



This F&I Sentinel Industry Alert provides:

- A summary of a recent regulatory pronouncement in the state of Massachusetts regarding vehicle service contracts (VSCs) and the treatment of VSCs as insurance in certain circumstances.

Last week the Division of Insurance in Massachusetts released a public statement regarding VSCs which can be found here: (<https://www.mass.gov/service-details/service-contracts>). The statement elaborates on the Division's distinction between what constitutes a service contract and what constitutes insurance. Please review the full announcement at the link provided above, but there are two specific items which are worth noting: (1) the announcement of Massachusetts' position that a vehicle service contract where the obligated party is a third-party unrelated to the manufacturer or dealer is considered an insurance product; and (2) the prohibition on requiring the purchase of a vehicle service contract as a condition of a vehicle loan or sale. In its pronouncement, the Division indicates the following:

Most service contracts are not insurance policies. An exception is service contracts covering automobiles. In Massachusetts, service contracts covering automobiles are insurance products and must be approved by the Division of Insurance for sale in the Commonwealth.

(Emphasis supplied). The Division elaborated on this statement by reaffirming its historical non-public position that the following types of service contracts are exempted from treatment as insurance:

Automobile warranties and service contracts offered by a manufacturer, or any subsidiary of such manufacturer, or an automobile dealer, or any subsidiary of such dealer, do not constitute insurance products when either the manufacturer or the dealer is the obligor on the contract. . . . On the other hand, where an automobile dealer offers a contract on an automobile and a third party company (e.g. XYZ Service Contract Co.) is the obligor standing behind the contract to fulfill its terms, that contract is an insurance product.

Importantly, the result of the Division's position is that the financing of a third-party obligated VSC would constitute the financing of an insurance product and trigger all of the additional requirements applicable to the financing of insurance, inclusive of additional disclosures and insurance agent licensure by the dealership.

Through CITADEL® (<https://fandisentinel.com/what-we-do/#citadel-compliance-solution>), F&I Sentinel has enforced the Division's position in our credentialing of vehicle service contracts since the founding of our company. For current F&I Sentinel customers, you can rest assured that VSCs credentialled by F&I Sentinel in the state of Massachusetts comply with the Division's position as the credentialing services performed through



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CITADEL® ensure that no third-party obligated VSCs have been authorized for funding. For F&I Sentinel, the Division's statement amounts to nothing more than the regulator publicly announcing the interpretation F&I Sentinel has always understood, and supports the position that we have applied on behalf of our partners.

If you are interested in learning more about our CITADEL® solution please visit F&I Sentinel's website to learn more about the work F&I Sentinel does to protect our partners from the risks associated with the financing of F&I products.