

June 27, 2022

RE: DFS ISSUES PEER-TO-PEER CAR SHARING INSURANCE EMERGENCY REGULATION

The New York State Department of Financial Services has promulgated an [emergency regulation](#) to implement recent legislation regarding peer-to-peer car sharing insurance. The regulation, which is now in effect, will expire on September 14, 2021 unless extended. The requirements that are specific to excess line placements are as follows (additional general requirements may also apply to excess line placements):

- A consolidated affidavit, such as those historically required for Risk Purchasing Groups, may be completed by the broker and submitted to ELANY on behalf of the administrator of the shared vehicle owners and drivers covered under the group policy, but only when a group policy has been obtained by the administrator as the group policyholder with respect to coverages that are provided *without option*¹ by the group policyholder.
- Excess line group peer-to-peer car sharing policies are subject to the requirements of [Part 71](#) (defense within limits) and [Part 73](#) (claims-made policies) of the New York State insurance regulations. The Unfair Claims Settlement Practices and Claim Cost Control Measures regulation ([Part 216](#)) applies to group peer-to-peer car sharing policies issued by excess line insurers.
- Excess line brokers must provide a notice regarding Supplemental Underinsured Motorist (SUM) coverage to the peer-to-peer car sharing group administrator at the time of placement.
- Neither the Export List nor Exempt Commercial Purchaser exemptions are applicable to excess line group peer-to-peer car sharing policies.
- Declinations for group peer-to-peer car sharing policies are valid for one year and apply to all shared vehicle drivers and owners insured under the policy with respect to coverages that are provided *without option* by the group policyholder.
- Excess line brokers must provide annual written affirmation to the peer-to-peer car sharing administrator of the unavailability of coverage in the admitted market.
- Prior to procuring a group peer-to-peer car sharing policy from an excess line insurer, the excess line broker must secure a written commitment from the insurer that it will:
 - Cooperate with the Superintendent of Financial Services with regard to any inquiry or request for information pertaining to the group policy or any claim submitted thereunder
 - Comply with unfair claims settlement practices requirements ([Part 216](#))
 - Use licensed adjusters to investigate or adjust claims submitted under the group policy
 - Maintain records in accordance with [Part 243](#) and maintain the privacy of consumers and customers in accordance with [Part 420](#)

Should you have any questions regarding the content of this bulletin, please direct them to Howard Greene at hgreene@elany.org or (646) 292-5591.

¹ *Without option* means coverages provided by the group policyholder which vehicle owners and drivers covered under the group policy must accept.