receive a TOC for employers returned to the residual market within 12 months of being removed from the residual market.
- d. If the enrolled carrier keeps the employer out of the residual market for the full program length, that carrier will receive the TOC for premium relating to each of the program years of voluntary market coverage.
- e. A carrier is not eligible for a TOC for an employer's remaining program years if:
 - (1) A carrier does not enroll in TOC for an employer's first program year, or
 - (2) A carrier does not request a TOC for an employer's first program year, or
 - (3) A carrier requests a TOC for an employer's first program year, but subsequently decides not to accept the TOC, or
 - (4) An enrolled carrier accepts a TOC for a specific program year, but not its subsequent program years, in accordance with the specific jurisdiction's program length as detailed in the TOC Parameters Table in Rule 4-F-4-e.
- f. Subject to Rule 4-F-3-a through e., if the enrolled carrier does not write the employer for the full program length, it will receive TOC only for that consecutive period of time that it covered the employer in the voluntary market.

4. TOC Calculation

- a. Individual reported policy premium is used to determine the Individual Policy TOC and is subject to subsequent adjustments.

$$\frac{\text{Individual Policy TOC}}{\text{TOC}} = \frac{\text{Individual Reported Policy Premium}}{\text{Policy Premium}} \times \frac{\text{TOC Ratio}}{\text{Ratio}}$$

- b. Total Carrier TOC is calculated by jurisdiction as follows:

$$\frac{\text{Total Carrier TOC}}{\text{TOC}} = \frac{\text{Sum of Individual Policy TOC}}{\text{Sum of Individual Policy TOC}}$$

- c. Subsequent adjustments made to TOC (such as audit premiums, retro adjustments, etc.) are developed and reported in the calendar year in which they are made.
- d. Regardless of when a policy adjustment is made by the carrier, a TOC adjustment is applied if it is related to a policy within the program length.
- e. The TOC parameters used in the calculation are as follows:

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

TOC Parameters Table

| Jurisdiction | (Years) Program Length | All Policies TOC Ratio | Individual Reported Policy Premium | | | |
|---------------------------------|------------------------------|----------------------------------|-----------------------------------------------------------|--------------------------------------------------------------------------------|----------------------|----------------------------------------|
| | | | Less Than Experience Rating Threshold Average | Equal to or Greater Than Experience Rating Threshold Average | Less Than \$5,000 | Equal to or Greater Than \$5,000 |
| | | | TOC Ratio | TOC Ratio | TOC Ratio | TOC Ratio |
| <u>Alabama</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Alaska</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>Arkansas</u> | <u>3</u> | <u>1.5:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Connecticut</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>District of Columbia</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Georgia</u> | <u>2</u> | Refer to State Pages | | | | |
| <u>Illinois</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Indiana</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Iowa</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Kansas</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Mississippi</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>New Hampshire</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>North Carolina</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Oregon</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>3:1</u> | <u>1:1</u> |
| <u>South Carolina</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>South Dakota</u> | <u>3</u> | <u>N/A</u> | <u>3:1</u> | <u>2:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Vermont</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>Virginia</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>West Virginia</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |

5. Carrier Submission of Request for Take-Out Credit

If a carrier wishes to have a TOC applied to its Plan participation base, it must request the TOC in accordance with the following:

- a. Carriers must enroll in the TOC Program in accordance with the enrollment procedures established by the Plan Administrator.
- b. In order to receive a TOC for the entire program length, policies of employers taken out of the residual market must be identified as voluntary and accurately reported every year to the appropriate rating/advisory/statistical organization.

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

- c. The Plan Administrator performs a systematic review and provides enrolled carriers with an electronic detailed report of eligible policies by program year. The report includes only voluntary market policies as reported by the enrolled carrier for employers that were previously written in the residual market.
- d. Enrolled carriers must review and change the report (if change is necessary) to ensure that only eligible policies are included in the calculation of the TOC. The report changes must be provided in accordance with the procedures established by the Plan Administrator.
- e. Enrolled carriers must ensure that the individual reported policy premium is the amount included in the Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) of the carrier's Annual Statement for the most recent calendar year.
- f. If no changes are necessary, refer to Rule 4-F-5-h.
- g. Upon receipt of a modified report, the Plan Administrator reviews the submitted changes to ensure agreement. The Plan Administrator has the discretion to eliminate policies from the report that were inaccurately reported or whose changes cannot be confirmed.
- h. The enrolled carrier must review and provide final approval of the policies on the report. The approval and corresponding official request to receive a TOC must be sent electronically to the Plan Administrator for final processing.

6. Total Carrier TOC Application to Plan Participation Base

- a. A total carrier TOC will be given only to enrolled carriers that provide electronic acceptance by the authorized TOC contact as provided in accordance with the established enrollment procedures.
- b. The developed total carrier TOC is applied to the carrier's Plan participation base.
- c. There is no maximum limit on the total carrier TOC amount, but a carrier's Plan participation base will not be reduced below zero as a result of the TOC.
- d. Total carrier TOCs are applied to each individual carrier's Plan participation base, and are not rolled up to an aggregate TOC for the carrier's group.
- e. If a carrier disagrees with the final total carrier TOC, it may dispute the TOC in accordance with **Basic Manual** Rule 4-A-10-c or applicable state workers compensation insurance plan.

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 2
BASIC MANUAL—2001 EDITION
GEORGIA STATE RULE EXCEPTIONS
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

F. TAKE-OUT CREDIT PROGRAM

4. TOC Calculation

Change the TOC Parameters Table in Rule 4-F-4-e as follows:

TOC Parameters Table

| <u>Jurisdiction</u> | <u>(Years) Program Length</u> | <u>Individual Reported Policy Premium</u> | | | | |
|---------------------|---------------------------------------|-------------------------------------------|--------------------------------|---------------------------------|----------------------------------|---------------------------------|
| | | <u>\$7,500 or Less</u> | <u>\$7,501 to \$15,000</u> | <u>\$15,001 to \$25,000</u> | <u>\$25,001 to \$200,000</u> | <u>\$200,001 or Greater</u> |
| | | <u>TOC Ratio</u> | <u>TOC Ratio</u> | <u>TOC Ratio</u> | <u>TOC Ratio</u> | <u>TOC Ratio</u> |
| <u>Georgia</u> | <u>2</u> | <u>4:1</u> | <u>3:1</u> | <u>2:1</u> | <u>1.5:1</u> | <u>1:1</u> |

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 2
BASIC MANUAL—2001 EDITION
NORTH CAROLINA STATE EXCEPTION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

F. TAKE-OUT CREDIT PROGRAM (TOC)

2. General Terms

e. Plan

Change Rule 4-F-2-e as follows:

Plan refers to the North Carolina Workers Compensation Insurance Plan (WCIP).

f. Plan Administrator

Change Rule 4-F-2-f as follows:

The North Carolina Rate Bureau, the organization which has been designated to administer the affairs of the Plan. For purposes of TOC, the Plan Administrator may also be referred to as the TOC Administrator.

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 2-A
BASIC MANUAL—2001 EDITION
OREGON STATE RULE EXCEPTIONS
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

F. TAKE-OUT CREDIT PROGRAM

1. General Information

Add the following to Rule 4-F-1:

h. O.A.R. 836-043-0076 located on the state pages of NCCI's *Basic Manual* contains the authority for the Take-Out Credit Program.

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 2-B BASIC MANUAL—2001 EDITION OREGON STATE RULE EXCEPTIONS OAR CHAPTER 836—DIVISION 043—INSURANCE DIVISION RATING AND RATING ORGANIZATIONS Take-Out Credit 836-043-0076

Take-Out Credit 836-043-0076

The Plan shall establish a take-out credit program. The take-out credit program shall operate in accordance the following guidelines:

1. Each insurer participating in the Plan who removes an employer insured through the Plan is eligible for a take-out credit application against the premium used to calculate the Plan participation base of the enrolled insurer. An insurer shall contact the take-out credit administrator to enroll in the program. Any insurer licensed in Oregon and writing worker's compensation insurance coverage is eligible to enroll in the take-out credit program.
2. An insurer may not receive credit for any policy removed from the Plan within one calendar year after the insurer or its affiliate wrote the policy in the voluntary market. An insurer who does not enroll in the program cannot receive take-out credit.
3. An insurer, other than the last voluntary insurer of record, may remove a policy without any restriction on the length of time the policy resided in the assigned risk market.
4. For the purpose of the take-out credit program, the requirements of this rule apply to the insurer's affiliates as well as to the insurer.
5. The kind and amount of coverage to be offered a voluntary employer shall not be less than those afforded by the policy being replaced unless the kinds and amounts of the coverage are refused by the employer.
6. The granting of credits is subject to the following provisions:
 - a. An insurer who removes an employer from the assigned risk market is eligible for a take-out credit application equal to the annual premium from the voluntary policy times a credit factor from the following schedule:

| | Total Voluntary Policy Premium Less than \$5,000 | Total Voluntary Policy Premium Equal to or Greater than \$5,000 |
|-------------|-----------------------------------------------------|--------------------------------------------------------------------|
| First Year | 3:1 | 1:1 |
| Second Year | 3:1 | 1:1 |
| Third Year | 3:1 | 1:1 |

- b. Credits received under this rule are not subject to a maximum limit, except that the credits shall not reduce the participation base of an insurer below zero.
- c. An insurer shall receive a credit against the premium used to calculate its Plan participation base for the amount of verifiable annual premium reported in its Exhibit of Premiums and Losses (Statutory Page 14) of its Annual Statement for the respective calendar year. The reported premium must be stated on the same financial basis as the premiums that are reported for use in determining each insurer's Plan participation base and are subject to subsequent adjustments and audits. The definition of "net premiums written" in the Plan shall govern the description of premium used to calculate the Plan participation base. As audit premiums, retrospective adjustments and other items are developed, an insurer shall receive a credit against its participation base for the amount of the premium adjustment in the calendar year in which the

ITEM RM-W-8034— ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 2-B (CONT'D)
BASIC MANUAL—2001 EDITION
OREGON STATE RULE EXCEPTIONS
OAR CHAPTER 836—DIVISION 043—INSURANCE DIVISION RATING AND RATING ORGANIZATIONS
Take-Out Credit 836-043-0076

~~adjustment is reported in the direct earned premium for Oregon entry in the Annual Statement. Regardless of when an adjustment was made or reported in the direct earned premium for~~

~~Oregon entry, the adjustment shall be allowed if related to the first, second, or third year of voluntary coverage by the insurer.~~

- ~~d. If an insurer keeps an employer out of the assigned risk market for three consecutive years, the insurer shall receive credit for each of the three consecutive years. If the insurer does not write the insurance for three years, it shall receive credit only for the consecutive period of time that it covered the employer in the voluntary market. An insurer shall not receive any credit for an employer returned to the Plan within one calendar year of removal.~~
- ~~e. An insurer must submit a request for credit annually during the three year period in order to qualify for the credit.~~
- ~~f. Each year, the Plan Administrator shall perform a systematic search of policies submitted as voluntary that were previously assigned risk policies to determine their eligibility for take-out credit.~~
- ~~g. The Plan Administrator shall provide enrolled insurers with a detailed Take-Out Credit Policy Report of eligible policies. The Plan Administrator shall provide the Take-Out Credit Policy Report to insurers in electronic format.~~
- ~~h. Each insurer shall review and modify the Take-Out Credit Policy Report to ensure all eligible policies are included in the calculation of the credit.~~
- ~~i. The Plan Administrator shall review any modifications to the Take-Out Credit Policy Report to ensure agreement. The Plan Administrator may eliminate any policy that is inaccurately reported or those modifications that the Plan Administrator cannot reach for concurrence.~~
- ~~j. Upon review and approval of the policies on the Take-Out Credit Policy Report, the enrolled insurer need only send an electronic reply of concurrence that indicates the official request of the insurer to receive the credit.~~
- ~~k. The Plan Administrator shall grant credit only to enrolled insurers that provide electronic concurrence with the Take-Out Credit Policy Report.~~

In accordance with O.A.R. 836-043-0076, the Take-Out Credit (TOC) Program is designed to encourage carriers to depopulate the residual market by providing a credit to their Plan participation base. The TOC Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a TOC. Refer to Rule 4-F of NCCI's **Basic Manual** for further information on how to obtain a TOC.

FILING MEMORANDUM

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

PURPOSE

This item:

1. Creates a national residual market Take-Out Credit (TOC) Program to be located in NCCI's **Basic Manual for Workers Compensation and Employers Liability Insurance** as Rule 4-F.
2. Eliminates the Alabama state-specific Take-Out Credit Program located in the Assigned Risk Miscellaneous Rules of NCCI's **Basic Manual**.

BACKGROUND

The TOC Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a TOC.

TOC was last amended in Alabama in 1997. Although the current Alabama TOC is state specific, it has some common features with the other states, such as identifiable program lengths, ratios, and other requirements. However, the length and credit amounts of the current Alabama program are inconsistent with the rest of the country, with no identifiable benefit.

Similar to the approach taken with the revision of other NCCI manuals, rating plans, and programs, NCCI, as Plan Administrator, initiated a complete review and update of the individual programs to:

- Create a national TOC Program to appear as **Basic Manual** Rule 4-F
- Address state exceptions to the TOC Programs in the same manner as **Basic Manual** Rule 4-A to incorporate state special rules into the national TOC Program where appropriate
- Clarify material by simplifying the rules and presentation with a plain language approach that incorporates carrier and regulator feedback

PROPOSAL

The revisions proposed in this item identify three themes that provide the focus for improving this program:

1. **National Approach**
In creating a national TOC Program, all individual state programs were reviewed to determine the consistent elements among all of the states. This review determined that the vast majority of the state-specific programs were similar and often the same when compared to each other. Individual state programs have been incorporated within the new national **Basic Manual** Rule 4-F where appropriate.
2. **Accessibility and Usability**
The creation of the national TOC Program as **Basic Manual** Rule 4-F enables the user to immediately access information without navigating through numerous state programs.
3. **Use of Plain Language**
Customers have responded favorably to the plain language presentation of NCCI's 2001 **Basic Manual**, 2003 **Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance**, and the 2006 residual market rules incorporated as **Basic**

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FILING MEMORANDUM

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

Manual Rule 4. To continue with this approach, **Basic Manual** Rule 4-F is written in simpler language and presented in a more suitable manner.

The proposed TOC Program is clarified, where necessary, by use of simplified text.

Additionally, in Alabama, the program length, ratio, and other parameters were reviewed. It was determined that it is appropriate to change the program length from five years to three years; ratios and other provisions have also been changed as detailed in Exhibit 1 of this item.

IMPACT

There is no expected impact to statewide premium as a result of this item. As in the past, NCCI will continue to issue an annual TOC Circular, which includes topics such as the enrollment process and corresponding deadlines.

IMPLEMENTATION

It is proposed that **Basic Manual** Rule 4-F become effective January 1, 2010. It is proposed that the TOC Program be implemented, applicable to employers' policies removed from the residual market and written on a voluntary market basis on or after the effective date of this program as contained in the attached exhibit(s).

Further, the state-specific Alabama Workers Compensation Insurance Take-Out Program is discontinued effective January 1, 2010. However, any employers' policies with effective dates on or before December 31, 2009 will continue under that program for a transition period. The transition period applies until such time as those employers' policies no longer qualify for a TOC under the Alabama Workers Compensation Insurance Take-Out Program.

Exhibit 1 contains the national **Basic Manual** Rule 4-F to be implemented in Alabama.

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ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

F. TAKE-OUT CREDIT PROGRAM**1. General Information**

- a. The Take-Out Credit Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis.
- b. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a take-out credit (TOC). The TOC is applied against the premium used to calculate the voluntary market carrier's Plan participation base as defined in **Basic Manual** Rule 4-A-5-d or applicable state workers compensation insurance plan.
- c. All carriers licensed in a TOC Program-approved jurisdiction and writing workers compensation and employers liability insurance coverage are eligible to participate in the TOC Program.
- d. It is the voluntary market carrier's responsibility to:
 - (1) Enroll with the Plan Administrator as well as update enrollment information on an annual basis as required in accordance with the enrollment procedures established by the Plan Administrator.
 - (2) Submit an annual request for TOC in accordance with Rule 4-F-5 and any procedures established by the Plan Administrator.
 - (3) Provide supporting data as may be required by the Plan Administrator.
- e. TOCs are not issued to carriers that do not enroll in the program.
- f. TOCs are not issued to enrolled carriers that do not submit an annual request for credit.
- g. The Plan Administrator determines the applicability of all TOC Program rules.

2. General Terms**a. Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14)**

Refers to a carrier's Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) contained in its Annual Statement.

b. Employer

Employer refers to an insured or a policyholder, in accordance with **Basic Manual** Rule 4-A-2-i or applicable state workers compensation insurance plan.

c. Experience Rating Threshold Average

A specific jurisdiction's experience rating threshold average is located in NCCI's **Experience Rating Plan Manual**. For purposes of TOC, the threshold is used as a parameter. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

d. Individual Reported Policy Premium

For purposes of TOC, individual reported policy premium is the amount of policy premium included for specific employers in the carrier's Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) of the carrier's Annual Statement for the most recent calendar year. This premium is also the basis for carrier participation in the Plan. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

e. Plan

Plan refers to NCCI's Workers Compensation Insurance Plan (WCIP), as defined in **Basic Manual** Rule 4-A-2-y or applicable state workers compensation insurance plan.

f. Plan Administrator

The organization designated to administer the affairs of the Plan as approved by the regulatory authority in a jurisdiction. For purposes of TOC, the Plan Administrator may also be referred to as the TOC Administrator.

g. Plan Participation Base

Plan participation base refers to the basis of a carrier's participation in the Workers Compensation Insurance Plan in accordance with **Basic Manual** Rule 4-A-5-d or applicable state workers compensation insurance plan.

h. Program Length

Program length refers to the maximum number of consecutive years that a specific employer's initial and renewal voluntary market policies may qualify for a TOC. For instance, a three year program length means that a voluntary market employer's initial policy and two subsequent renewals may qualify for TOC. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

i. TOC

TOC refers to the Take-Out Credit Program. The term is also used to refer to the actual credit (e.g., a carrier may qualify for a TOC to be applied to its Plan participation base). TOC is a residual market depopulation incentive program, with state-specific program parameters.

j. Program Year

Program year refers to the individual year that an employer's initial and renewal voluntary market policies may participate in TOC. For instance, an eligible initial voluntary market policy would be Program Year 1. The consecutive renewals would be Program Years 2 and 3, respectively.

k. TOC Ratio

Each jurisdiction has a ratio that is multiplied against the individual reported policy premium. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

l. Voluntary Market Carrier

For purposes of TOC, a voluntary market carrier removes an employer from a specific jurisdiction's residual market and writes the employer on a voluntary basis. For purposes of TOC, voluntary market carrier(s) will be referred to only as carrier(s).

3. TOC Requirements

- a. Any carrier, other than the last voluntary carrier of record, may remove an employer without any restriction on the length of time that the employer was written in the residual market. For purposes of TOC, these requirements apply to a carrier's group/affiliate as well as the carrier.
- b. A carrier will not receive a TOC for any employer removed from the residual market within 12 months of that carrier, or a member of that carrier's group, writing the employer in the voluntary market.

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

- c. In no instance may a carrier receive a TOC for employers returned to the residual market within 12 months of being removed from the residual market.
- d. If the enrolled carrier keeps the employer out of the residual market for the full program length, that carrier will receive the TOC for premium relating to each of the program years of voluntary market coverage.
- e. A carrier is not eligible for a TOC for an employer's remaining program years if:
 - (1) A carrier does not enroll in TOC for an employer's first program year, or
 - (2) A carrier does not request a TOC for an employer's first program year, or
 - (3) A carrier requests a TOC for an employer's first program year, but subsequently decides not to accept the TOC, or
 - (4) An enrolled carrier accepts a TOC for a specific program year, but not its subsequent program years, in accordance with the specific jurisdiction's program length as detailed in the TOC Parameters Table in Rule 4-F-4-e.
- f. Subject to Rule 4-F-3-a through e., if the enrolled carrier does not write the employer for the full program length, it will receive TOC only for that consecutive period of time that it covered the employer in the voluntary market.

4. TOC Calculation

- a. Individual reported policy premium is used to determine the Individual Policy TOC and is subject to subsequent adjustments.

$$\frac{\text{Individual Policy TOC}}{\text{TOC}} = \frac{\text{Individual Reported Policy Premium}}{\text{Policy Premium}} \times \frac{\text{TOC Ratio}}{\text{Ratio}}$$

- b. Total Carrier TOC is calculated by jurisdiction as follows:

$$\frac{\text{Total Carrier TOC}}{\text{TOC}} = \frac{\text{Sum of Individual Policy TOC}}{\text{Sum of Individual Policy TOC}}$$

- c. Subsequent adjustments made to TOC (such as audit premiums, retro adjustments, etc.) are developed and reported in the calendar year in which they are made.
- d. Regardless of when a policy adjustment is made by the carrier, a TOC adjustment is applied if it is related to a policy within the program length.
- e. The TOC parameters used in the calculation are as follows:

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

TOC Parameters Table

| | | | Individual Reported Policy Premium | | | |
|---------------------------------|------------------------------|----------------------------------|-----------------------------------------------------------|--------------------------------------------------------------------------------|----------------------|----------------------------------------|
| | | | Less Than Experience Rating Threshold Average | Equal to or Greater Than Experience Rating Threshold Average | Less Than \$5,000 | Equal to or Greater Than \$5,000 |
| Jurisdiction | (Years) Program Length | All Policies TOC Ratio | TOC Ratio | TOC Ratio | TOC Ratio | TOC Ratio |
| <u>Alabama</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Alaska</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>Arkansas</u> | <u>3</u> | <u>1.5:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Connecticut</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>District of Columbia</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Georgia</u> | <u>2</u> | Refer to State Pages | | | | |
| <u>Illinois</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Indiana</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Iowa</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Kansas</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Mississippi</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>New Hampshire</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>North Carolina</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Oregon</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>3:1</u> | <u>1:1</u> |
| <u>South Carolina</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>South Dakota</u> | <u>3</u> | <u>N/A</u> | <u>3:1</u> | <u>2:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Vermont</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>Virginia</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>West Virginia</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |

5. Carrier Submission of Request for Take-Out Credit

If a carrier wishes to have a TOC applied to its Plan participation base, it must request the TOC in accordance with the following:

- a. Carriers must enroll in the TOC Program in accordance with the enrollment procedures established by the Plan Administrator.
- b. In order to receive a TOC for the entire program length, policies of employers taken out of the residual market must be identified as voluntary and accurately reported every year to the appropriate rating/advisory/statistical organization.

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

- c. The Plan Administrator performs a systematic review and provides enrolled carriers with an electronic detailed report of eligible policies by program year. The report includes only voluntary market policies as reported by the enrolled carrier for employers that were previously written in the residual market.
- d. Enrolled carriers must review and change the report (if change is necessary) to ensure that only eligible policies are included in the calculation of the TOC. The report changes must be provided in accordance with the procedures established by the Plan Administrator.
- e. Enrolled carriers must ensure that the individual reported policy premium is the amount included in the Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) of the carrier's Annual Statement for the most recent calendar year.
- f. If no changes are necessary, refer to Rule 4-F-5-h.
- g. Upon receipt of a modified report, the Plan Administrator reviews the submitted changes to ensure agreement. The Plan Administrator has the discretion to eliminate policies from the report that were inaccurately reported or whose changes cannot be confirmed.
- h. The enrolled carrier must review and provide final approval of the policies on the report. The approval and corresponding official request to receive a TOC must be sent electronically to the Plan Administrator for final processing.

6. Total Carrier TOC Application to Plan Participation Base

- a. A total carrier TOC will be given only to enrolled carriers that provide electronic acceptance by the authorized TOC contact as provided in accordance with the established enrollment procedures.
- b. The developed total carrier TOC is applied to the carrier's Plan participation base.
- c. There is no maximum limit on the total carrier TOC amount, but a carrier's Plan participation base will not be reduced below zero as a result of the TOC.
- d. Total carrier TOCs are applied to each individual carrier's Plan participation base, and are not rolled up to an aggregate TOC for the carrier's group.
- e. If a carrier disagrees with the final total carrier TOC, it may dispute the TOC in accordance with **Basic Manual** Rule 4-A-10-c or applicable state workers compensation insurance plan.

FILING MEMORANDUM

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

PURPOSE

This item:

1. Creates a national residual market Take-Out Credit (TOC) Program to be located in NCCI's **Basic Manual for Workers Compensation and Employers Liability Insurance** as Rule 4-F.
2. Eliminates the Vermont state-specific Take-Out Credit Program located in the Assigned Risk Miscellaneous Rules of NCCI's **Basic Manual**.

BACKGROUND

The TOC Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a TOC.

TOC became effective in Vermont in 1995. Although the current Vermont TOC is state specific, it has some common features with the other states, such as identifiable program lengths, ratios, and other requirements. However, the length and credit amounts of the current Vermont program are inconsistent with the rest of the country, with no identifiable benefit.

Similar to the approach taken with the revision of other NCCI manuals, rating plans, and programs, NCCI, as Plan Administrator, initiated a complete review and update of the individual programs to:

- Create a national TOC Program to appear as **Basic Manual** Rule 4-F
- Address state exceptions to the TOC Programs in the same manner as **Basic Manual** Rule 4-A to incorporate state special rules into the national TOC Program where appropriate
- Clarify material by simplifying the rules and presentation with a plain language approach that incorporates carrier and regulator feedback

PROPOSAL

The revisions proposed in this item identify three themes that provide the focus for improving this program:

1. **National Approach**
In creating a national TOC Program, all individual state programs were reviewed to determine the consistent elements among all of the states. This review determined that the vast majority of the state-specific programs were similar and often the same when compared to each other. Individual state programs have been incorporated within the new national **Basic Manual** Rule 4-F where appropriate.
2. **Accessibility and Usability**
The creation of the national TOC Program as **Basic Manual** Rule 4-F enables the user to immediately access information without navigating through numerous state programs.
3. **Use of Plain Language**
Customers have responded favorably to the plain language presentation of NCCI's 2001 **Basic Manual**, 2003 **Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance**, and the 2006 residual market rules incorporated as **Basic**

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FILING MEMORANDUM

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

Manual Rule 4. To continue with this approach, **Basic Manual** Rule 4-F is written in simpler language and presented in a more suitable manner.

The proposed TOC Program is clarified, where necessary, by use of simplified text.

Additionally, in Vermont, the program length, ratio, and other parameters were reviewed. It was determined that it is appropriate to change the program length from ten years to three years; ratios and other provisions have also been changed as detailed in Exhibit 1 of this item.

IMPACT

There is no expected impact to statewide premium as a result of this item. As in the past, NCCI will continue to issue an annual TOC Circular, which includes topics such as the enrollment process and corresponding deadlines.

IMPLEMENTATION

It is proposed that **Basic Manual** Rule 4-F become effective January 1, 2010. It is proposed that the TOC Program be implemented, applicable to employers' policies removed from the residual market and written on a voluntary market basis on or after the effective date of this program as contained in the attached exhibit(s).

Further, the state-specific Vermont Workers Compensation Insurance Plan Depopulation Incentive Program is discontinued effective January 1, 2010. However, any employers' policies with effective dates on or before December 31, 2009 will continue under that program for a transition period. The transition period applies until such time as those employers' policies no longer qualify for a TOC under the Vermont Workers Compensation Insurance Plan Depopulation Incentive Program.

Exhibit 1 contains the national **Basic Manual** Rule 4-F to be implemented in Vermont.

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ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

F. TAKE-OUT CREDIT PROGRAM

1. General Information

- a. The Take-Out Credit Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis.
- b. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a take-out credit (TOC). The TOC is applied against the premium used to calculate the voluntary market carrier's Plan participation base as defined in **Basic Manual** Rule 4-A-5-d or applicable state workers compensation insurance plan.
- c. All carriers licensed in a TOC Program-approved jurisdiction and writing workers compensation and employers liability insurance coverage are eligible to participate in the TOC Program.
- d. It is the voluntary market carrier's responsibility to:
 - (1) Enroll with the Plan Administrator as well as update enrollment information on an annual basis as required in accordance with the enrollment procedures established by the Plan Administrator.
 - (2) Submit an annual request for TOC in accordance with Rule 4-F-5 and any procedures established by the Plan Administrator.
 - (3) Provide supporting data as may be required by the Plan Administrator.
- e. TOCs are not issued to carriers that do not enroll in the program.
- f. TOCs are not issued to enrolled carriers that do not submit an annual request for credit.
- g. The Plan Administrator determines the applicability of all TOC Program rules.

2. General Terms

a. Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14)

Refers to a carrier's Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) contained in its Annual Statement.

b. Employer

Employer refers to an insured or a policyholder, in accordance with **Basic Manual** Rule 4-A-2-i or applicable state workers compensation insurance plan.

c. Experience Rating Threshold Average

A specific jurisdiction's experience rating threshold average is located in NCCI's **Experience Rating Plan Manual**. For purposes of TOC, the threshold is used as a parameter. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

d. Individual Reported Policy Premium

For purposes of TOC, individual reported policy premium is the amount of policy premium included for specific employers in the carrier's Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) of the carrier's Annual Statement for the most recent calendar year. This premium is also the basis for carrier participation in the Plan. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

e. Plan

Plan refers to NCCI's Workers Compensation Insurance Plan (WCIP), as defined in **Basic Manual** Rule 4-A-2-y or applicable state workers compensation insurance plan.

f. Plan Administrator

The organization designated to administer the affairs of the Plan as approved by the regulatory authority in a jurisdiction. For purposes of TOC, the Plan Administrator may also be referred to as the TOC Administrator.

g. Plan Participation Base

Plan participation base refers to the basis of a carrier's participation in the Workers Compensation Insurance Plan in accordance with **Basic Manual** Rule 4-A-5-d or applicable state workers compensation insurance plan.

h. Program Length

Program length refers to the maximum number of consecutive years that a specific employer's initial and renewal voluntary market policies may qualify for a TOC. For instance, a three year program length means that a voluntary market employer's initial policy and two subsequent renewals may qualify for TOC. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

i. TOC

TOC refers to the Take-Out Credit Program. The term is also used to refer to the actual credit (e.g., a carrier may qualify for a TOC to be applied to its Plan participation base). TOC is a residual market depopulation incentive program, with state-specific program parameters.

j. Program Year

Program year refers to the individual year that an employer's initial and renewal voluntary market policies may participate in TOC. For instance, an eligible initial voluntary market policy would be Program Year 1. The consecutive renewals would be Program Years 2 and 3, respectively.

k. TOC Ratio

Each jurisdiction has a ratio that is multiplied against the individual reported policy premium. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

l. Voluntary Market Carrier

For purposes of TOC, a voluntary market carrier removes an employer from a specific jurisdiction's residual market and writes the employer on a voluntary basis. For purposes of TOC, voluntary market carrier(s) will be referred to only as carrier(s).

3. TOC Requirements

- a. Any carrier, other than the last voluntary carrier of record, may remove an employer without any restriction on the length of time that the employer was written in the residual market. For purposes of TOC, these requirements apply to a carrier's group/affiliate as well as the carrier.
- b. A carrier will not receive a TOC for any employer removed from the residual market within 12 months of that carrier, or a member of that carrier's group, writing the employer in the voluntary market.

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- c. In no instance may a carrier receive a TOC for employers returned to the residual market within 12 months of being removed from the residual market.
- d. If the enrolled carrier keeps the employer out of the residual market for the full program length, that carrier will receive the TOC for premium relating to each of the program years of voluntary market coverage.
- e. A carrier is not eligible for a TOC for an employer's remaining program years if:
 - (1) A carrier does not enroll in TOC for an employer's first program year, or
 - (2) A carrier does not request a TOC for an employer's first program year, or
 - (3) A carrier requests a TOC for an employer's first program year, but subsequently decides not to accept the TOC, or
 - (4) An enrolled carrier accepts a TOC for a specific program year, but not its subsequent program years, in accordance with the specific jurisdiction's program length as detailed in the TOC Parameters Table in Rule 4-F-4-e.
- f. Subject to Rule 4-F-3-a through e., if the enrolled carrier does not write the employer for the full program length, it will receive TOC only for that consecutive period of time that it covered the employer in the voluntary market.

4. TOC Calculation

- a. Individual reported policy premium is used to determine the Individual Policy TOC and is subject to subsequent adjustments.

$$\frac{\text{Individual Policy TOC}}{\text{TOC}} = \frac{\text{Individual Reported Policy Premium}}{\text{Policy Premium}} \times \frac{\text{TOC Ratio}}{\text{Ratio}}$$

- b. Total Carrier TOC is calculated by jurisdiction as follows:

$$\frac{\text{Total Carrier TOC}}{\text{TOC}} = \frac{\text{Sum of Individual Policy TOC}}{\text{Sum of Individual Policy TOC}}$$

- c. Subsequent adjustments made to TOC (such as audit premiums, retro adjustments, etc.) are developed and reported in the calendar year in which they are made.
- d. Regardless of when a policy adjustment is made by the carrier, a TOC adjustment is applied if it is related to a policy within the program length.
- e. The TOC parameters used in the calculation are as follows:

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TOC Parameters Table

| Jurisdiction | (Years) Program Length | All Policies TOC Ratio | Individual Reported Policy Premium | | | |
|---------------------------------|------------------------------|----------------------------------|-----------------------------------------------------------|--------------------------------------------------------------------------------|----------------------|----------------------------------------|
| | | | Less Than Experience Rating Threshold Average | Equal to or Greater Than Experience Rating Threshold Average | Less Than \$5,000 | Equal to or Greater Than \$5,000 |
| | | | TOC Ratio | TOC Ratio | TOC Ratio | TOC Ratio |
| <u>Alabama</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Alaska</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>Arkansas</u> | <u>3</u> | <u>1.5:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Connecticut</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>District of Columbia</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Georgia</u> | <u>2</u> | Refer to State Pages | | | | |
| <u>Illinois</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Indiana</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Iowa</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Kansas</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Mississippi</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>New Hampshire</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>North Carolina</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Oregon</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>3:1</u> | <u>1:1</u> |
| <u>South Carolina</u> | <u>3</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u>South Dakota</u> | <u>3</u> | <u>N/A</u> | <u>3:1</u> | <u>2:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Vermont</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |
| <u>Virginia</u> | <u>3</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> | <u>N/A</u> | <u>N/A</u> |
| <u>West Virginia</u> | <u>3</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>2:1</u> | <u>1:1</u> |

5. Carrier Submission of Request for Take-Out Credit

If a carrier wishes to have a TOC applied to its Plan participation base, it must request the TOC in accordance with the following:

- a. Carriers must enroll in the TOC Program in accordance with the enrollment procedures established by the Plan Administrator.
- b. In order to receive a TOC for the entire program length, policies of employers taken out of the residual market must be identified as voluntary and accurately reported every year to the appropriate rating/advisory/statistical organization.

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- c. The Plan Administrator performs a systematic review and provides enrolled carriers with an electronic detailed report of eligible policies by program year. The report includes only voluntary market policies as reported by the enrolled carrier for employers that were previously written in the residual market.
- d. Enrolled carriers must review and change the report (if change is necessary) to ensure that only eligible policies are included in the calculation of the TOC. The report changes must be provided in accordance with the procedures established by the Plan Administrator.
- e. Enrolled carriers must ensure that the individual reported policy premium is the amount included in the Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) of the carrier's Annual Statement for the most recent calendar year.
- f. If no changes are necessary, refer to Rule 4-F-5-h.
- g. Upon receipt of a modified report, the Plan Administrator reviews the submitted changes to ensure agreement. The Plan Administrator has the discretion to eliminate policies from the report that were inaccurately reported or whose changes cannot be confirmed.
- h. The enrolled carrier must review and provide final approval of the policies on the report. The approval and corresponding official request to receive a TOC must be sent electronically to the Plan Administrator for final processing.

6. Total Carrier TOC Application to Plan Participation Base

- a. A total carrier TOC will be given only to enrolled carriers that provide electronic acceptance by the authorized TOC contact as provided in accordance with the established enrollment procedures.
- b. The developed total carrier TOC is applied to the carrier's Plan participation base.
- c. There is no maximum limit on the total carrier TOC amount, but a carrier's Plan participation base will not be reduced below zero as a result of the TOC.
- d. Total carrier TOCs are applied to each individual carrier's Plan participation base, and are not rolled up to an aggregate TOC for the carrier's group.
- e. If a carrier disagrees with the final total carrier TOC, it may dispute the TOC in accordance with **Basic Manual** Rule 4-A-10-c or applicable state workers compensation insurance plan.