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Bulletin

No. A-01/09
Property & Casualty
– Auto

Automobile Insurance Quoting and Underwriting Practices

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

The Financial Services Commission of Ontario (FSCO) has received inquiries and complaints that suggest some consumers are experiencing difficulties in obtaining quotes for automobile insurance or delays in obtaining coverage because some insurers are requiring credit or lifestyle information before providing a quote, or are relying on credit or lifestyle information in determining how to process quote requests and insurance applications.

This Bulletin outlines what FSCO considers to be acceptable practices when providing automobile insurance coverage and automobile insurance quotes to consumers. Insurers should take appropriate action to change procedures as necessary to conform to this Bulletin.

Regulation 664

Ontario Regulation 664 was amended in February 2005, to add certain financial information and other "lifestyle" factors to the existing list of underwriting and risk classification criteria that are expressly prohibited. This includes factors based on credit history and credit rating in addition to other factors such as residence history, occupation, profession or employment status, and level of income. None of these factors or surrogates for them are considered acceptable as underwriting or risk classification criteria. Please refer to Bulletin No. A-02/05 – Risk Classification and Underwriting Criteria, Non-Payment Terminations, and Fee Filing Guideline, for additional information.

Market Conduct Regulation

Certain public policy goals underlie the current auto insurance regulatory regime. These goals include ready availability of automobile insurance to consumers using transparent and fair criteria to assess risk and price. The desired marketplace outcomes include fair treatment of consumers and disclosure of information to enable consumers to make informed decisions.

FSCO also notes that the Insurance Bureau of Canada has developed "Standards of Sound Marketplace Practice" that include "Competitive Products Meeting Unique Needs of Consumers" and "Informed and Transparent Sales Transactions." Both of these standards are premised on the fundamental principles that consumers should be able to benefit from healthy competitive activity among insurers and that consumer disclosure is important to instill public confidence in the insurance industry.

Quoting and underwriting practices that result in consumers encountering difficulties in obtaining quotes or delays in obtaining insurance are contrary to both the underlying public policy goals and standards as developed by the industry trade association.

Privacy Legislation

An insurer's collection and use of a consumer's personal information, the manner in which an insurer seeks a consumer's consent to access personal information, and the scope of the consent sought must conform to relevant privacy legislation, including the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA). Insurers should have regard to the following PIPEDA principles when requesting and collecting personal information:

Principle 4.3.3: "An organization shall not, as a condition of the supply of a product or service, require an individual to consent to the collection, use or disclosure of information beyond that required to fulfil the explicitly specified, and legitimate purposes."

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Principle 4.4: "The collection of personal information shall be limited to that which is necessary for the purposes identified by the organization...Organizations shall not collect personal information indiscriminately. Both the amount and the type of information collected shall be limited to that which is necessary to fulfil the purposes identified."

Quoting Practices

It is our understanding that in some cases consumers have encountered difficulties in obtaining quotes, whether by telephone, website or otherwise, although they meet the insurer's filed underwriting criteria. Also, in some cases consumers are required to complete, sign and submit an OAF 1, Ontario Application for Automobile Insurance (Owner's Form), in order to obtain a quote.

For the purposes of providing a quote, an insurance company should only request, collect and consider information that it requires in order to apply its filed and approved underwriting rules and risk classification elements to determine a consumer's eligibility for insurance coverage and to rate the consumer. FSCO expects that a consumer will be provided a quote based on the information that the consumer provides to the broker, agent or insurance company at the time that the quote is requested. FSCO does not believe that there is any reason to require, collect or use credit information for purposes of providing a quote, nor is a full application required or justified for the purposes of providing a quote.

It is also expected that all aspects of the quoting process (including but not limited to promptness of response times) will be conducted in a manner that does not treat consumers differently based on factors, including criteria related to a consumer's social, personal and/or economic status, that are prohibited for use in underwriting or rating.

Obtaining Insurance

Once a consumer moves past the quote stage and expresses a desire to purchase an insurance policy, an insurer may seek consent from an applicant to collect and use credit information in accordance with the terms of the consumer's consent as set out in Part 11 of the OAF 1. However, as expressly provided in the OAF 1, this information must be used only for purposes permitted by law; for example, to determine if an applicant has been cancelled in the past for non-payment of automobile insurance premiums, if the insurer has an approved underwriting rule or risk classification element that is based on prior cancellation for non-payment of automobile insurance premiums.

FSCO is considering revisions to the OAF 1 and expects to release a new version of this form later in the year. This version will include new consent language to further clarify the purposes for which personal information may be collected and used by insurance companies.

Section 5 of the *Compulsory Automobile Insurance Act* requires that the OAF 1 must be provided to a consumer when requested. This requirement must be met as soon as practicable. Similarly, on receiving the application, the insurer must process it and inform the consumer accordingly as soon as practicable. Both requirements must be met in a manner that does not treat consumers differently based on factors, including criteria related to a consumer's social, personal and/or economic status, that are prohibited for use in underwriting or rating. Failure to do so would be a contravention of the *Compulsory Automobile Insurance Act*.

Renewals

As with new business, insurers' treatment of renewal business (including but not limited to determining if submission of a completed and signed OAF 1 is required) is not to be based on factors, including criteria related to a consumer's social, personal and/or economic status, that are prohibited for use in underwriting or rating.

Summary

Practices that hinder, delay or frustrate consumers' efforts to shop for or purchase auto insurance are not in the public interest and conflict with the intent of the *Insurance Act* and Ontario Regulation 664, particularly where they discourage a consumer from making or pursuing a request for a quote or for coverage from a particular insurer or affiliated group of insurers, or cause a consumer to abandon such a request. Such practices are tantamount to declination to issue a contract within the meaning of section 238 of the *Insurance Act*.

Insurance companies are not to use criteria prohibited for rating or underwriting purposes (e.g., criteria related to a consumer's social, personal and/or economic status) to decline to provide quotes, to hinder or delay a consumer's efforts to obtain insurance coverage or an insurance quote, or as a basis for differential treatment (whether by affiliated insurers or otherwise) of consumers in the quoting, application or renewal process. Such practices include, but are not limited to, screening, prioritizing or delaying quotes; segmenting risks within groups of affiliated insurers, whether by back-end systems, scoring models, filters or otherwise; and instructions or suggestions to agents or brokers concerning placement of risks.

Insurers should take appropriate action to implement any changes to their procedures that are necessary to conform to this Bulletin. Failure to do so will result in FSCO taking action as necessary. In addition to enforcement proceedings against individual insurers where appropriate, such action may include recommendations to the government concerning amendments to the *Insurance Act* and the regulations to further regulate insurer practices.

FSCO will follow up with insurance companies in 60 days to verify that they have in place standards and procedures or plans of action to ensure quoting and underwriting practices conform to this Bulletin.

Contact

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

Bob Christie
Chief Executive Officer and
Superintendent of Financial Services

February 10, 2009

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Last Modified: 2/10/2009 10:57:35 AM

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