

## Multiple Named Insureds in the Farm World

### Background

Named Insured refers to the person, persons or entity specifically named on the declarations page of on the policy. In the case of multiple named insureds, an underwriter must identify the "First Named Insured" and determine if all named insureds are acceptable under one policy.

As a reminder, review Section II – Who Is An Insured in the coverage form as a beginning reference point in determining who might already be covered as an Insured with respect to the entity type.

### First Named Insured

Normally, the agent will identify the First Named Insured in the application and this named insured will be shown on the Policy Declarations page. Other named insureds are to be scheduled on a Company specific endorsement: Named Insured Endorsement, IL 7277 (Package) or IL7125 (Auto). The IL 7277 applies to all coverage parts of the policy if the policy has any of these symbols: AFP, FPC, AGB, APK, AGG, AFL & DPK.

The First Named Insured is the only insured which has total control of the policy. Essentially, the First Named Insured owns the policy. Being first means they receive all policy correspondence, including notices of cancellation. They are the only one that can request a policy change or cancel the policy. They are legally responsible for paying the premiums.

### Downfalls of multiple named insureds

While it is common practice to have multiple named insureds under one policy, especially for farms, there are downfalls with this practice that an Underwriter and Agent should be aware.

While the First Named Insured has greater status under the policy, all named insureds are granted coverage under the policy and have full access to the policy limits. It is important to remember that regardless of the number of named insureds on the policy, all named insureds are subject to the limit of insurance provided. Thus, any one named insured can submit claims and potentially exhaust the policy limits leaving no coverage available for other insureds under the policy. Also, in the event several or all of the named insureds are sued in one claim there may be a shortage of limit protection afforded to each entity or individual.

Under the separation of insureds provision in the CGL Coverage Form, rights are given for one insured to sue another under the contract. This could also be a cause for dilution of limits for named insureds.

### Combinability of Named Insureds

An Underwriter must determine if the requested named insureds have a combinable interest in the farm operations. We use two tests for combinability: ownership and/or control of the organization.

- **Common Ownership:** While standard CGL (commercial) underwriting requires 51% of more common ownership to be included as a named insuree, Farm underwriting takes a similar but not as precise approach. Farms often combine in one operation the original family farm land which could still be owned by a trust or multiple descendants as well as other legal entities formed as the farm operation has changed, expanded and additional generations participate in the farm operation. There are still family farms, hybrids of family and corporate and true corporate farms. There must be ownership interest in some aspect of the farm operations to qualify as a name insured. Below are just a few of the more common examples of common ownership.
  - First Named insured is an LLC, owned exclusively by John Smith. Some of the land is owned by John Smith, some by John and Jane Smith and some by Jane Smith. There are also additional LLC's that own the equipment or other pieces of land. All can be named insureds as all entities owned and controlled by John & Jane Smith.

- First Named insured is an LLC, controlled and owned by John Smith. However, the land and the buildings were jointly inherited by John Smith and his brothers and sisters who are part of the farm operation. John Smith may not actually own 51% or more but he should be a named insured. The siblings should only be additional insureds.
- Farm is owned by a corporation. Majority shareholders are John Smith (1/3), parents' trust (1/3) and brother, Bob (1/3). As shareholders the three are insureds by policy language and should not be named individually as named insureds. No one has over 51% of the first named insured. However, John & Jane Smith built their house on the corporately owned land but the dwelling is in their name. Now John Jr., who works for the corporation, is purchasing equipment in his own name that is used exclusively by the farm. John, Jane and John Jr. all have some cattle that are individually titled. In this scenario, it is OK for John, Jane and John Jr. to be named insureds. Brother Bob should not be a named insured because as a shareholder he is included in the definition of an insured. If Bob has some cattle titled to him that is part of the farm operation, he may be considered for named insured status or just additional insured depending on how much control of the operation Bob has in the farm.
- The First Named Insured is John & Jane Smith, dba: Smith Family Farms. John & Jane individually own their dwelling as well as some of the farm land. Some of the farm land is owned by John & Jane Smith Family Trust. As John & Jane have acquired additional farm land, they have formed separate LLC's for these new parcels of land. The LLC's may be owned by John & Jane individually, the Family Trust or John & Jane's 3 children, John Jr., Jack & Jill and not in the same equal portions. Each of John & Jane's 3 children live on a farming location and are active in the day-to-day farming operations. Each of the 3 children may or may not individually own their dwelling or the farm land but they do individually own the household personal property in their dwelling and their autos. In this scenario, the named insured list would include: John & Jane Smith, dba: Smith Family Farms, John & Jane Smith Family Trust, John Smith Jr., Jack Smith & Jill Smith.
- If family members have a primary personal residence not located on the farm property, then the residence and personal liability should be written on a Personal Lines policy, not on our farm policy. This would include any personal vehicles that are regularly garaged at the primary residence.

In each of these above instances, it is important to confirm that each individual or entity does not have any operations outside of the farming operations we are insuring.

- For an auto policy, the named insured list should only include those individuals or entity(ies) that own autos insured on our policy. If we're being requested to add a vehicle and named insured that isn't listed on the package policy, we need to ask the agent why we have the request and what interest they have in our policy.
- It is not unusual for an agent to request coverage for an entity(ies) that doesn't own autos to be listed as name insured as well because those entities could have a hired/non-owned exposure. In this case be sure to confirm those entities do not own any other autos insured elsewhere especially if the auto policy has symbol 1 or 2.
- **Control:** Under this test, the First Named Insured must have control of the daily operations of the entity or entities it is requesting to be combined with. This control should extend to the operations which affect our exposure, as well as controls such as maintenance and safety programs. It is possible for an entity to control the operations of another entity, even if it does not have a majority ownership interest. Below is an example.
- The First Named Insured is a corporation (parent or holding corporation) set up to have control of several different farms. Each farm is a separate LLC and the corporation ownership of each LLC may be less than majority (<51%). The First Named Insured Corporation does operate each of the farm LLCs, so the LLCs can be included on the policy as named insureds.

**The Underwriter should document in the underwriting file how they determined the combinability of the multiple named insureds.**

**Personal Liability:** You can provide personal liability on the policy for someone who is not a named insured. For example, we will give personal liability to the resident farm manager or family member/relative living in a house on the farm. Remember, if not a resident of the farm they should be getting their personal liability from their personal homeowners policy. If farm is the secondary residence, do not add personal liability as the individuals should have the coverage on their primary residence policy.

#### **A.T.I.M.A. or ETAL**

Do not agree to use A.T.I.M.A. (as their interests may appear) or ETAL (and everyone else) when setting up a named insured on the policy. Only accurately and precisely identified entities should be listed to avoid any confusion or conflict when determining covered entities and coverage.

#### **Identify and Price for each Named Insured exposure**

Determining combinability of multiple named insureds is not the only underwriting consideration to be given. It is imperative that the Underwriter understand the exposures of each named insured and to properly classify and price for the exposures of each named insured. It is not necessary to show a separate general classification for each named insured and it's OK to combine premium basis for all into any common class codes. However, the underwriter must document their analyses of the exposure(s) represented by each named insured and the thought process on the assignment of exposures and classifications.

#### **Umbrella Coverage**

When there are multiple named insureds on the underlying policy, the First Named Insured on the Umbrella Policy will be the same as the underlying. If the umbrella is part of the package, the IL 7277 named insured list would apply to the umbrella as well. If the umbrella is written on a mono-line policy (AGG), the named insureds should be scheduled on AR 8445 AgriGuard Named Insured endorsement. A mono-line UMB policy would use GAI6005, the Umbrella Named Insured endorsement.