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FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

The definition of 'fleet'



Bulletin

No. A-11/98
- Auto
Property & Casualty

[bulletinToTheAttentionOf]

To the attention of all insurance companies licensed to transact automobile insurance in Ontario

The Financial Services Commission of Ontario (FSCO) has received a number of inquiries concerning the exemption of contracts insuring fleets from the rate and risk classification approval process. The purpose of this Bulletin is to provide clarification on the application of this exemption as there are differing approaches within the industry.

Regulation 664

The following terminology, commonly referred to as the "fleet definition", is found in subsection 15(3) of Regulation 664, as amended:

contracts of automobile insurance that insure groups of at least five vehicles that are under common ownership or management and that are used for business, commercial or public purposes

Section 15 of Regulation 664 exempts insurers from the rate and risk classification approval process under sections 410 to 417 of the Insurance Act for contracts that satisfy the requirements of the fleet definition. (The same wording is also contained in section 4 of Regulation 664 which exempts insurers from the notice requirements under section 236 for contracts insuring fleets.)

In general, fleets are operated by businesses, often large companies, that are sophisticated as purchasers of insurance. The reasoning behind the exemption is that there is not the same need for regulatory protection, given the type of market and consumers involved, as there is for the regular insuring public.

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Definition

As it is important that there is common understanding of what does or does not constitute a fleet under this provision, each of the three parts of the definition are discussed below. **All parts of the definition must be satisfied.**

Part 1 - Five Vehicles

The first point to note is that there must be at least five vehicles before there can be a fleet.

Part 2 - Common Ownership or Common Management

The second part of the definition is the requirement of common ownership or else common management. In general, ownership should be determined on the basis of who is registered as the owner. While there could potentially be certain cases where someone other than the registered owner is the true owner these cases would be the exception.

Also, as pointed out in OIC Bulletin No. 6/93, published by the Ontario Insurance Commission (which was amalgamated into FSCO on July 1, 1998) and issued in April of 1993, there must be an insurable interest by the named insured for each individual vehicle.

If there is no common ownership then common management must be considered. Common management is a factor that allows a group of vehicles to be considered as a fleet, despite lack of common ownership. The owner or manager has control over the vehicles. The fleet is a discrete risk exposure whose experience and characteristics can be monitored and rated. The experience of the fleet will be affected by actions of the owner or manager and often risk management programs are in place.

Part 3 - Used for Business, Commercial or Public Purposes

The final part of the definition of fleet is the use of the vehicles. It is the use of the vehicle by those persons who actually operate the vehicle that determines whether the vehicle is used for business, commercial or public purposes. The definition, it should be noted, excludes vehicles that are driven primarily for personal use.

As noted above, all three parts of the definition must be satisfied for a fleet exemption. For example, the fleet exemption would not apply to a contract insuring a group of vehicles driven primarily for personal use simply because they were insured under a policy that includes at least five other vehicles that are under common ownership and are used for business purposes.

Distribution of Bulletin

FSCO urges insurance companies to ensure that copies of this Bulletin are shared with their underwriting departments, brokers and agents to ensure that there is a common understanding of and application of the fleet definition within the industry. FSCO will be monitoring insurers for compliance with this definition.

Contact

Should you have any inquiries regarding this Bulletin, please contact your rate analyst in the Automobile Insurance Analysis Division at FSCO.

Dina Palozzi
Chief Executive Officer and
Superintendent of Financial Services
September 24, 1998

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