

In re: Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation  
Case No. 3:15-md-02672-CRB

**REPORT OF INDEPENDENT CLAIMS SUPERVISOR ON  
VOLKSWAGEN’S PROGRESS AND COMPLIANCE RELATED TO  
RESOLUTION AGREEMENTS ENTERED OCTOBER 25, 2016:**

- Amended Consumer Class Action Settlement Agreement and Release
- Federal Trade Commission Consent Order
- Department of Justice, Environmental Protection Agency,  
California Attorney General’s Office, and California Air Resources Board  
Partial Consent Decree

FEBRUARY 27, 2017

## Table of Contents

I.	Executive Summary .....	1
II.	Claims Program Update .....	4
	A. Update on Initial Phases of Claims Program: Registration Through Offer Letter .....	5
	B. Volkswagen Encountered Significant Challenges Timely Processing Buyback Requests Where the Vehicle Was Encumbered by a Loan .....	7
	1. Claims of Owners with VCI/AFS Loans.....	7
	2. Claims of Owners with Third-Party Loans .....	8
	3. Audit of Volkswagen’s Loan Payoff Verification.....	12
	C. Update on Second Phase of Claims Program: Scheduling, Closings, and Payment .	12
	1. Appointment Scheduling, Cancellations, and Rescheduling.....	12
	2. Buyback and Lease Termination Appointments .....	15
	3. The Payment Process.....	19
	D. Approved Emissions Modification.....	22
III.	Volkswagen’s Performance Metrics .....	23
	A. Consumer Registrations .....	23
	B. Claim Submission and the First Ten-Business-Day Review Period .....	28
	C. Preliminary Eligibility Determinations and Deficiencies .....	34
	D. The Second Ten-Business-Day Review Period .....	39
	E. Offer Letters .....	45
	F. Appointments and Closings .....	49
	G. Progress Toward the 85% Target.....	54
IV.	The Consumer Experience .....	54
	A. Analysis of Consumer Outreach .....	55
	B. Volkswagen’s Interaction with Consumers.....	57
	1. Claims Hotline.....	57
	2. Chat Functionality .....	63
	C. Complex Claims Processing.....	64
V.	Conclusion.....	66

Consistent with the requirements of the Resolution Agreements,<sup>1</sup> the independent Claims Supervisor respectfully submits its quarterly report for February 2017, which covers the period from November 20, 2016 through February 18, 2017.<sup>2</sup>

## **I. Executive Summary**

In the nearly four months since the official launch of the Claims Program on November 1, 2016, Volkswagen has made substantial progress in processing high volumes of consumer claims through the initial stages of the application process -- from document collection and validation, through eligibility and award determination. As of February 18, 2017, Volkswagen had extended 323,179 offers for Buybacks, Early Lease Terminations, Approved Emissions Modifications (“AEM”), and Restitution Payments. More than 95% of consumers who had submitted complete claims and were determined eligible by Volkswagen received offers. While early on Volkswagen encountered operational and technology-related challenges, by streamlining processes, enhancing technology systems, and increasing staffing, the company has been able to process the vast majority of the initial surge of claims submitted and keep pace with new claims received.

Practically, the claims process has gone smoothly for the majority of consumers. However, certain categories of consumers experienced extended delays and related customer service challenges. The largest population of consumers who faced the most pronounced processing delays were Owners electing the Buyback remedy who had outstanding loans on their vehicles, including loans held by Volkswagen’s corporate affiliates Volkswagen Credit, Inc. and

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<sup>1</sup> Capitalized and/or abbreviated terms in this report take on the definition in the Resolution Agreements or the initial report submitted by the Claims Supervisor in November 2016.

<sup>2</sup> Unless indicated otherwise, data in this report covers the period from the launch of the Claims Program on November 1, 2016, through February 18, 2017.

Audi Financial Services (“VCI/AFS”). These delays resulted from challenges Volkswagen experienced in timely obtaining loan payoff amounts from corresponding lenders.

By mid-December 2016, staffing increases and technology upgrades allowed Volkswagen to essentially eliminate processing delays associated with obtaining VCI/AFS loan payoff amounts. Many consumers with loans held by third-party lenders, however, continued to experience significant delays, particularly in cases where the lenders were credit unions or small financial institutions. While the company has not found a one-size-fits-all approach to fully eliminate the sometimes longer timetables to process claims submitted by consumers with third-party loans, by January 2017, Volkswagen was able to substantially reduce the backlog of these overdue claims by adding dedicated staff and implementing operational enhancements.<sup>3</sup>

As offer letters have been provided to the vast majority of consumers who have submitted eligible claims, additional attention has shifted to the latter phases of the Claims Program. These phases have required coordination with consumers and a network of dealerships across the United States to schedule and administer Buyback and Lease Termination appointments, process payments, and facilitate vehicle modifications for consumers selecting an AEM. As of February 18, 2017, Volkswagen had completed 137,985 closings and paid out \$2,887,250,713.27 to Owners and Current Lessees. Volkswagen is currently conducting approximately 15,000 closings per week and is expected to continue this pace for the foreseeable future.

While most consumers who reached the latter phases of the Claims Program proceeded through closing without difficulty, in limited circumstances some consumers encountered significant challenges. For example, certain consumers who were subject to an “upward mileage adjustment” at closing were required to reschedule their appointment so that a new check could

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<sup>3</sup> There are other types of delayed claims that remain in the backlog, which are discussed more fully below, and generally involve much smaller populations of consumers.

be issued that accounted for a reduced award amount. Volkswagen has implemented measures to mitigate the likelihood that this will occur in the future and continues to improve the process and consumer experience in instances when it does. Other even less prevalent issues, which are discussed later in this report, have resulted in a relatively small number of postponed closings.

The statistics below provide a cumulative presentation of key Claims Program metrics as of February 18, 2017:

- 470,302 registrations had been created in Volkswagen's Claims Portal;
- 355,395 consumers had submitted claims for Volkswagen to review;
- 323,179 consumers had been issued offer letters, the aggregate value of which was \$5,863,302,864.05;
- 220,682 closing appointments had been scheduled;
- 137,985 Owners and Current Lessees had proceeded through closing, and the aggregate value disbursed to these consumers totaled \$2,887,250,713.27; and
- 6,917 Sellers and 1,876 Former Lessees had been paid on claims, the aggregate values of which totaled \$21,038,406.50 and \$6,255,903.60, respectively.

While ongoing angst was expressed by a number of consumers during the three months covering this reporting period, it tended to be concentrated within populations experiencing prolonged claims processing delays and dissipated as progress accelerated. According to consumers, frustration was compounded when customer service limitations made it difficult to obtain accurate and detailed information about the status of their claims from Volkswagen. Over time, Volkswagen took steps to increase the quality of its customer service by enhancing training, incorporating more formal quality assurance protocols, and regularly updating reference materials that customer service agents rely on in providing consumers with information.

Through these efforts and others, several customer service challenges have been addressed, and further improvements are expected.

## **II. Claims Program Update**

Volkswagen's Claims Program officially launched on November 1, 2016. The Claims Supervisor issued an initial report on November 25, 2016 ("November 2016 Report"), which detailed Volkswagen's pre-launch efforts to build operations and supporting technology infrastructure to enable consumer participation. Among other things, this included efforts to support consumer registrations, electronic and paper submissions of required information and documents to complete claims, and offer determinations, all in accord with the requirements of the Resolution Agreements approved by the Court on October 25, 2016.

The undertaking required Volkswagen to create a massive infrastructure to process claims related to nearly 500,000 vehicles, and to integrate its operational and technological processes with the Claims Supervisor so that individual claim determinations made by Volkswagen could be verified.<sup>4</sup> While not without setbacks, these efforts have largely proved successful in enabling the majority of consumers to navigate the initial phases of the Claims Program. This section will further evaluate these initial phases of the Claims Program, focusing in particular on the more significant challenges Volkswagen faced in processing claims and the steps taken by the company to address those challenges. It will also examine the latter phases of the Claims Program following the issuance of an offer letter to a consumer, which include scheduling a closing appointment, conducting the closing, and issuing payment.

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<sup>4</sup> As discussed further in the November 2016 Report, the Claims Supervisor is an independent agent of the Court charged with verifying claim eligibility determinations and award calculations, as well as providing oversight and reporting on the progress of the Claims Program and Volkswagen's compliance with the Resolution Agreements.

A. Update on Initial Phases of Claims Program: Registration Through Offer Letter

As detailed in the November 2016 Report, aggressive claims processing timetables in the Resolution Agreements combined with a surge of initial claims submissions and a number of other challenges initially strained Volkswagen's resources and caused certain processing delays. This, in turn, led to frustration among impacted consumers. Volkswagen addressed these processing delays by increasing staffing and modifying certain operational processes and technological systems in an effort to increase efficiency and decrease processing time. While processing delays continue to persist on some claims, Volkswagen's ongoing efforts to make adjustments and improvements have resulted in a steady decrease in the number of consumers experiencing processing lags.

At the time of the November 2016 Report, 95% of claims were timely processed within the first ten-business-day review period (where documents are validated) but only 52% of claims were timely processed within the second ten-business-day review period (where eligibility is determined and an offer letter may be issued). In order to increase timely compliance during the second ten-business-day review period, Volkswagen, among other things, hired additional claims processing staff to support its internal operations and also engaged an outside vendor to increase offsite staffing devoted to validating documents. Over time, Volkswagen's internal and external review resources surged to 265 staff dedicated exclusively to processing claims.

Volkswagen's decision to hire an outside vendor to help accelerate claims processing proved to be effective. The vendor was initially engaged in November 2016 and subsequently trained eighty reviewers to assist in processing claims. As the number of claims requiring document validation diminished over time, the vendor also provided assistance with verifying loan payoff amounts and generating offer letters to help reduce Volkswagen's backlog. Because

the vendor did not have prior experience processing claims, an assessment of its operations and facilities was performed by the Claims Supervisor to evaluate whether its work was being conducted in accordance with the requirements of the Resolution Agreements. During this evaluation, it was learned that senior Volkswagen staff had conducted training for the vendor's trainers, and an audit of a sample of claims processed by the vendor revealed that it processed claims with an accuracy rate essentially equivalent to Volkswagen's onsite staff.<sup>5</sup> In addition, a review of the vendor's technology systems and protocols indicated that integrity measures were in place to secure consumers' personal information.

While adding staff to crucial functions has often been a primary contributor to Volkswagen's increased compliance rates with the second ten-business-day review processing requirement outlined in the Resolution Agreements, the company also made important strategic operational and technological changes to improve the timely processing of claims. With respect to operations, Volkswagen adjusted various protocols and policies related to criteria for review and approval of required documents in an effort to lessen the burden on consumers and expedite decision-making, particularly where recurring challenges were identified. From a technology standpoint, Volkswagen made modifications to automate key functions, integrated several system upgrades, and also created additional data fields to track more information to better facilitate interactions with consumers and enhance record-keeping. Over time, as detailed in Section III below, these enhancements materially improved the timely issuance of offer letters to consumers.

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<sup>5</sup> Because the Resolution Agreements do not provide for the Claims Supervisor to verify completeness determinations made by Volkswagen and its vendor during the first ten-business-day review period, an audit of a random sample of these decisions was undertaken to evaluate performance in that phase of the Claims Program. The results of this audit are discussed in greater detail in Section III below.



B. Volkswagen Encountered Significant Challenges Timely Processing Buyback Requests Where the Vehicle Was Encumbered by a Loan

From the start, Volkswagen struggled with timely processing Buyback claims submitted by Owners with loans, whether the loans were financed by VCI/AFS or third-party lenders.<sup>6</sup> This was evidenced by the fact that in the first three weeks of the Claims Program, Volkswagen made offers to 36,248 Owners without loans but only 2,390 to Owners with loans. For these claims of Owners with loans, Volkswagen must apply necessary proceeds from the Owner's award amount to satisfy the outstanding loan balance in order for Volkswagen to take clear title of the vehicles. Practically, this has required Volkswagen to contact the lender -- VCI/AFS (corporate affiliates of Volkswagen) or a third party (over which Volkswagen does not exercise direct control) -- to request a payoff statement.<sup>7</sup> As discussed below, Volkswagen explored a number of different strategies to obtain payoff information from the thousands of different lending institutions that have an interest in the Eligible Vehicles.

1. Claims of Owners with VCI/AFS Loans

While VCI/AFS are both affiliated with the Volkswagen corporate family, Volkswagen did not initially have the necessary resources in place to efficiently obtain loan payoff information from these entities. This adversely impacted the company's ability to timely issue second ten-business-day review period decisions and offer letters on claims by Owners with VCI/AFS loans.

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<sup>6</sup> As of February 18, 2017, more than 50% of Owners who had submitted claims for Buybacks had an outstanding loan on their vehicles.

<sup>7</sup> In certain instances, consumers provided incomplete or incorrect information in applications regarding corresponding lending institutions or loan identification numbers, which required Volkswagen to take the extra step of obtaining corrected information from consumers before proceeding to contact the third-party lenders.

In early December 2016, Volkswagen substantially increased staffing dedicated to obtaining loan payoff information for VCI/AFS loans. In turn, it was able to reduce the backlog of these overdue claims within weeks. In addition, on December 15, 2016, Volkswagen implemented an automated “look-up” function for VCI/AFS loans that allows it to obtain related payoff information in relatively real time. While that functionality was not implemented before a significant number of the initial surge of claims passed the compliance deadline, the automation was successful and Volkswagen was subsequently able to remain largely compliant in processing the ongoing claims of owners with VCI/AFS loans during the second ten-business-day review period.

Of course, Volkswagen was aware in advance of the launch of the Claims Program that a significant population of consumers had VCI/AFS loans and that it would be necessary to timely obtain payoffs for these loans during the second ten-business-day review period. Automating functionality sooner to retrieve this information could have enabled Volkswagen to avoid the related delays. However, as explained in greater detail in the November 2016 Report, Volkswagen had a short timetable within which to develop systems to timely launch its claims processing operation, and elected to prioritize the development of other necessary system functions.

## 2. Claims of Owners with Third-Party Loans

Volkswagen has experienced even greater difficulty in timely obtaining payoff information from third-party lenders. Thousands of lenders of all varieties, including large financial institutions, credit unions, and local banks, hold loans on Eligible Vehicles. Because there is no corporate affiliation with these lenders, an automated lookup function similar to that established with VCI/AFS was not feasible. Further complicating the process was the fact that

these lenders had varied procedures and requirements related to providing loan payoff figures, so there could be no “one-size-fits-all” approach for Volkswagen to obtain the requisite loan payoff information from third-party lenders.

In advance of the official start of the Claims Program, Volkswagen contacted a number of the larger lending institutions in an effort to develop streamlined processes for receiving loan payoff amounts. Informal protocols were developed with seven of the larger lenders whereby Volkswagen sends them batches of claims for corresponding loan payoff amounts. The lenders typically respond with payoff information in one to two business days; however, Volkswagen reported that the requested information can sometimes take up to two weeks to receive. Beyond the larger lending institutions, thousands of other third-party lenders have held loans on subject vehicles, a number of which are comparatively small in size with limited administrative capabilities to quickly process requests for payoff information.

As a threshold matter, many lenders would not accept a financial consent form directly from Volkswagen. To address this issue, Volkswagen added a prompt to the Claims Hotline encouraging consumers to contact their lenders directly to provide verbal and/or written consent to speak with Volkswagen. In addition, in mid-January 2017, Volkswagen sent emails to thousands of consumers with third-party loans further encouraging them to do the same. Consumers took action in response to these communications from Volkswagen, which resulted in fewer refusals from financial institutions to provide the required loan payoff information.

Other challenges encountered by Volkswagen involved situations where lenders: (i) would not provide payoff information over the phone unless the consumer was also on the line; (ii) would only communicate via facsimile; and (iii) would only provide information about one

loan per telephone call. Practically, these different business practices among lenders have led to delays in securing loan payoff information.

In the absence of a more comprehensive solution, Volkswagen elected to increase the number of “offer specialists,” whose job function includes calling third-party lenders, to accelerate the rate at which loan payoff information is obtained. Volkswagen surged the number of offer specialists from 43 in November 2016, to 171 in December 2016, and 180 in January 2017. As a result of this increased staffing, and as discussed more in Section III below, the timeliness of issuing offer letters has improved over time and the number of past-due claims in the backlog has continued to decrease.

As loans held by credit unions have proven to be a particular challenge in timely securing loan payoff amounts, Volkswagen also reached an arrangement with Credit Union Direct Lending (“CUDL”), an auto lending network of credit unions, whereby CUDL will receive the consumer’s loan information from Volkswagen in order to obtain payoff information from its member credit unions more expeditiously. Approximately 430 corresponding CUDL member credit unions collectively hold more than 3,000 auto loans associated with consumers who have filed a claim under the settlement. CUDL began requesting loan payoff information from its members in mid-February 2017.

Volkswagen also changed its protocol on February 8, 2017, to accept loan payoff information from lending institutions via facsimile sent directly to the company; previously Volkswagen required verbal confirmation directly from lenders. This change has been communicated to consumers whose offers were aging as a result of third-party loan verification delays, and they have been encouraged to contact their lenders to request that a payoff statement

be faxed to Volkswagen.<sup>8</sup> Initially, Volkswagen was reluctant to accept faxed payoff statements because it has a vested interest in ensuring that the loan payoff information is accurate. In order to address concerns over potentially fraudulent loan payoff statements, Volkswagen implemented certain measures to verify the authenticity of the paperwork it receives by fax.<sup>9</sup> And over the course of recent weeks, Volkswagen experienced a significant surge in the number of faxes with loan payoff information received from financial institutions following the direct outreach to consumers advising of the new fax protocol, as well as efforts by CUDL on Volkswagen's behalf.

Despite progress in this area over the last few months, a substantial number of claims with third-party loans were more chronically delayed as these improvements were being implemented. While Volkswagen was aware in advance of the launch of the Claims Program that securing loan payoff figures from third-party lenders posed a significant risk to meeting the timeline requirements in the Resolution Agreements, it did not address the ensuing challenges in time to avoid frustration for many impacted consumers. The company could have allocated more staff to interface with lenders earlier in the Claims Program and more expeditiously evaluated opportunities to expedite processing. Moreover, Volkswagen has only recently begun to consistently record its efforts to contact third-party lenders, making it difficult to fully assess and report on its historical activities in this area.

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<sup>8</sup> As noted above, Volkswagen notified consumers of this change in mid-February, when it sent an email to thousands of consumers notifying them that to expedite loan verification and subsequent offer generation, consumers should contact their lender and request that loan payoff information be faxed directly to Volkswagen.

<sup>9</sup> To protect the efficacy of these measures they will not be detailed in this report.

3. Audit of Volkswagen's Loan Payoff Verification

To assess Volkswagen's efforts in accurately obtaining and inputting loan payoff information in connection with claims processing, a sample of 7,204 (or 4.3%) of claims with loans was audited. Verified loan payoff amounts were consistent with the amounts recorded by Volkswagen for 99% of the claims audited. In the few instances where a material discrepancy was detected, Volkswagen was notified and the consumer was contacted with the corrected loan payoff balance. Errors generally appeared to be a result of inaccurate transcription, as amounts were significantly different than the actual loan amount. Larger financial institutions often provide Volkswagen with spreadsheets containing loan payoff information for multiple loans. Volkswagen now formats the spreadsheets so that the offer specialists can more easily distinguish between rows, thereby decreasing the likelihood of inadvertent transcription errors.

C. Update on Second Phase of Claims Program: Scheduling, Closings, and Payment

As with the initial phases of the Claims Program, Volkswagen has expended significant effort and resources to stand-up the technological and operational infrastructure needed to enable consumers to schedule appointments, coordinate a uniform process among hundreds of dealerships for Buyback, Lease Termination, and AEM appointments, and ensure that both consumers and lienholders are paid in a timely and accurate manner. Volkswagen's efforts in each of these three areas, and responses to the challenges that have arisen, are discussed in turn below.

1. Appointment Scheduling, Cancellations, and Rescheduling

Once a consumer submits a signed offer letter and it is reviewed and approved by Volkswagen, the consumer is directed to schedule an appointment using the Claims Portal.<sup>10</sup>

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<sup>10</sup> Agents from Volkswagen's dealer support line also can assist with scheduling.

The Claims Portal enables consumers to search for available appointments at various dealerships. While the scheduling process was designed to be straightforward and user-friendly, the technological and operational processes required to create a seamless process for the consumer are more intricate.

With respect to the technological components, Volkswagen utilizes the Setster application to coordinate appointment scheduling. Setster is an off-the-shelf commercial application that integrates with Volkswagen's Claims Portal, and allows consumers to book appointments through the Portal. From an operations standpoint, the logistics of scheduling and coordinating approximately 15,000 appointments per week required evaluation of dealer capacity and flow rates, which Volkswagen effectively undertook in order to achieve the desired functionality. Before consumers began scheduling appointments, Volkswagen engaged outside consultants to analyze the expected demand for appointment slots based on the volume of registrations and identification by consumers of preferred dealerships, among other things. Based on this analysis, Volkswagen coordinated with approximately 940 Volkswagen and Audi dealerships across the country to manage requested appointments.

Initially, some consumers expressed frustration with the appointment scheduling process. At the outset, Volkswagen limited the number of available appointments in order to test functionality, which impacted certain consumers' ability to proceed with scheduling. The testing phase concluded on or about December 12, 2016, and only limited system issues have been identified since.<sup>11</sup> Other consumers expressed frustration that they could not schedule an appointment immediately after accepting an offer. The Claims Program process, however,

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<sup>11</sup> Recently, a small number of consumers indicated that their appointments were cancelled by Volkswagen without their approval or knowledge. The Claims Supervisor is currently investigating the cause of these cancellations.

practically requires that Volkswagen review and approve a consumer's acceptance of the offer letter prior to enabling an appointment to be scheduled.<sup>12</sup> Additionally, the system requires that all appointments be scheduled at least two-weeks in the future in order to afford the company time to prepare the closing documents and make arrangements for payment. Providing consumers with greater visibility into the scheduling process likely would have eased frustration. Volkswagen recognized the opportunities to enhance its efforts in this regard, and leadership has indicated that the company continues to explore ways to provide greater transparency for consumers.

Consumers also have expressed frustration with the process for rescheduling an appointment. When a consumer elects to do so, the Claims Portal does not allow the consumer to view other available appointments without first cancelling the previously scheduled appointment. Volkswagen is evaluating whether system changes could allow for consumers with a current appointment to have visibility to when and where other appointments may be available. In the meantime, consumers can contact the Claims Hotline, where agents can view all open appointments and assist the consumer with rescheduling.

If a consumer elects to reschedule an appointment, Volkswagen must provide a new appointment within ninety (or forty-five in the case of a Lease Termination) days from the rescheduling date pursuant to the FTC Consent Order. However, when an appointment must be cancelled due to a problem that arises at the closing -- for example, necessary documents are not available or a new check must be issued as a result of a mileage adjustment -- then Volkswagen offers a "concierge service" to assist the consumer in rescheduling as expeditiously as possible.

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<sup>12</sup> Volkswagen reports that consumers sometimes "redline" the offer letter prior to accepting, changing material components such as the award amount, and less material components including unique notary requirements. Where the "redlined" changes are material, Volkswagen will reject the signed offer letter and notify the consumer of the deficiency.



In certain circumstances, Volkswagen can leave the initial appointment open for a period of days to avoid rescheduling if it is determined that the issue can be resolved quickly.

There also are unique scenarios that make scheduling an appointment through ordinary channels impractical, such as when the consumer lives in a remote location or overseas. In these situations, Volkswagen is undertaking efforts to make alternate arrangements available. For example, for consumers living on a Hawaiian island that does not have a Volkswagen dealership, Volkswagen will reimburse costs incurred by the consumer to ferry the car to an island with a dealership as well as pay for the consumer's return flight home. Moreover, the company is also working to provide several days where on-island appointments will be available for these consumers. Similarly, for overseas military or government contractors, Volkswagen requires that appointments be scheduled at a dealership in the United States, but will reimburse the consumer for the cost of shipping the vehicle. Notably, while Volkswagen is making efforts to accommodate consumers whose closings present unique circumstances, some consumers have reported difficulty accessing the concierge services that Volkswagen has established.

Finally, the data related to dealership closings tend to show that Volkswagen has been offering appointment options within the time parameters prescribed by the Resolution Agreements -- within ninety days for a Buyback or AEM and within forty-five days for a Lease Termination -- and that most consumers are attending closing appointments at the "preferred dealership" listed in their claim application.

## 2. Buyback and Lease Termination Appointments

In order to coordinate the logistics necessary to successfully execute approximately 15,000 closings per week, Volkswagen has trained a network of over one-thousand individuals.

This network includes back-office personnel, Volkswagen and Audi dealership employees, and “settlement specialists” who are responsible for administering the closings.

Once an appointment is scheduled, Volkswagen “closing coordinators” are responsible for preparing packets for the settlement specialists that include closing checks where applicable, as well as FedEx envelopes for the return of signed closing documents. Volkswagen also bulk ships form closing documents to each dealership, including an odometer verification form, power of attorney, and title transfer. Combined, these documents generally ensure that the settlement specialists have everything necessary to conduct scheduled closing appointments. Volkswagen “check analysts” request checks from J.P. Morgan Chase for consumers who elected them, and also ensure that checks to lenders (to satisfy outstanding loan balances) are forwarded once a closing has occurred.

At closing, a trained dealership employee referred to as a “program ambassador” escorts the consumer to the settlement specialist who takes the requisite photos of the vehicle, confirms the odometer reading,<sup>13</sup> ensures the consumer completes the necessary paperwork, and, if everything is in order, takes custody of the keys and title. The settlement specialist is then required to update Volkswagen’s back-office system to reflect that the closing is complete. Consumers will receive an itemized receipt, either in hardcopy or via email. The settlement specialist places the vehicle in a designated location at the dealership to ensure it is separate from the dealership’s inventory and places signage on the vehicle to indicate that it is not for sale. Under the terms of the Resolution Agreements, all vehicles that are turned in must either undergo

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<sup>13</sup> The settlement specialist is required to enter the odometer reading in the closing application twice to decrease the likelihood of mileage adjustments based on user error.

an AEM or be rendered inoperable. Volkswagen's efforts in these areas will be detailed in subsequent reports.

Given the scope of this undertaking and the geographic coverage required, Volkswagen elected to outsource staffing and training of the settlement specialists to a third-party vendor. The settlement specialist's role is largely administrative. Indeed, if a consumer has substantive questions during the closing, the settlement specialist is required to connect the consumer with Volkswagen's dealer support line for answers. A review of the training materials provided to dealerships and to settlement specialists reflects that they have been trained on the mechanics of a closing as well as how to interact with consumers, with special sensitivity to transitioning from a completed closing to the consumer either leaving the dealership or pursuing the potential purchase of a new vehicle.<sup>14</sup> Based on the Claims Supervisor's observation of almost one hundred closings, interviews of Volkswagen leadership, review of the training materials, closing data, and consumer feedback regarding the closing process discussed in more detail in Section IV below, it appears that the settlement specialists were adequately trained to perform their role.

Upward mileage adjustments represent one of the most disruptive issues to arise at closing and have also been more difficult to preempt, though these types of adjustments have been necessary in only limited instances. In order to reduce the risk that a consumer who has elected to be paid by check cannot receive a check at closing, Volkswagen now includes in the final email appointment reminder what the company expects the mileage to be at the time of the appointment to enable consumers to raise mileage-related concerns beforehand. The anticipated mileage number reflected in the email is calculated from the updated number provided by the

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<sup>14</sup> While settlement specialists may inquire as to whether a consumer is interested in purchasing another vehicle at the dealership, they are also trained that "this is not a 'hard' sales opportunity." Similarly, Volkswagen conducted a series of training sessions with dealership personnel in the months leading up to the launch of the Claims Program and has provided guidance to dealerships to avoid high-pressure sales tactics for consumers attending closings.

consumer at the time the appointment is scheduled. This reminder email with the updated mileage calculation has reduced the incidents of vehicles that are “over-mileage” at closings.

Notably, the closing appointment represents the culmination of the Claims Program for most consumers. Claim Supervisor personnel have undertaken a number of steps to evaluate Volkswagen’s efforts. Close to one hundred closings were observed at dealerships in California, Florida, Michigan, Texas, and Virginia. These dealership visits, coordinated with Volkswagen, revealed that, for the most part, the closings proceeded as contemplated. The settlement specialists generally conducted themselves professionally and administered the closings in a clear and efficient manner, walking consumers through a streamlined process, usually within about fifteen minutes.

Still, a few issues were identified, largely as a result of inconsistent application of training guidance and program requirements. For example, many of the settlement specialists provided consumers with contact information for J.P. Morgan Chase for questions related to the payment process. While apparently done in an effort to be helpful, this practice is not consistent with training protocol, as inquiries related to payments are to be handled by a dedicated team of specialists at Volkswagen. Other divergences from training guidance involved situations where consumers were provided with incorrect information concerning their obligations to continue making loan payments, or the timing for receipt of the electronic funds transfer (“EFT”). Finally, two dealerships did not have program ambassadors on site. Volkswagen has been informed of these observations for additional training and coaching as necessary. Otherwise, the observed closings did not reveal material deficiencies or problems.

For each of the closings that were observed, a parallel analysis of the payoff information was conducted to evaluate consistency. For each consumer, a comparison was made between the

amount in the pre-closing email reminder, and the payment that was determined to be owed at closing. In every instance, the independent Claims Supervisor was able to verify that these amounts were determined correctly and payment arrangements followed accordingly.<sup>15</sup> It is expected that the Claims Supervisor will continue to monitor the closing process.

### 3. The Payment Process

Consumers can elect to receive payment by check or EFT. If the consumer opts for a check, it should be provided at the closing. If the consumer opts for an EFT, he or she should receive an e-mail from J.P. Morgan Chase requesting information necessary to initiate the EFT process. Subsequently, the consumer typically receives funds within three banking days of returning the requested information. If the vehicle has an outstanding loan on it, Volkswagen is required under the Resolution Agreements to provide the lender with a corresponding check within five banking days.

Some consumers have complained about delays in receiving payments, both by EFT and check. In response, the independent Claims Supervisor performed an analysis of the payment process. For EFT payments, a review of the data from all closings through February 18, 2017, showed an average and median payment time of two days from the closing date.<sup>16</sup> For payments by checks, the length of time it took Volkswagen to issue a check averaged four business days from closing, and the median length of time was only one business day. Notably, the majority of

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<sup>15</sup> In instances where an upward mileage adjustment was necessary at the closing, the Claims Supervisor verified the revised calculation and records indicating that the adjusted amount was ultimately directed to the consumer.

<sup>16</sup> In limited circumstances, consumers did not timely receive the initiating email from J.P. Morgan, either because they may have entered their email address incorrectly or because of system restrictions that limited J.P. Morgan's ability to send e-mails to certain addresses. For example, J.P. Morgan's system restricted outbound e-mails to government e-mail accounts and Hotmail accounts. To help ensure smooth coordination of the EFT process, Claims Hotline agents have been trained on how to verify that the correct email address is provided to J.P. Morgan and if the agent is unable to resolve the issue, the consumer should receive a return call from Volkswagen within twenty-four hours to further troubleshoot the issue.

checks are provided to consumers at closing, but there were instances where it took more than ten or even twenty business days for consumers to receive checks when confronting an over-mileage situation. It is expected that future reports will continue to evaluate payment timetables.

Some consumers have also reported delays in the time it takes for third-party lien-holders to receive and post payments to their accounts following closing. In these cases, the delays have presented additional challenges for affected consumers, as they generally remain responsible for payments on the loans until the lender receives and posts the payoff payment from Volkswagen.<sup>17</sup> The Claims Supervisor analyzed 61,998 closings that were completed as of February 18, 2017 involving claims by Owners with loans. While the average and median time for Volkswagen to issue payment was only one business day, there were some instances where up to twenty days elapsed before a payment was issued for a lender. For example, in December 2016, there were approximately three hundred instances where an employee responsible for sending the checks to lenders failed to do so. That employee was subsequently terminated. In other instances, checks have been sent to the wrong lender because it had a similar name, and Volkswagen is making programmatic changes to limit this occurrence. Among other things, offer specialists are now required to confirm the overnight mailing address of the lender before sending out the check to ensure proper delivery. Volkswagen is also working with VCI/AFS and some larger financial institutions to implement an EFT process for loan payoffs, which would help decrease the time it takes for the lender to receive payment.

As noted above, significant challenges have arisen for some consumers who were subject to a mileage adjustment at closing, and who had elected to receive payment by check. The

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<sup>17</sup> While some consumers have had to make additional loan payments to avoid late fees, the consumer should ultimately be reimbursed for any overpayment as the lender is generally obligated to send the consumer any portion of the payment received in excess of the loan balance as of the payoff date.

process to address the circumstance has changed a number of times within the past three months. Initially, these consumers were required to reschedule their appointments in order to afford Volkswagen time to issue a new check. Volkswagen then implemented changes in December 2016 to allow the closing to proceed and to subsequently mail a new check for the adjusted amount in order to accommodate consumers who wished to avoid rescheduling. Unfortunately, Volkswagen's system was not designed to automatically process replacement checks for consumers under these circumstances. As a result, it was not unusual for affected consumers to experience multi-week delays before receiving their checks in the mail, despite requirements in the Resolution Agreements that consumers in these situations receive a new check within three banking days. Recognizing these system limitations, Volkswagen reverted to the original policy that required an over-mileage consumer to reschedule the appointment if the consumer persisted in wanting to be paid by check.<sup>18</sup> If, however, the consumer was willing instead to receive payment by EFT, Volkswagen enabled the consumer to change the election at the appointment so that the closing could proceed.

In early February 2017, Volkswagen again changed its process to allow an over-mileage consumer to move forward with the closing and receive a check in the mail. While Volkswagen has been focused on helping these over-mileage consumers, frequent programmatic changes such as these can create confusion and additional angst for those attempting to navigate an already complex process.

Finally, another component of the payment process that has generated confusion relates to the valuation methodology and the impacts on potential mileage adjustments. Some consumers have attempted to validate their offer award on their own and, often through

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<sup>18</sup> As previously mentioned, Volkswagen has also indicated that its "concierge service" can assist the consumer in receiving a new appointment promptly to prevent a cycle of cancelled appointments due to mileage adjustments.

misapplication of the somewhat intricate formula, arrived at the wrong valuation. As a result, certain consumers incorrectly perceived that they were being “cheated.” To resolve this confusion, Volkswagen has attempted to provide more consumer-friendly explanations of the valuation methodology along with reminders that the final valuation may change as a result of the mileage adjustment. Given the complex nature of award calculations and mileage adjustments, settlement specialists are instructed not to discuss specific valuation calculations with consumers at the closing, but rather to connect them with the Claims Hotline.

D. Approved Emissions Modification

In January 2017, the EPA and the California Air Resources Board (“CARB”) approved an Emissions Modification for 2.0-Liter TDI Model Year 2015 Volkswagen Beetle, Beetle Convertible, Golf 4-Door, Golf SportWagen, Jetta, Passat and the Audi A3 (referred to as “Generation 3 vehicles”). Volkswagen sent notices to over 54,000 owners and lessees of Generation 3 vehicles who had not completed a Buyback immediately following the approval and added a link to these notifications on the [www.vwcourtsettlement.com](http://www.vwcourtsettlement.com) website. The modification will be implemented in two phases. The first phase will begin immediately, and will consist of removing the defeat device from the eligible vehicles.<sup>19</sup> While this will improve emissions output, it will not bring the car into full compliance with EPA and CARB requirements. After this work is performed, the Owner will be eligible to receive the first two-thirds of the Restitution Payment. The second phase is estimated to become available in early 2018 and will consist of updating vehicles with new emissions control mechanisms that will further reduce emissions output and also maintain emissions performance for the full useful life

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<sup>19</sup> Volkswagen reference materials regarding the AEM state that “no significant changes to key vehicle attributes are expected, including fuel consumption, reliability, durability, vehicle performance, drivability, or other driving characteristics.”



of the vehicle. After the second phase is completed, the Owner will be eligible to receive the final third of the Restitution Payment. If ownership of the vehicle has changed hands since phase one work, only the current Owner will be eligible to receive payment.

Consumers who initially selected a Buyback as a remedy can switch to an AEM with little change in the status of their claim. Consumers who wish to switch from an AEM to a Buyback, though, will need to have their claim reset back to an earlier stage in the process as there is additional documentation required to be submitted and verified before a Buyback offer can be extended. Consumers have the option to switch between a Buyback or an AEM at any point up until their closing appointment. As with Buyback appointments, Volkswagen must provide consumers an available appointment within ninety days after an executed offer is approved. Consumers should not incur any cost to obtain the AEM, and at the AEM appointment, consumers are to receive a loaner vehicle at no cost if the appointment will last for more than three hours.

### **III. Volkswagen's Performance Metrics**

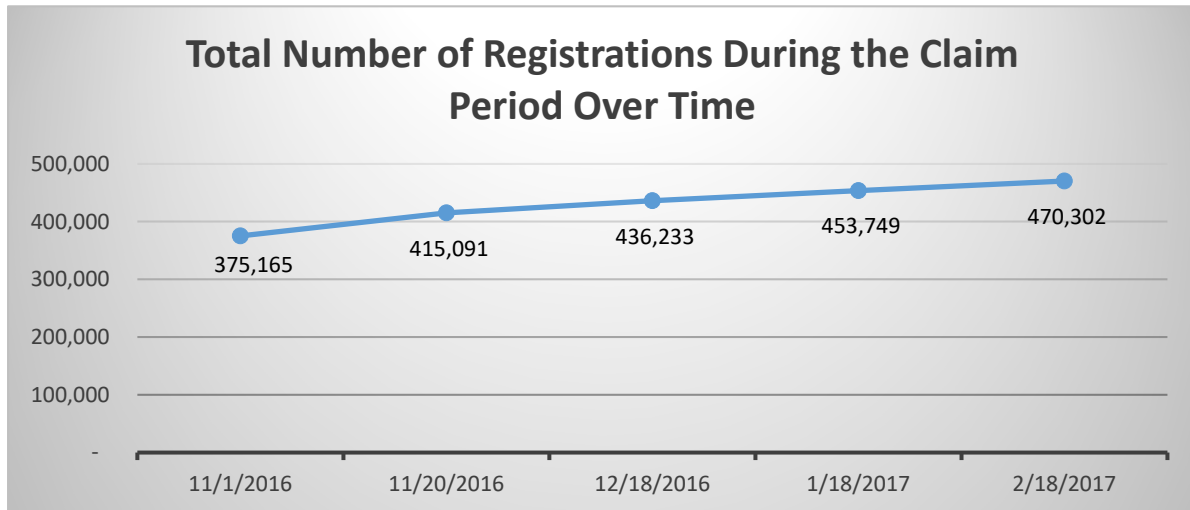
This section further discusses the status of the claims processing and closing phase of Volkswagen's Claims Program and the company's compliance with certain requirements mandated in the Resolution Agreements. All data is as of February 18, 2017 unless otherwise specified.

#### **A. Consumer Registrations**

As of February 18, 2017, there were 470,302 registrations in Volkswagen's system. A registration occurs when a consumer provides Volkswagen with basic information including name, contact information, vehicle identification number ("VIN") and preferred dealership. Of

these registrations, 448,780 related to individuals and 21,522 related to businesses.<sup>20</sup> Chart 3-1 below shows the increase over time in the total number of registrations created during the Claim Period.

**Chart 3-1**

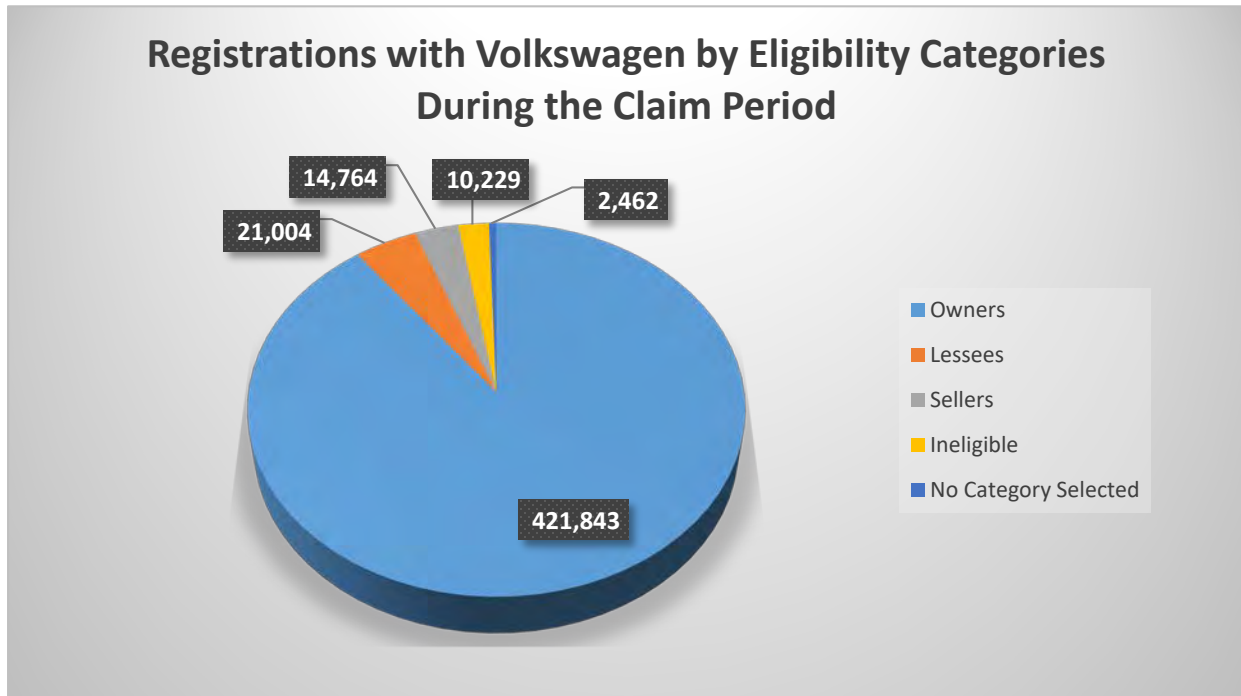


The data show that over time the rate of new registrations has continued to decrease. This trend should continue as the maximum number of potential eligible claims under the settlement is bounded by the total number of Eligible Vehicles and the different Eligibility Categories. Of course, the total number of registrations could exceed the maximum number of potential eligible claims because not every registrant will be an eligible consumer and some registrations will be duplicates. However, at 470,302 registrations through February 18, 2017, a sudden, significant increase in the registrant population in the near term is unlikely.

<sup>20</sup> This figure includes a number of duplicate entries by the same consumer, as duplicate entries are not identified until the claims are submitted and the review periods begin. Thus, the figure marginally overstates the number of unique claims that have been registered.

Chart 3-2 below shows all registrations created by consumers during the Claim Period by Eligibility Categories, and Chart 3-3 below shows the states with the highest number of Eligible Vehicles that have been registered in Volkswagen’s Claims Portal.

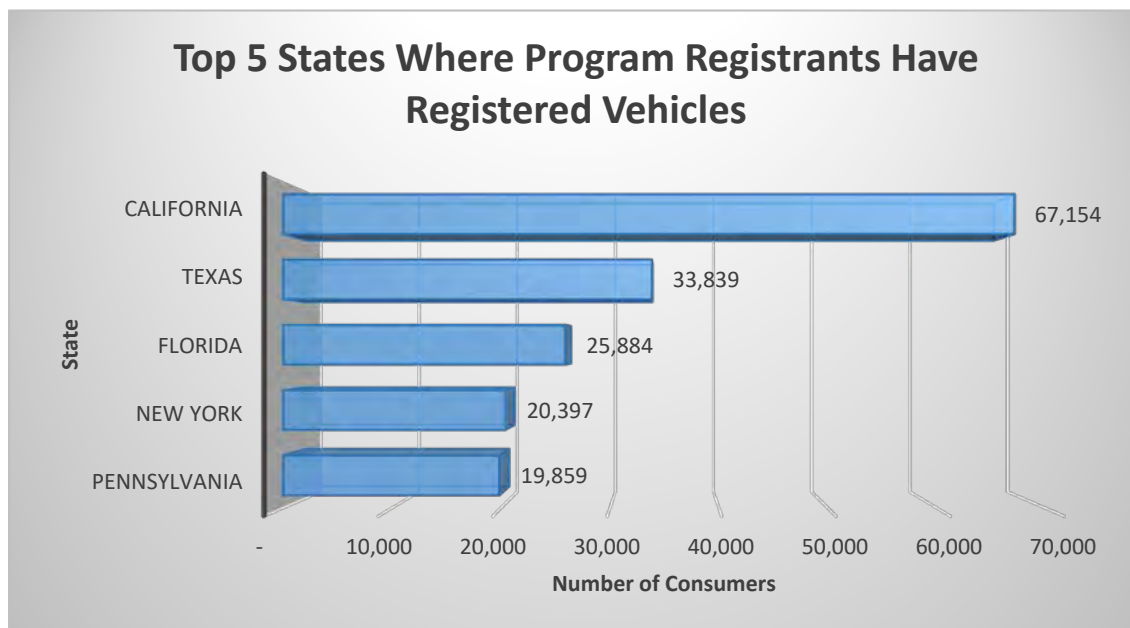
**Chart 3-2<sup>21</sup>**



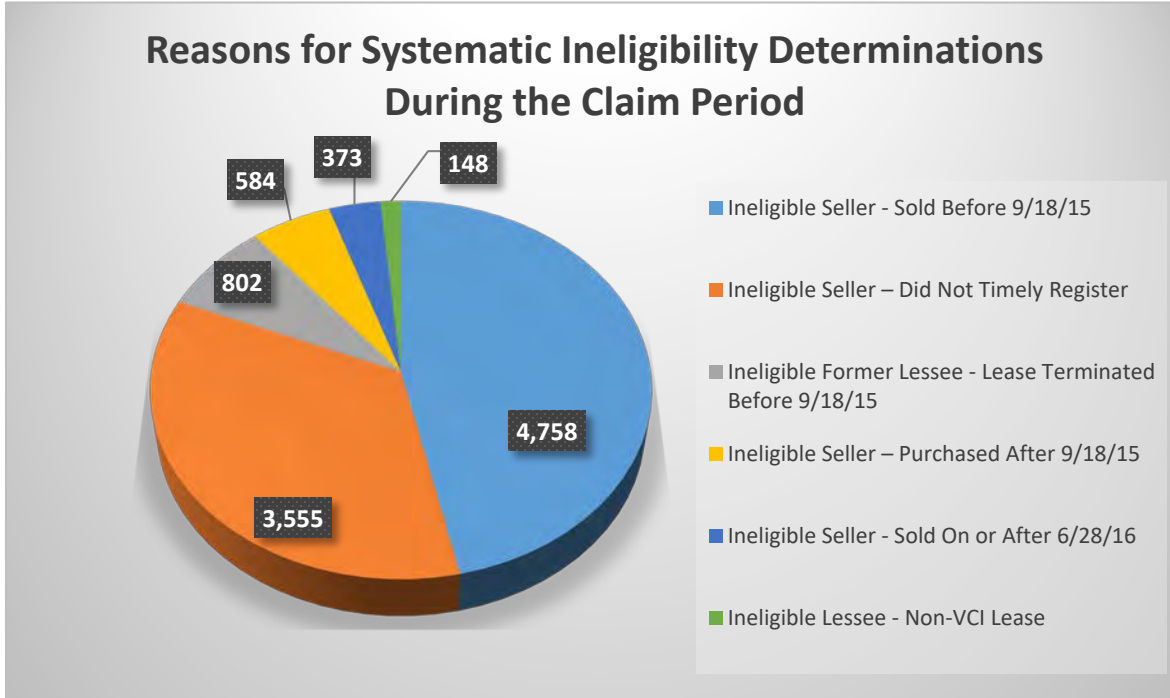
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<sup>21</sup> The “No Category Selected” population are consumers who have created a registration but have not yet provided details identifying their Eligibility Category.

Chart 3-3



With respect to the population of 10,229 claims identified as ineligible in Chart 3-2, Volkswagen's system is configured to automatically identify certain ineligible claims where information entered by the consumer into the Claims Portal indicates the consumer is not an eligible claimant under the Resolution Agreements. For example, a consumer who attempts to submit a Seller claim and indicates the vehicle was sold after June 28, 2016, is ineligible under the "Eligible Seller" definition. In these instances, Volkswagen sends the consumer a letter explaining the basis for the ineligibility determination. Chart 3-4 below breaks out the different reasons the 10,229 claims have been deemed ineligible by Volkswagen.

Chart 3-4<sup>22</sup>

In advance of the Claim Period, the Claims Supervisor reviewed the rules governing the logic Volkswagen used to systematically determine ineligibility based on information input by the consumer into the Claims Portal. This consisted of cross-checking dates used in the ineligibility logic with eligibility requirements set forth in the Resolution Agreements.

More recently, the Claims Supervisor manually reviewed all claims that had been deemed ineligible by Volkswagen's system in order to ensure that the system was properly adjudicating claims. The review revealed that the ineligibility logic was operating appropriately, save in one instance affecting a certain category of Seller claims. Specifically, the system initially was configured to preclude submission of Seller claims where a user profile was not created in the Claims Portal by the consumer until after the Eligible Seller Identification Period expired on September 16, 2016. However, a population of Sellers who timely identified by mail or fax but

<sup>22</sup> The nine claims not accounted for in Chart 3-4 were instances where a consumer entered data indicating a lease began after September 18, 2015.

who did not create an online user profile until after September 16, 2016, were incorrectly being deemed ineligible by the system. Before this configuration was corrected, consumers who contacted Volkswagen about this issue were told to submit paper claims that Volkswagen would upload, bypassing the system limitation on creating new user profiles for Sellers after September 16, 2016. This allowed these consumers to proceed through the claims review process. To ensure there were no remaining Sellers who were rejected on this basis, the Claims Supervisor requested, and Volkswagen provided, a list of all Sellers who timely identified by mail or fax. That list will be evaluated against other data to see if there are any consumers who tried to file a claim, were initially deemed not eligible for failure to timely identify their claim by September 16, 2016, and thereafter did not submit a potentially eligible claim for review.

B. Claim Submission and the First Ten-Business-Day Review Period

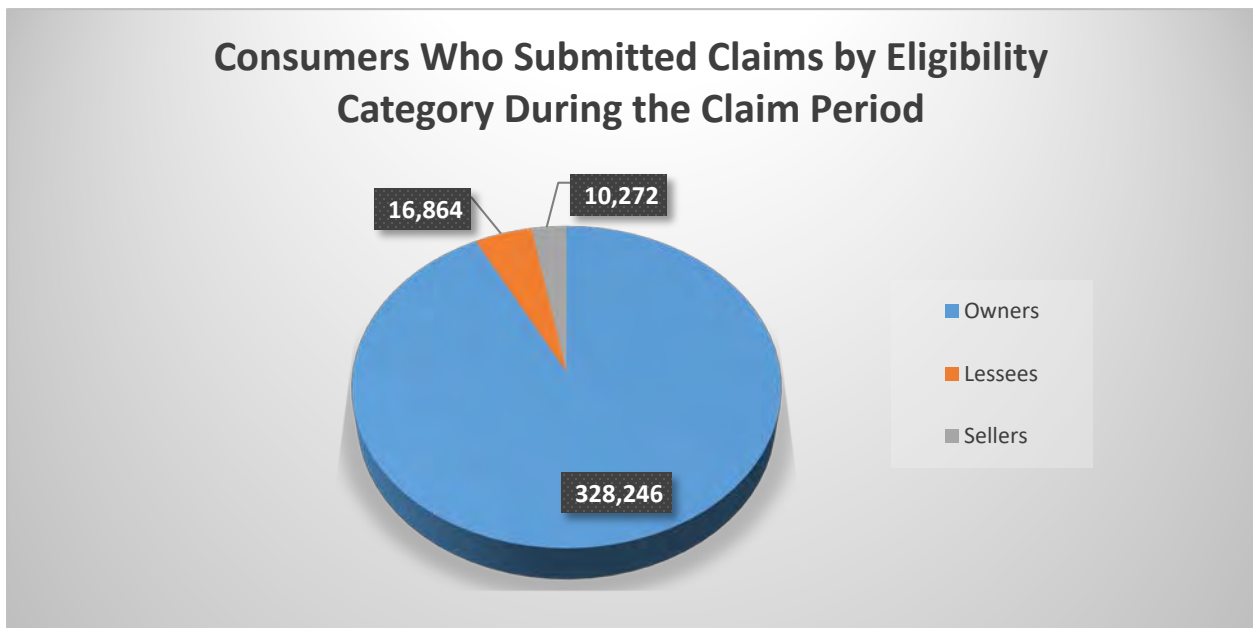
After a consumer registers, the next step in the process is to select a preliminary remedy, provide prescribed documents needed to substantiate the claim, and submit the claim to Volkswagen for review.<sup>23</sup> Beginning the first business day after a consumer submits a claim, Volkswagen has ten business days (that is, excluding weekends and holidays) to review the submission and determine whether the claim is complete or deficient. A claim is complete if it includes all the information and documents needed to determine whether the consumer is eligible, while a claim that does not include required information or documentation is deficient. If a claim is complete, Volkswagen makes a preliminary determination as to whether the claim is eligible. If a claim is deficient, Volkswagen informs the consumer of the deficiency to allow the consumer the opportunity to cure the deficiency and resubmit the claim.

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<sup>23</sup> Former Lessee and Seller claimants do not select a preliminary remedy as the only remedy available to those consumers is Restitution.

As of February 18, 2017, consumers had submitted 355,395 unique claims for Volkswagen to review.<sup>24</sup> Of these, 344,957 claims related to individuals and 10,438 claims related to businesses. Chart 3-5 shows by Eligibility Categories the total population of consumers who have submitted claims, and Chart 3-6 shows how the total population of each Eligibility Category has increased over time. Notably, the thirteen claims not accounted for in either Charts 3-5 or 3-6 relate to claims that were deemed not eligible.<sup>25</sup>

**Chart 3-5**



<sup>24</sup> “Unique claims” means unique VINs within unique Eligibility Categories. A claim by an Owner and a Seller regarding the same VIN is counted as two unique claims. Likewise, a claim by one Owner who owns five separate vehicles is counted as five unique claims.

<sup>25</sup> If consumers disagree with a determination that their claims are ineligible, they can appeal such decisions to the Claims Review Committee.

Chart 3-6

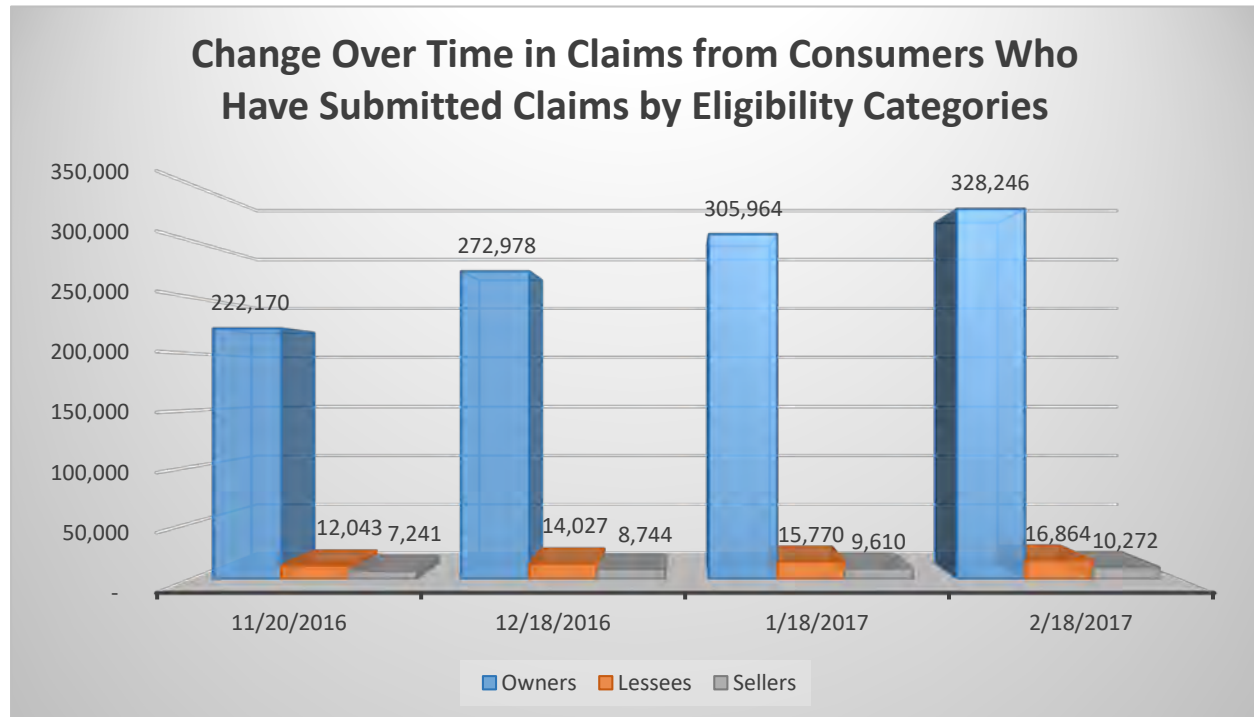
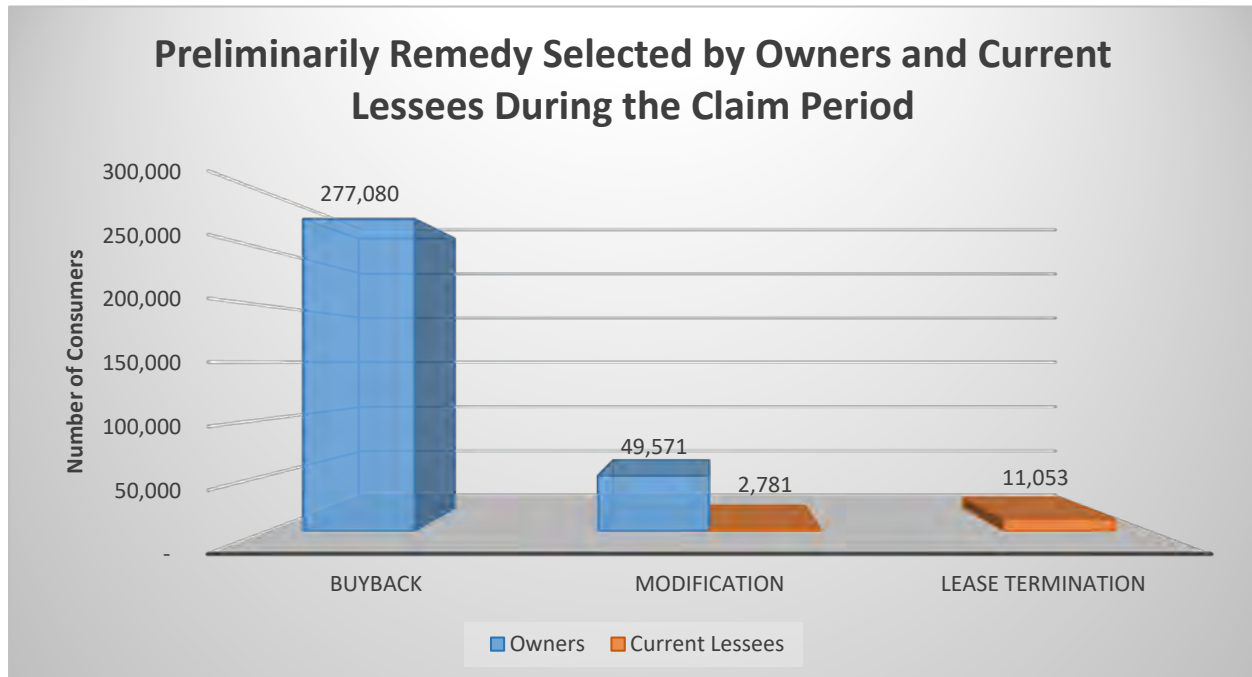


Chart 3-7 shows the preliminary remedy selections for Owners and Current Lessees who had submitted claims through February 18, 2017. The chart does not include the remedy selections for 10,261 Sellers or 2,866 Former Lessees because the only remedy available to these consumers is Restitution, nor does it include 1,783 claims where consumers cancelled the remedy that they had initially selected.



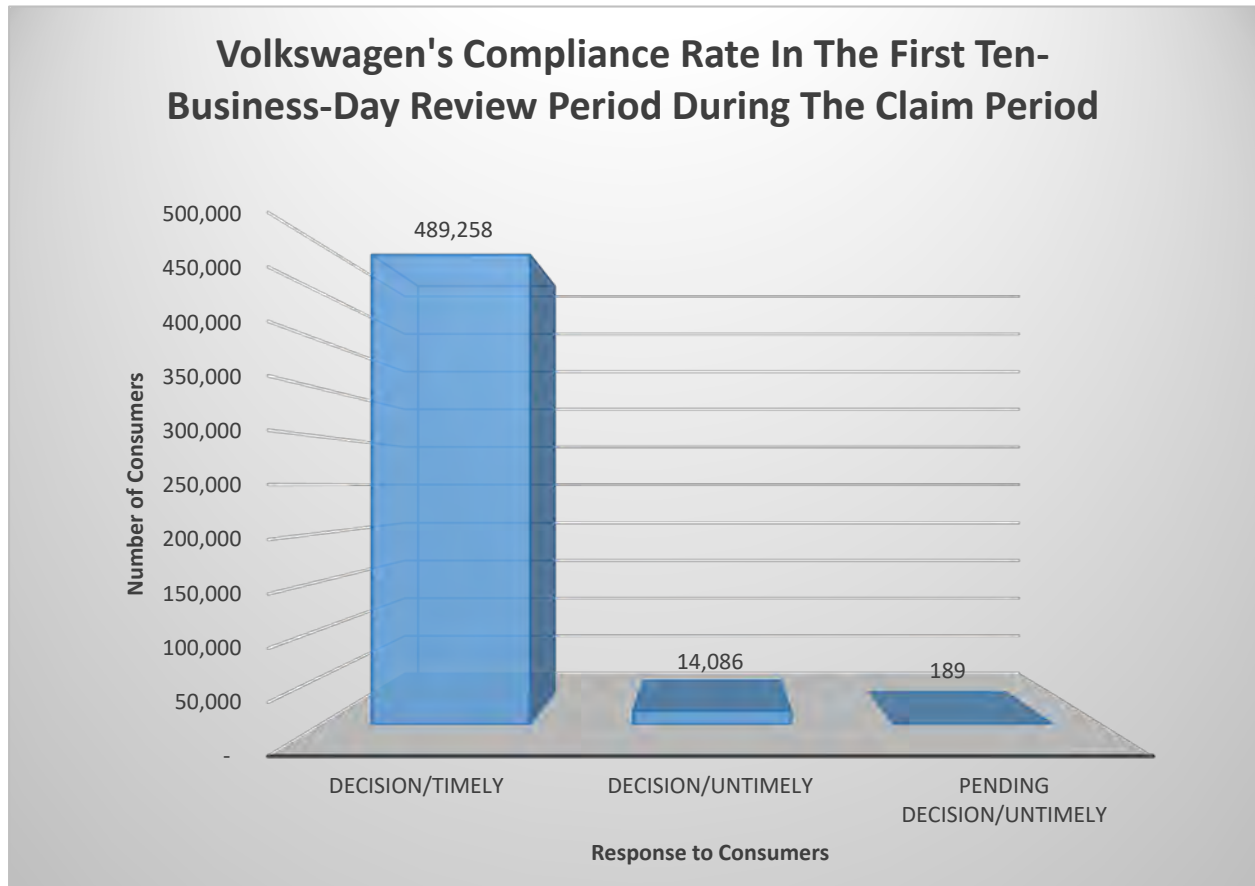
Chart 3-7



Throughout the Claim Period, Volkswagen has continued to substantially satisfy the requirement that it render a completeness determination within ten business days following a consumer's submission of a claim. Excluding the population of 1,197 claims for which a decision by Volkswagen was pending but the ten-business-day review period had not elapsed, through February 18, 2017, Volkswagen had been required to make 503,533 first ten-business-day review period determinations. The company issued timely decisions in 489,258 instances, amounting to an overall first ten-business-day review period compliance rate of more than 97%.

Chart 3-8 shows Volkswagen's performance during the Claim Period in timely issuing first ten-business-day review period decisions. Chart 3-9 shows Volkswagen's overall first ten-business-day review period performance by Eligibility Categories.

**Chart 3-8<sup>26</sup>**



<sup>26</sup> Of the 189 claims where a determination was pending and the first ten-business day review period has elapsed, 125 claims are instances where a consumer indicated he or she is an employee of Volkswagen or the Court. Rather than process these claims through as ineligible, however, Volkswagen plans to use its claims processing system to evaluate the claims in order to assess how to engage these individuals. As a result, while these claims present as pending and untimely decisions in the first ten-business-day review period, they are known to be ineligible for settlement funds based on the information input by the consumer.

Chart 3-9<sup>27</sup>

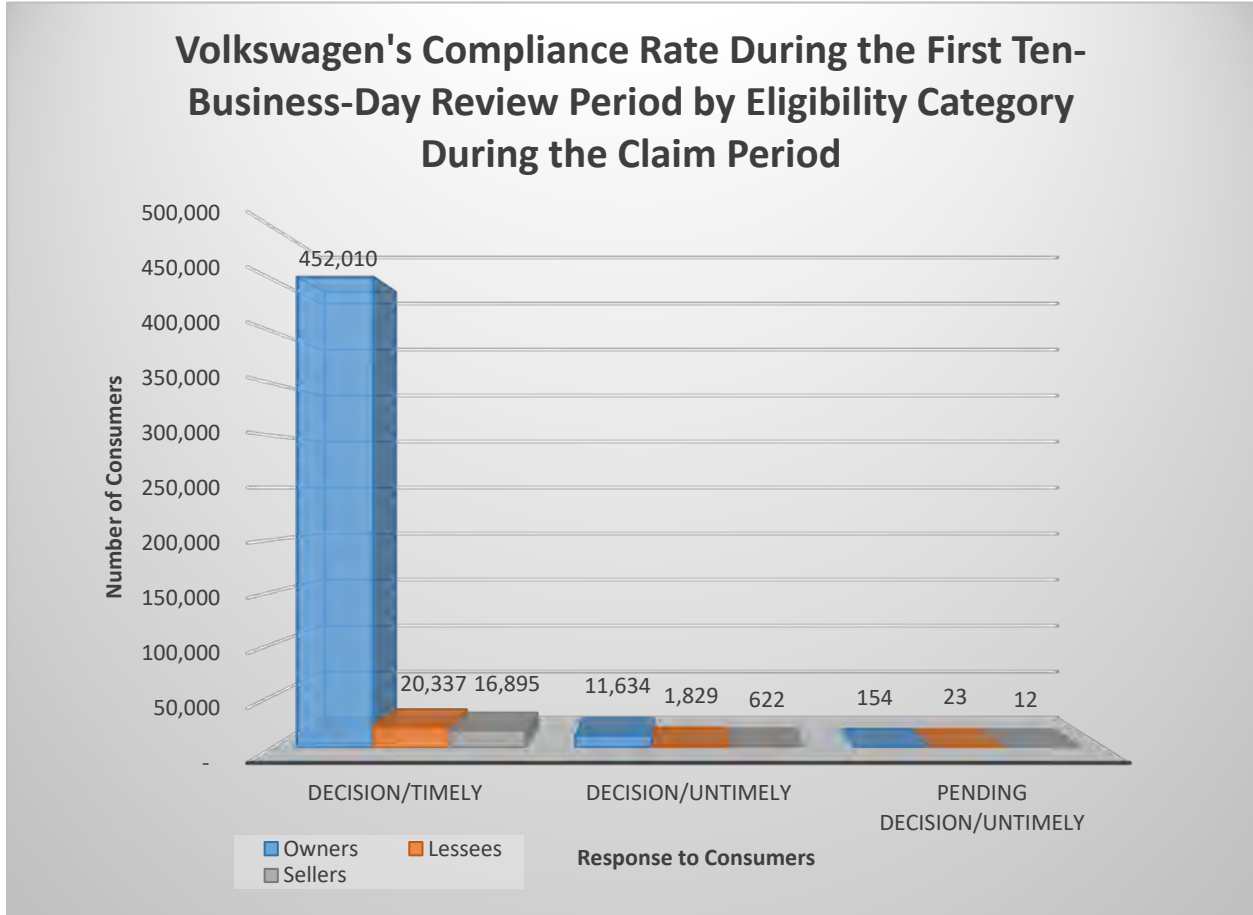
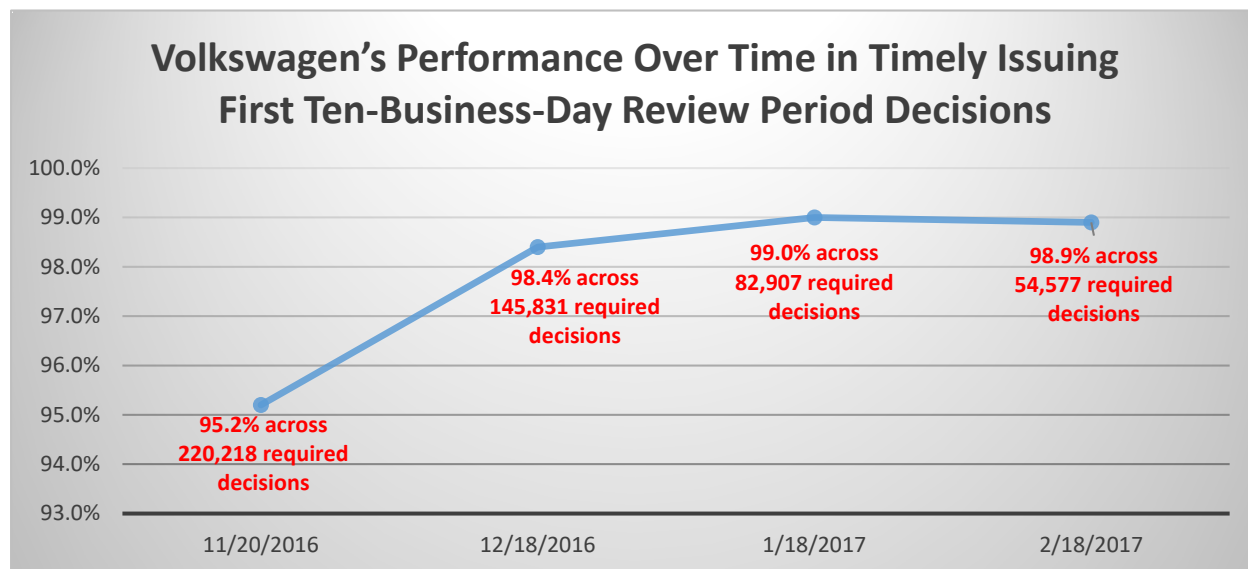


Chart 3-10 shows Volkswagen’s first ten-business-day review period compliance rate across approximately thirty-day intervals during the Claim Period.<sup>28</sup>

<sup>27</sup> The seventeen claims not accounted for in Chart 3-9 are instances where the claim ultimately was deemed not eligible. Sixteen of these not eligible determinations were timely first ten-business-day review period decisions, and one was untimely.

<sup>28</sup> Prior to November 16, 2016, Volkswagen’s system did not track the date on which claims submitted by fax or mail were received, even if that date differed from the date on which Volkswagen uploaded the claims to the system. Assessing the timeliness of first ten-business-day review period decisions requires measuring from the date of receipt. Because of the demands of processing claims and other streamlining initiatives, Volkswagen to date has been unable to provide the Claims Supervisor with an analysis showing the date received for all paper claims submitted prior to November 16, 2016, so that these claims can properly be accounted for in measuring Volkswagen’s first ten-business-day review period compliance. As part of its oversight function, the Claims Supervisor recently decided to perform this review itself, and Volkswagen subsequently transferred approximately 55,000 documents for review. That review is underway.

Chart 3-10



C. Preliminary Eligibility Determinations and Deficiencies

Through February 18, 2017, of the 355,395 unique claims that had been submitted by consumers for Volkswagen to review, 339,003 claims had been determined by Volkswagen to be complete and preliminarily eligible. Of these, 331,411 claims were related to individuals and 7,592 claims were related to businesses.

Chart 3-11 shows the number of claims determined by Volkswagen to be complete and preliminarily eligible by Eligibility Categories, and Chart 3-12 shows the most common states in which eligible vehicles associated with preliminarily eligible claims are registered.

Chart 3-11<sup>29</sup>

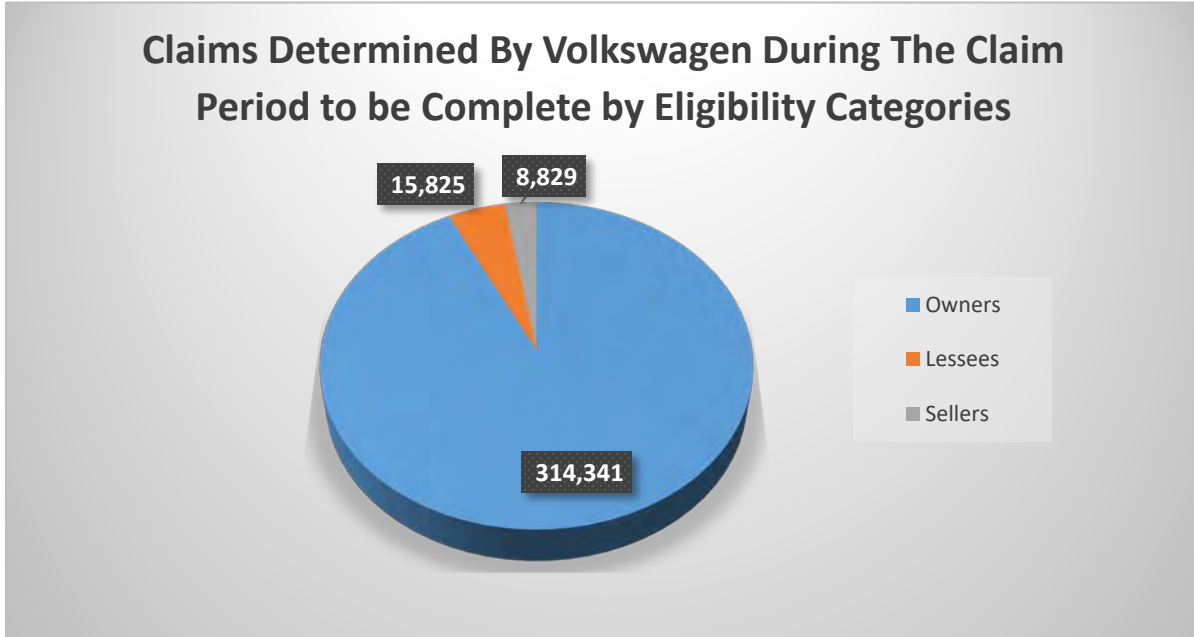
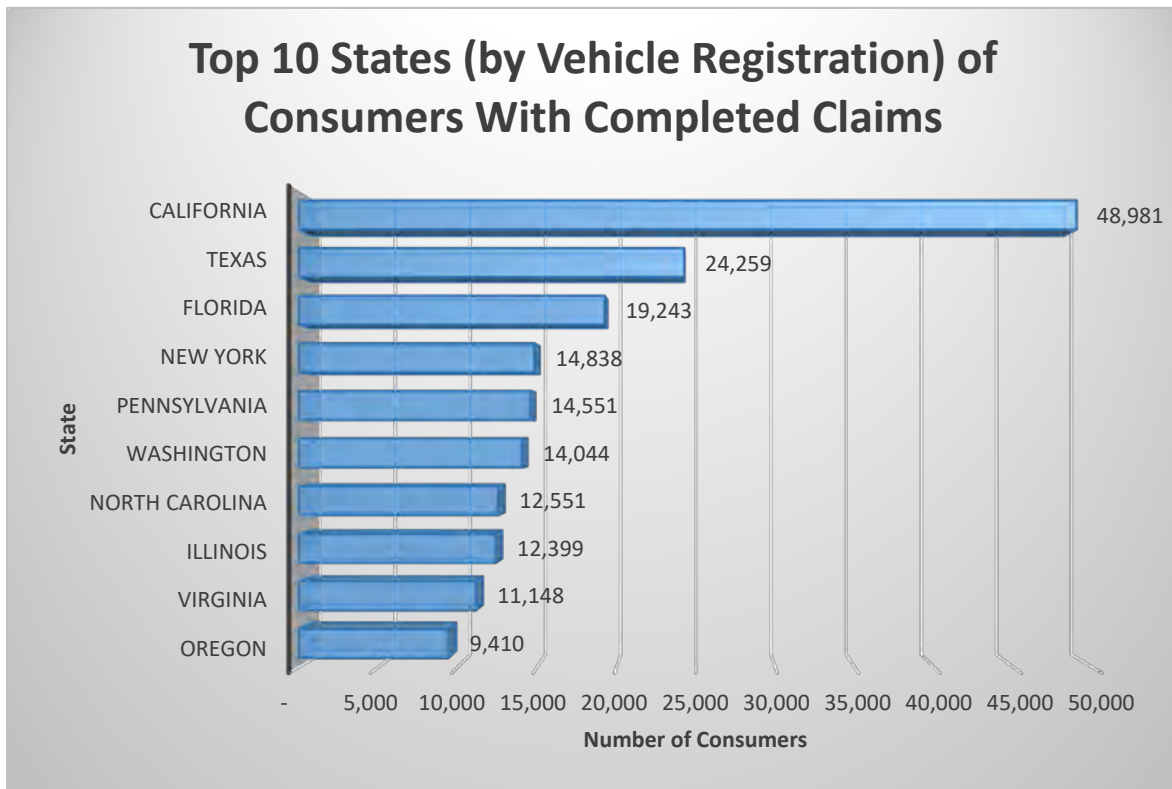


Chart 3-12



<sup>29</sup> The eight claims not accounted for in Chart 3-11 were claims that were deemed not eligible.

Chart 3-13 shows the remedy selected by Owners and Current Lessees whose claims Volkswagen had deemed complete and preliminarily eligible as of February 18, 2017. The chart does not include the 8,826 Sellers or the 2,658 Former Lessees because the only remedy available to those claimants is Restitution, and it also excludes 1,472 claims where the initial offer selection was cancelled.

**Chart 3-13**

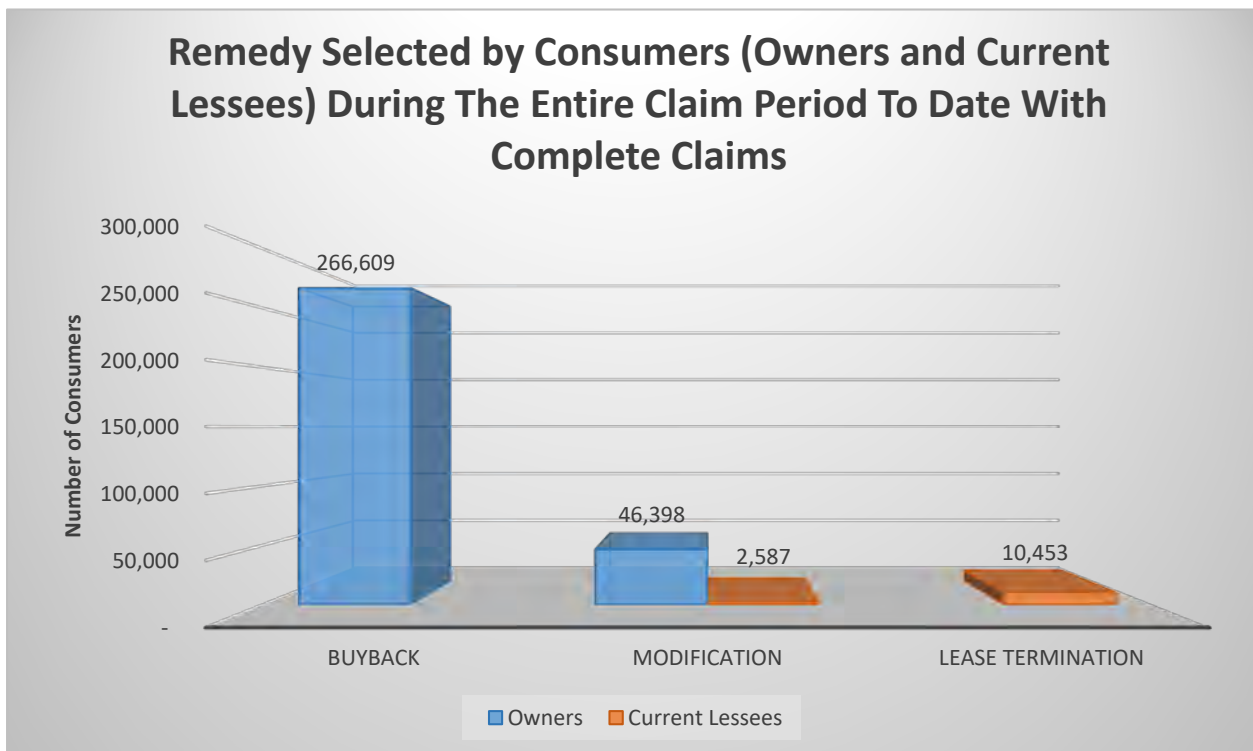
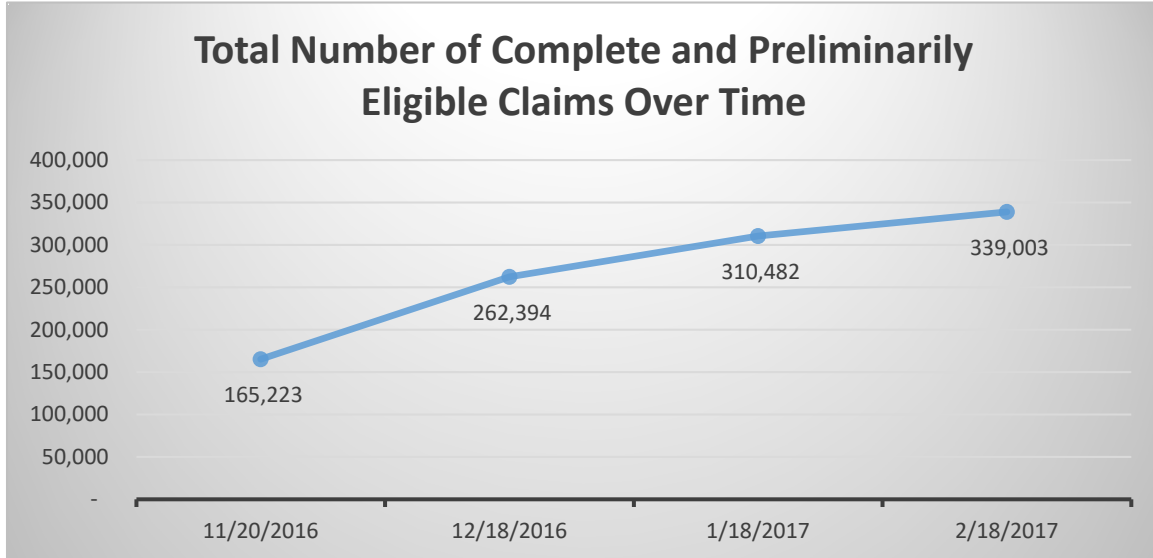


Chart 3-14 shows how the total number of claims deemed complete and preliminarily eligible has changed over time during the Claim Period.

Chart 3-14



Additionally, through February 18, 2017, there were 133,098 instances where Volkswagen had deemed a claim deficient during its first ten-business-day review period. As the same claim may be resubmitted to Volkswagen after initially being deemed deficient, the 133,098 instances of deficiency determinations were spread across 99,235 unique claims. More than 262,000 deficiency codes had been applied by Volkswagen as of that date, as multiple deficiencies may be associated with a particular claim submission. The most common deficiency codes have been: (i) an incorrect document was uploaded (70,394 claims); (ii) a document was missing pages (48,315 claims); (iii) a document was illegible (47,762 claims); (iv) a document was incomplete or the document image was cut off (19,350 claims); and (v) a name on the documents did not match the name in the Claims Portal (13,251).

Of the 99,235 consumers found to have submitted a deficient claim as of February 18, 2017, 88,916 had made at least one attempt to cure the deficiency, while 10,319 had not yet attempted to cure. Of the population who had attempted to cure: (i) 84,288 consumers (94.8%) successfully cured the deficiency; (ii) 292 consumers (0.3%) resubmitted claims that were

pending a completeness determination by Volkswagen as of February 18<sup>th</sup>; and (iii) 4,336 consumers (4.9%) had not resubmitted claims after their initial attempt to cure the deficiency was unsuccessful.

Through February 18, 2017, there were 14,267 files with active deficiencies. Across these files, the most common deficiencies were: (i) an incorrect document was uploaded (7,015 claims); (ii) a document was illegible (4,276 claims); (iii) a name on the documents did not match the name in the Claims Portal (3,066 claims); and (iv) a document was incomplete or the document image was cut off (1,122 claims).

Finally, while the Claims Supervisor is not required by the Resolution Agreements to review and verify each determination by Volkswagen that a submitted claim is deficient, the Claims Supervisor reviewed a statistically valid sample of 6,000 deficient claims to assess whether Volkswagen reviewers were properly applying deficiency codes to claims they deemed deficient during the first ten-business-day review period. The Claims Supervisor agreed with the Volkswagen reviewers' deficiency coding in 5,707 instances (95.1%).<sup>30</sup> Of the 293 claims where the Claims Supervisor disagreed, the substantial majority were "judgment calls" -- for example, whether a document was legible or whether an image was complete -- as opposed to substantive disagreements over the rules of eligibility.<sup>31</sup> In short, some disagreements on applying deficiency codes are to be expected in a mass claims processing operation on this scale, and nothing in the results of the sample were indicative of any significant systematic issues with how Volkswagen reviewers were applying deficiency codes.

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<sup>30</sup> As discussed in Section II, document validation error rates of Volkswagen's employees and outside vendor staff were roughly equivalent.

<sup>31</sup> Of the 293 claims where the Claims Supervisor disagreed with Volkswagen's deficiency determination, only eleven are still pending as deficient where the only deficiency on the claim was one with which the Claims Supervisor disagreed. The Claims Supervisor will work with Volkswagen on these claims as part of the ongoing claims verification collaboration process.



D. The Second Ten-Business-Day Review Period

Volkswagen has ten business days from the date it concludes that a consumer's claim is complete and preliminarily eligible to issue an offer letter. Within the same second ten-business-day review period, the Claims Supervisor must independently verify Volkswagen's completeness and eligibility determinations as well as its offer calculation before an offer letter can issue.<sup>32</sup>

As of February 18, 2017, 339,138 consumers had reached the second ten-business-day period having been deemed preliminarily eligible by Volkswagen<sup>33</sup> (representing 365,261 unique instances).<sup>34</sup> Of those consumers, 323,179 (95.3%) had been issued offer letters. Moreover, as of February 18, 2017, there were 6,365 claims in Volkswagen's backlog, that is, claims that surpassed the second ten-business-day review period threshold and were still awaiting action from Volkswagen. Chart 3-15 shows the change over time in Volkswagen's backlog of overdue claims through February 18, 2017.

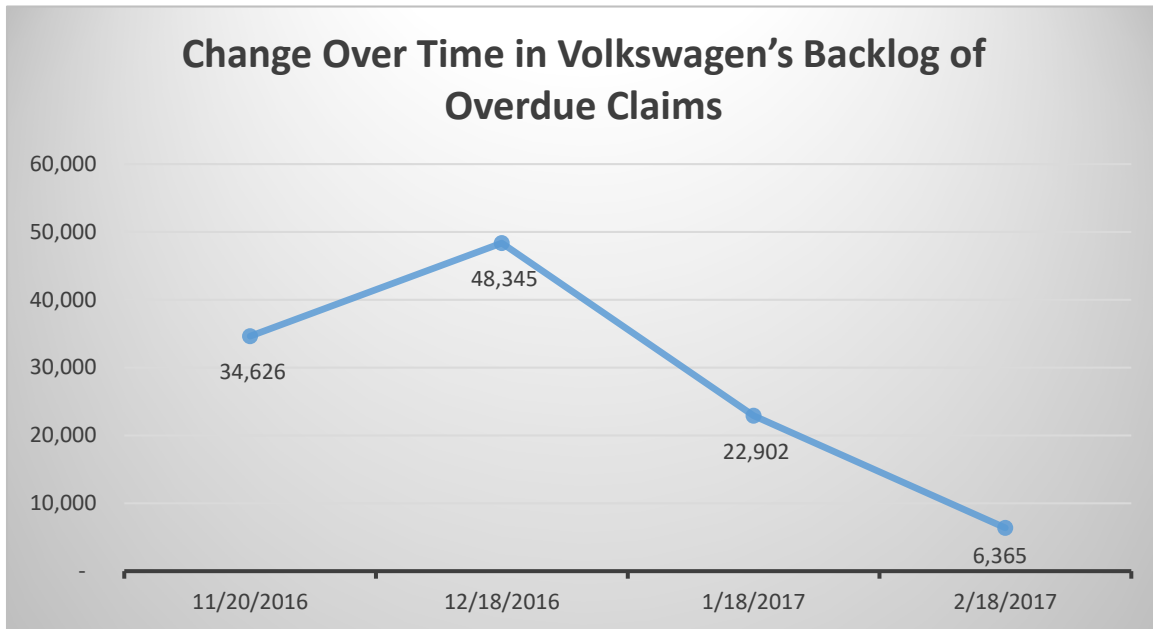
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<sup>32</sup> In certain instances, Volkswagen can determine during the first ten-business-day review period that a claim is ineligible in which case that ineligibility determination must be verified by the Claims Supervisor during the second ten-business-day review period. These ineligibility determinations are separate from claims automatically deemed ineligible by Volkswagen's system based on information input by the consumer (captured in Chart 3-4). Through February 18, 2017, there had been 2,270 instances where a claim had been deemed ineligible upon review by Volkswagen. In most instances, the Claims Supervisor determined that the claim should have been deemed deficient -- such that the consumer would have an opportunity to cure and resubmit a claim -- as opposed to being deemed ineligible. As of February 18, 2017, in only 288 cases was a consumer deemed ineligible by Volkswagen, which determination was verified by the Claims Supervisor and then communicated by Volkswagen to the consumer.

<sup>33</sup> As described above, there were 339,003 consumers whose claims were deemed complete and preliminarily eligible by Volkswagen, but 339,138 preliminarily eligible claims reached the second ten-business-day review period. The difference of 135 claims is attributable to processing early in the Claims Period where claims entered the second ten-business-day review period without clearing the first ten-business-day review. Volkswagen updated its system to prevent claims from being examined by second ten-business-day reviewers until the first ten-business-day review was completed.

<sup>34</sup> A consumer can enter the second ten-business-day review period more than once if, for example, the consumer's claim is deemed deficient during the second ten-business-day review period and the consumer subsequently cures the deficiency and resubmits the claim, or if the consumer self-selects to move back in the process and successfully submits a new claim.

Chart 3-15



While the data show that, as of February 18, 2017, Volkswagen had issued offer letters to the overwhelming majority of consumers deemed preliminarily eligible and had significantly reduced its backlog, the *timely* issuance of offer letters within ten business days from the start of the review period continued to present a challenge for the company. Through February 18, 2017, excluding the 5,497 claims that were still pending a determination by Volkswagen but for which the ten-business-day review period had not yet elapsed, Volkswagen had been required to make 362,034 second ten-business-day review period decisions. The company had timely done so in 222,820 instances, for an overall compliance rate of 61.5%.

Chart 3-16 shows Volkswagen's compliance rate with timely issuing second ten-business-day review period decisions during the Claim Period, and Chart 3-17 shows the compliance rate by Eligibility Categories.<sup>35</sup>

<sup>35</sup> Calculating Volkswagen's overall compliance rate in timely issuing second ten-business-day review period decisions takes into account instances where, in the first ten-business-day review period, Volkswagen determines that a file is complete and preliminarily eligible or preliminarily ineligible. Either determination begins a second ten-business-day review period in which Volkswagen's eligibility decision must be verified, among other things.

**Chart 3-16**

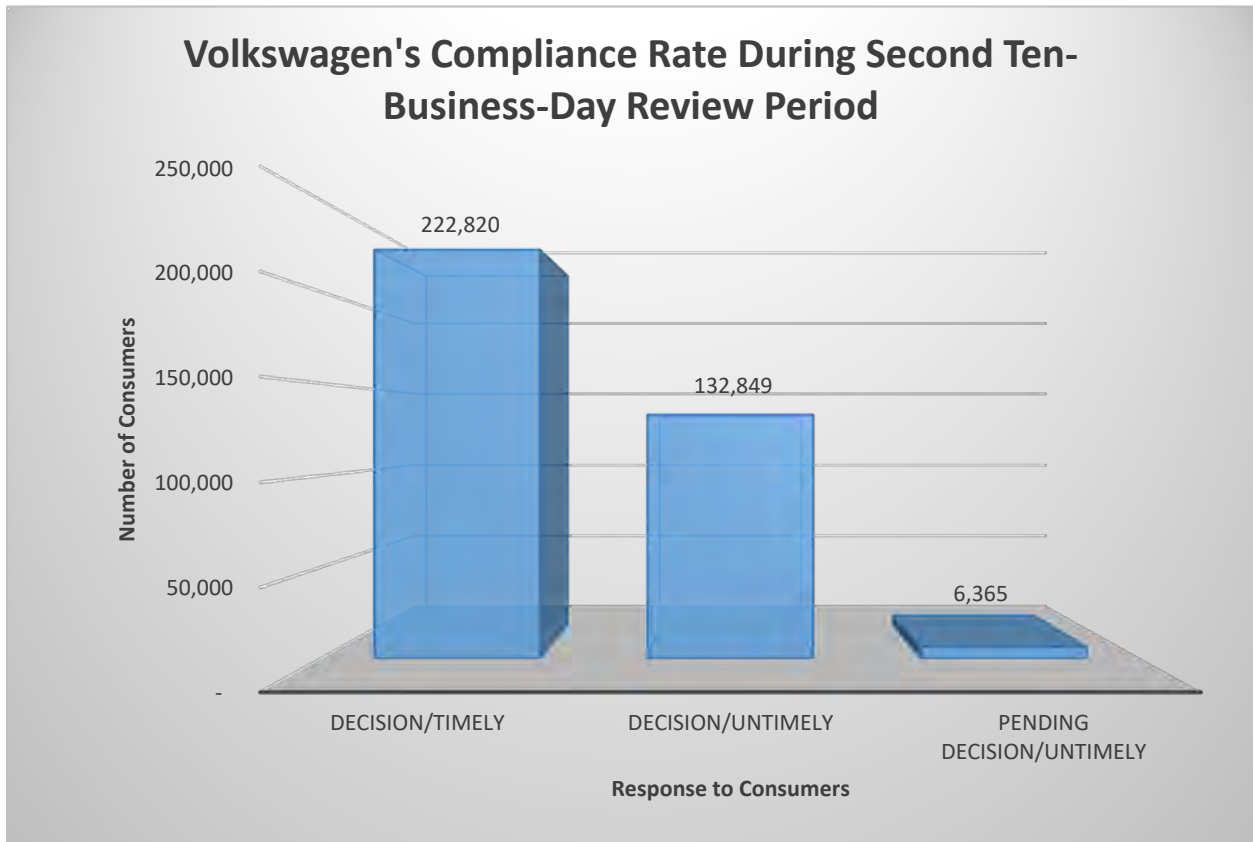
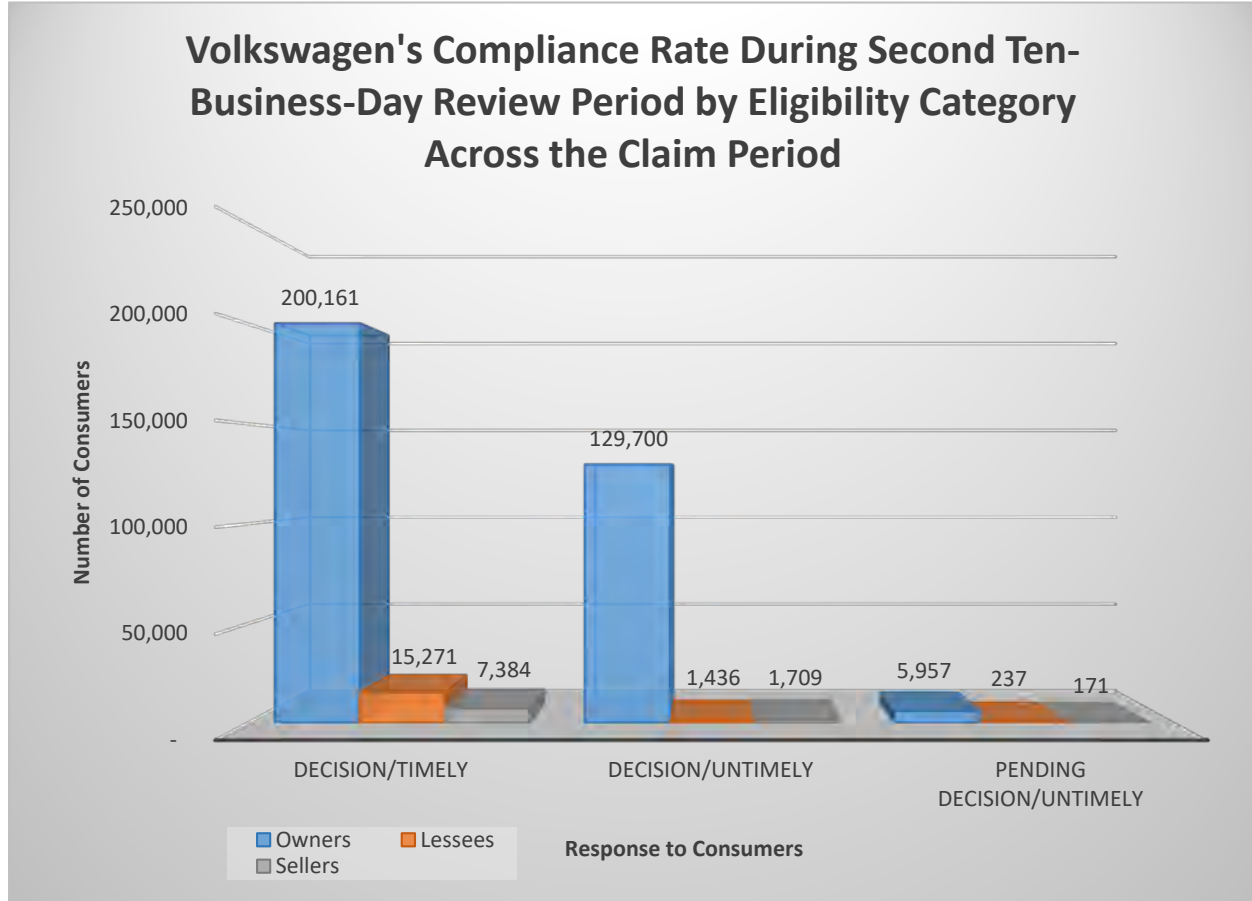


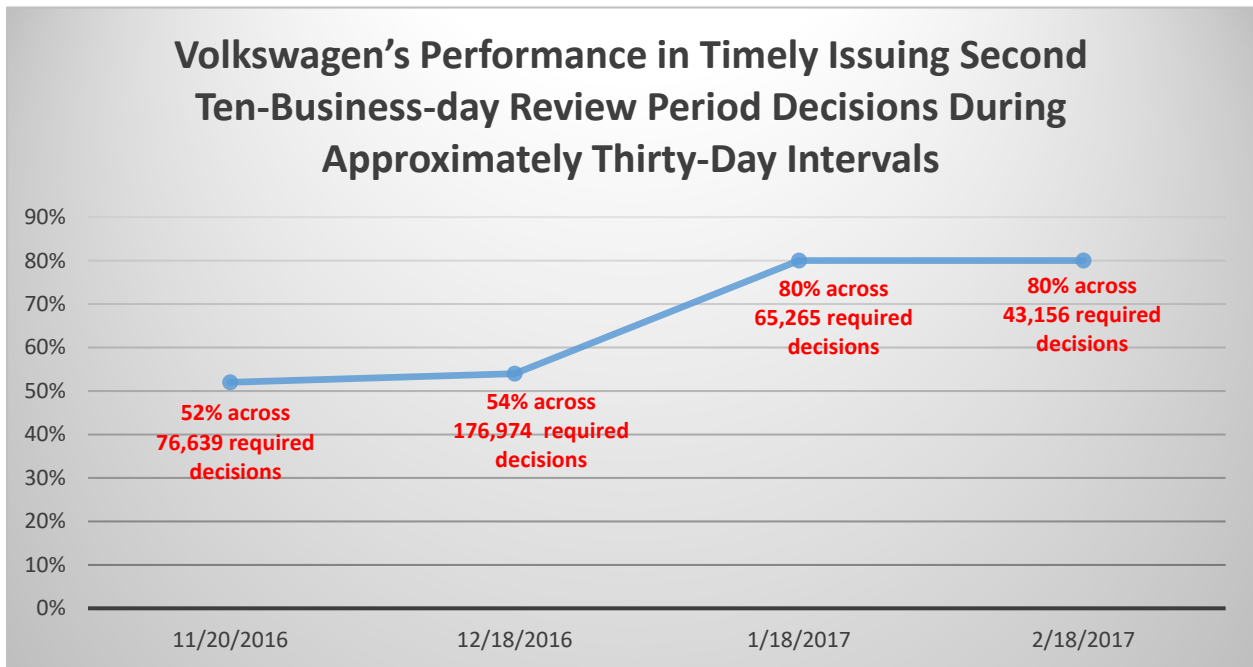
Chart 3-17<sup>36</sup>

Importantly, the company's overall compliance rate is heavily impacted by the initial "spike" in claims volume that required processing during the first six weeks of the Claim Period. While Volkswagen's timely compliance rate was 53% between November 1, 2016 and December 18, 2016, from December 19, 2016 through February 18, 2017, the company's timely compliance rate jumped to 80%. However, because the number of required decisions during the latter period (108,421 required decisions) was significantly less than the first six weeks of the Claim Period (253,613 required decisions), and because a significant backlog of untimely claims built up during the first six weeks of the Claim Period that required action by Volkswagen

<sup>36</sup> The eight claims not accounted for in Chart 3-17 were claims that were deemed not eligible. Four of these claims were timely second ten-business-day review period decisions, and four were untimely.

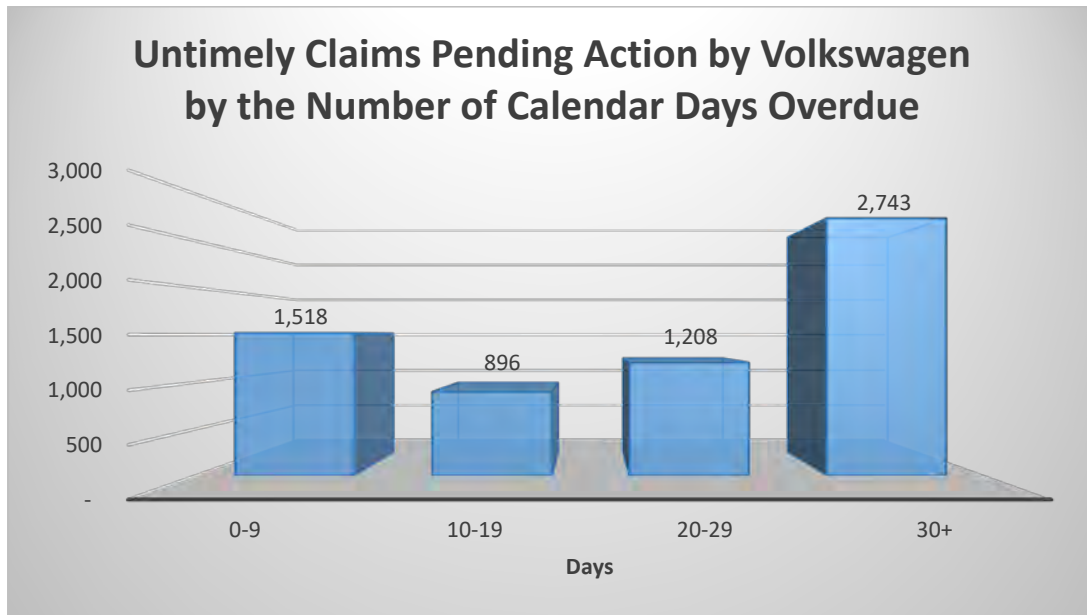
reviewers, Volkswagen’s recent improvements in issuing timely second ten-business-day review period decisions only resulted in a net 8.5% improvement in its overall compliance rate since December 18, 2016. Volkswagen’s performance in timely issuing second ten-business-day review period decisions broken into approximately thirty-day intervals during the Claim Period is shown in Chart 3-18 below.

**Chart 3-18**



Going forward, because the volume of claims requiring processing is expected to continue to diminish, it is unlikely Volkswagen will be able to substantially improve its overall compliance rate in the near term, even if the company continues its more recent improved performance in timely issuing second ten-business-day review period decisions.

Chart 3-19 shows the remaining 6,365 claims in Volkswagen’s backlog as of February 18, 2017, by the number of calendar days that the claims are overdue.

**Chart 3-19**

Most of the backlog (3,567 claims) was comprised of Buyback claims where Volkswagen was still in the process of generating an offer. Most of these are claims where Volkswagen needs loan payoff information from a third-party lender, which usually is a credit union or small financial institution. Notably, for 512 of the claims in this group, Volkswagen could not proceed until the consumer provides additional information (e.g. loan number, name of lender) needed to obtain a loan payoff amount from the consumer's lender. Claims awaiting action by Volkswagen to resolve deficiencies identified by the Claims Supervisor as part of its review during the second ten-business-day review period comprise the other significant component of the backlog (2,113 claims).<sup>37</sup>

Other claims in the backlog tend to be in much smaller pockets, often less than a hundred, and present more unique issues. As an example, there were 101 claims from fleet owners with which Volkswagen has been working directly to move claims through the process. There were

<sup>37</sup> When the Claims Supervisor finds a deficiency during the second ten-business-day review period, the counting of days towards the timely issuing of a decision does not stop.

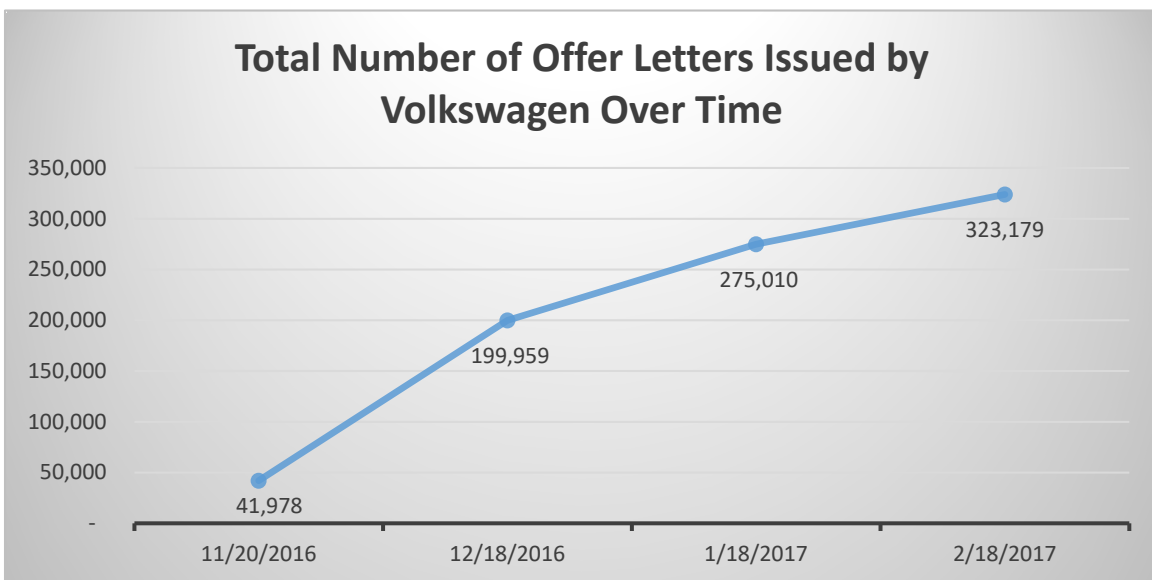
also eighty-five claims in which the consumer indicated that he or she was affiliated with the Court or an employee of Volkswagen. Rather than immediately processing them through as ineligible, Volkswagen plans to use its claims processing system to evaluate the claims in order to assess how to engage these individuals. As a result, while these eighty-five claims present in Volkswagen’s system as pending and untimely decisions in the second ten-business-day review period, they are known to be ineligible based on the information input by the consumer.

E. Offer Letters

Through February 18, 2017, Volkswagen had issued 323,179 offer letters, the aggregate value of which totaled \$5,863,302,864.05.<sup>38</sup> Of these, 317,101 offer letters with an aggregate value of \$5,752,773,328.86 were issued to individuals. The remaining 6,078 offers were issued to businesses and were aggregately valued at \$110,529,535.19.

Chart 3-20 shows how the number of offer letters issued by Volkswagen has changed over time, and Chart 3-21 shows that change over time by Eligibility Categories.

**Chart 3-20**



<sup>38</sup> These figures exclude 846 offers that were cancelled.

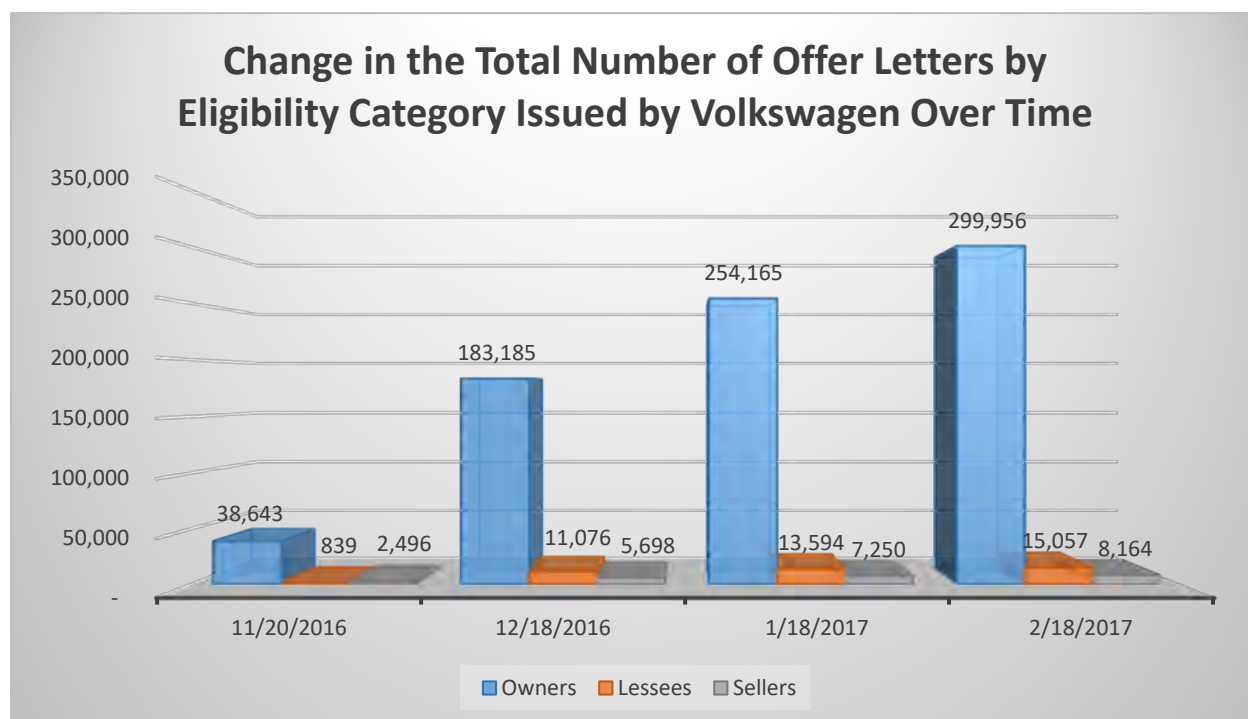
Chart 3-21<sup>39</sup>

Chart 3-22 shows offer letters issued to Owners and Current Lessees by remedy selections. The chart excludes the 8,164 Sellers and 2,486 Former Lessees who have received offer letters because the only remedy available to those consumers is Restitution, as well as two offers associated with claims subsequently deemed not eligible.

<sup>39</sup> The two claims not captured in the February 18<sup>th</sup> data were claims that ultimately were deemed not eligible. Early in the claims process, there were instances where a few claims entered second ten-business-day review period processing before the first ten-business-day review was complete, as well as instances where offer letters were generated before deficiencies discovered by the Claims Supervisor during its second ten-business-day verification were resolved. As a result, a few claims that had offer letters generated for them ultimately were deemed ineligible.



**Chart 3-22**

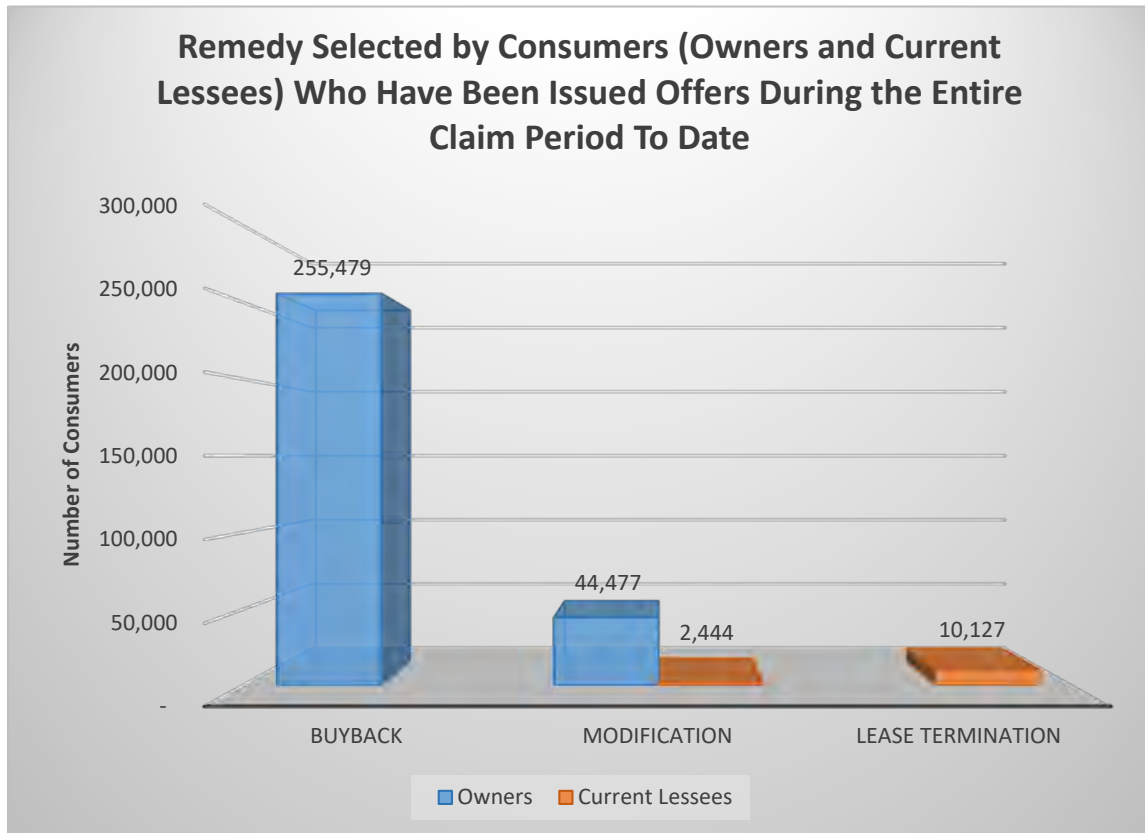


Chart 3-23 shows, through February 18, 2017, the top ten states by vehicle registration of consumers who had received offer letters.

**Chart 3-23**



Through February 18, 2017, of the \$5.863 billion associated with the offer letters made by Volkswagen, Owners account for more than \$5.785 billion (more than 98.7%). Of these, approximately \$2.590 billion related to Owners without loans and \$3.195 billion related to Owners with loans.<sup>40</sup> The remainder was split among Current Lessees (12,571 offer letters valued in aggregate at over \$44.6 million); Former Lessees (2,486 offer letters valued in the aggregate at over \$8.3 million); Sellers (8,164 offer letters valued in the aggregate at over \$24.8 million); and Owners who purchased the vehicle after September 18, 2015 but before June 28, 2016 following termination of their lease agreement (174 offer letters valued in the aggregate at over \$563,000).

Chart 3-24 shows the minimum, maximum and average awards issued to consumers based on Eligibility Category and offer selection through February 18, 2017.

**Chart 3-24**

<b>Eligibility Category and Offer Selection</b>	<b>Average Value</b>	<b>Minimum Value</b>	<b>Maximum Value</b>
Owner - Buyback	\$21,573.53	\$5,100.00	\$45,407.93
Owner - AEM	\$6,020.27	\$2,274.00	\$9,991.13
Current Lessee - AEM	\$3,529.83	\$2,324.00	\$4,892.40
Current Lessee - Early Lease Termination	\$3,556.96	\$2,571.50	\$4,954.80
Former Lessee Restitution	\$3,340.27	\$2,504.00	\$4,885.30
Seller Restitution	\$3,039.79	\$2,550.00	\$4,770.27

<sup>40</sup> Through February 18, 2017, there had been 225 instances where the loan amount exceeded 130% of the offer amount, such that the final amount provided to the consumer (absent potential adjustments at closing) would not satisfy the entire loan amount and the consumer would have to provide funds to Volkswagen to complete the Buyback. Across these claims, the average remainder on the loan balance was approximately \$5,300. However, there were outliers that skewed the average, including nine claims with loan balances in excess of \$20,000. One hundred and fifty of the 225 claims had loan balances of approximately \$3,000 or less. Thus the median value of the loan balance across these 225 claims, which was slightly more than \$1,500, is perhaps a better representation of the composition of these claims.

Finally, through January 18, 2017, a total of 2,639 military overseas consumers and 834 decedent estates had registered with Volkswagen. Of those, 2,246 and 588, respectively, had submitted claims for Volkswagen to review. Volkswagen had deemed 2,053 military overseas claims and 435 decedent estate claims complete and preliminarily eligible, and had issued 1,696 and 211 offers to these consumers, respectively. The aggregate value of these offers is \$36,250,457.64. Notably, these consumer populations of non-standard claims continued to represent a very small percentage of the overall consumer population.

F. Appointments and Closings

As of February 18, 2017, there were 220,682 consumers who had scheduled closing appointments (representing 254,519 instances of appointments). Within this group, 137,985 consumers had appointments that had resulted in closings; 81,237 consumers had open appointments, meaning an appointment was scheduled but the date had not yet occurred; and 1,460 consumers had canceled their scheduled appointment and had yet to reschedule.

Chart 3-25 shows, for consumers who had scheduled appointments as of February 18, 2017, the total number of appointments by appointment type across Eligibility Categories.

**Chart 3-25<sup>41</sup>**

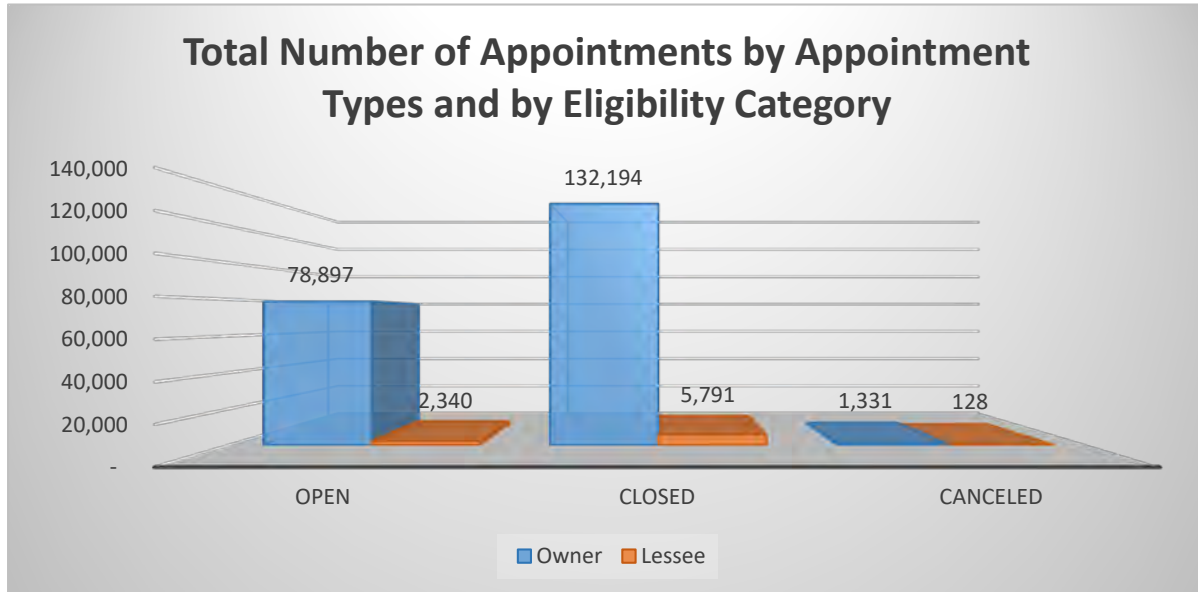
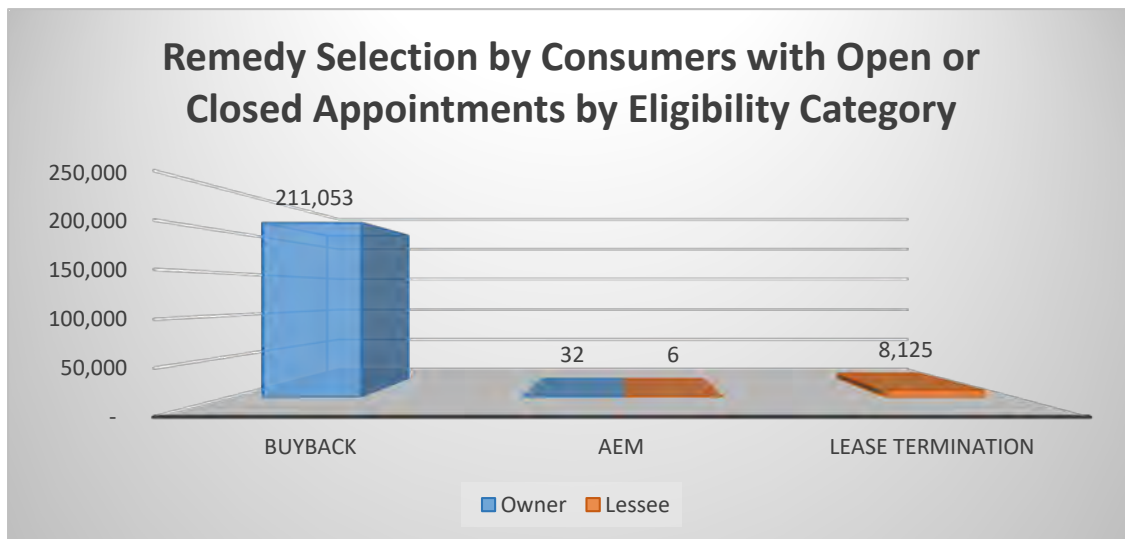


Chart 3-26 shows by Eligibility Categories the remedy selected by the consumers with open or closed appointments.

**Chart 3-26<sup>42</sup>**

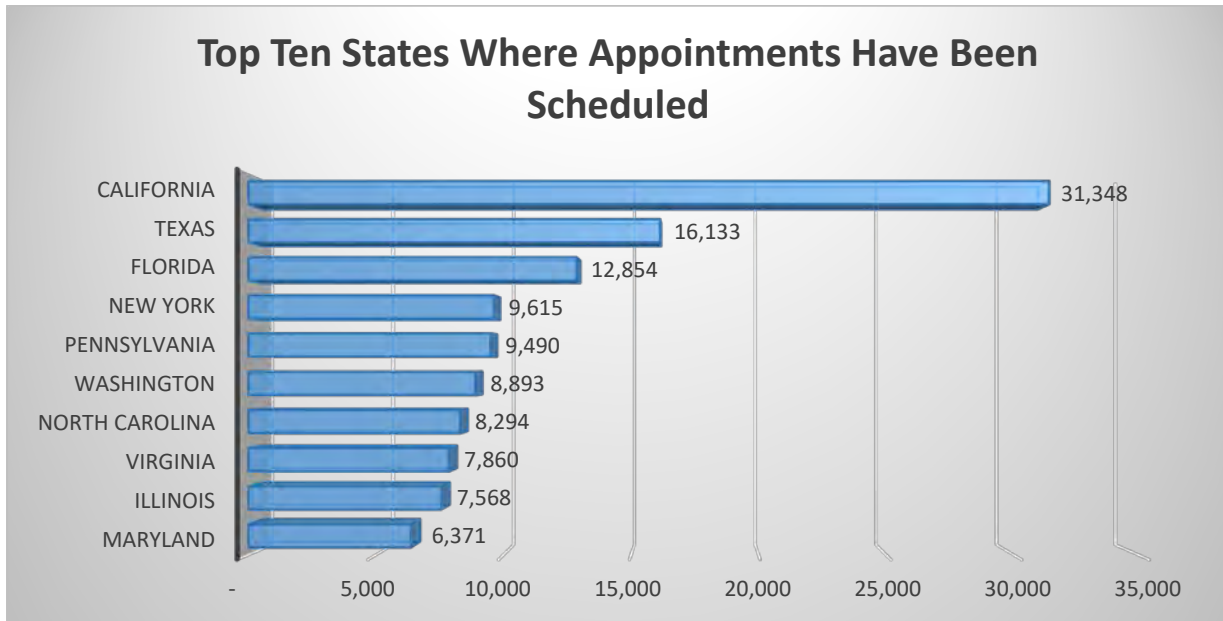


<sup>41</sup> The one claim not captured in Chart 3-25 is associated with a cancelled appointment on a claim that was deemed not eligible.

<sup>42</sup> The six Owner claims not captured in Chart 3-26 appear to be instances where consumers, having gone through the closing process at the dealership, subsequently contacted Volkswagen and indicated that they wanted to change their remedy selection. Thus the offers associated with the initial closing were canceled.

Through February 18, 2017, the most common locations (states and cities) where appointments were scheduled are set forth in Charts 3-27 and 3-28, respectively.

**Chart 3-27**



**Chart 3-28**



As of February 18, 2017, 35,297 appointments had resulted in cancelation. Of these, 32,124 (91%) were canceled at the request of the consumer. Additional reasons for cancelations included: (i) the vehicle's mileage at turn-in required Volkswagen to reduce the amount owed to a consumer who elected to be paid by check, necessitating that Volkswagen cut a new check for the correct amount (1,236 claims); (ii) the consumer did not show up to the closing appointment (649 instances); (iii) the title was not brought to the closing (148 instances); (iv) the title holder was not present at the closing (73 instances); (v) the consumer did not bring the eligible vehicle to the closing (54 instances); and (vi) the required power of attorney form was not provided (54 instances).

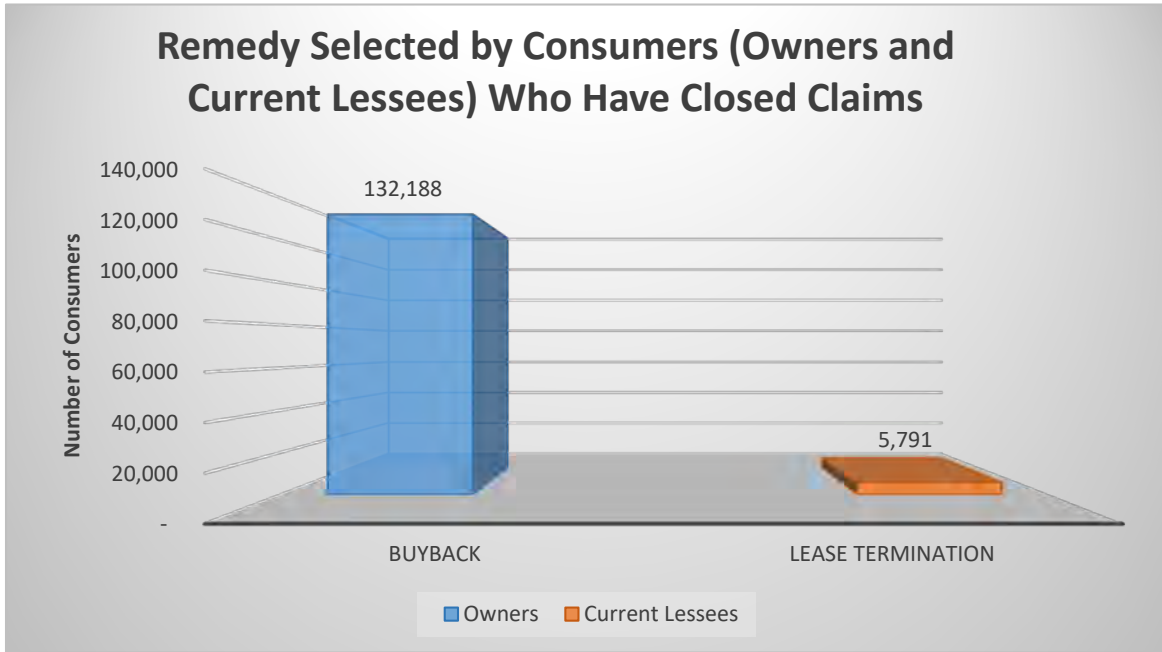
For the 137,985 appointments that had resulted in closing as of February 18, 2017, the aggregate value of those claims was \$2,887,250,713.27.<sup>43</sup> Chart 3-29 shows the remedies that this population had selected.<sup>44</sup> Chart 3-30 shows the top ten states for consumers who proceeded through closing by the state in which their vehicle was registered.

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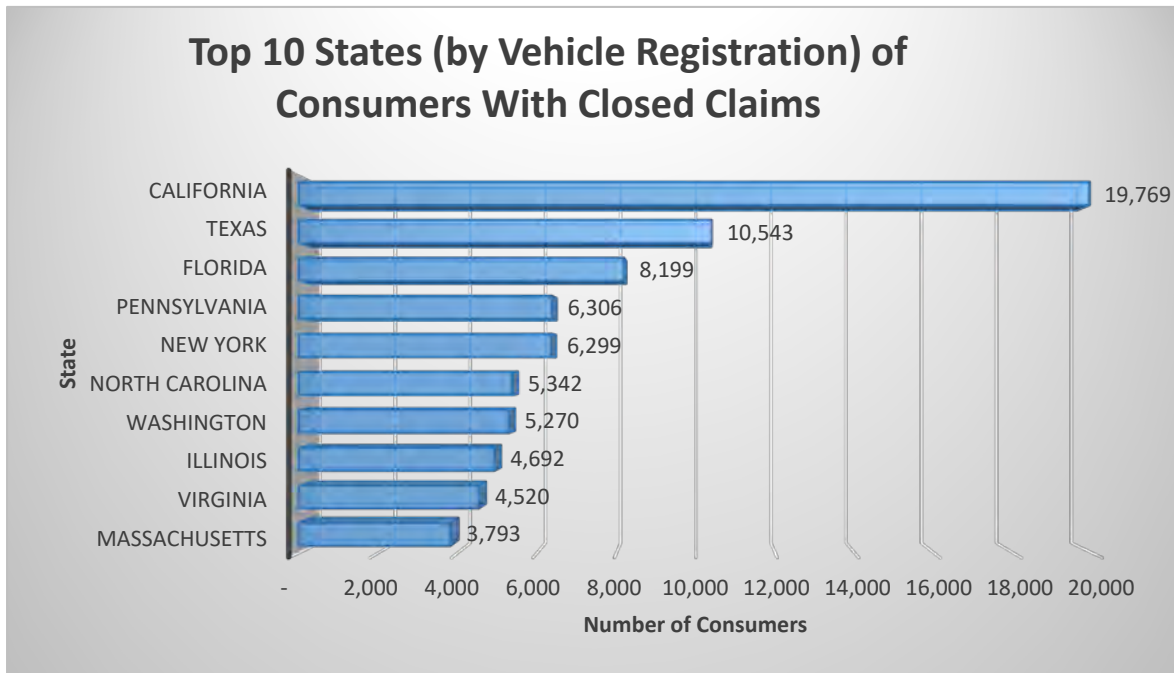
<sup>43</sup> The aggregate value of the 81,237 claims associated with open appointments as of February 18, 2017, was \$1,702,002,579.50.

<sup>44</sup> As discussed in Section II above, consumers proceeding through the closing process have the choice to receive funds from Volkswagen by EFT or by check. The data show that, as of February 18, 2017, across closed appointments more than 75% of consumers have elected to be paid through EFT. Moreover, a check had been generated, or an EFT had been completed, for 136,647 closed claims, which equates to more than 99% of the closed claims through February 18, 2017.

**Chart 3-29<sup>45</sup>**



**Chart 3-30**



<sup>45</sup> The six instances not accounted for in Chart 3-29 are offers that were cancelled because the consumer requested to change remedy selection after closing.

Notably, the closing figures do not include the additional 6,917 Sellers and 1,876 Former Lessees who had been paid on claims as of February 18, 2017, because these consumers do not need to go through the closing process to receive payment. The aggregate values of the Seller and Former Lessee claims paid by Volkswagen through February 18, 2017, was \$21,038,406.50 and \$6,255,903.60, respectively.

**G. Progress Toward the 85% Target**

The Resolution Agreements set a target that Volkswagen should buyback or modify -- assuming the approval of an emissions modification by EPA and CARB -- 85% of the Eligible Vehicles captured within the settlement. The Resolution Agreements also provide that “the total number of 2.0 Liter Subject Vehicles is 487,532 (499,406 vehicles less scrapped vehicles as of October 1, 2015).” As shown in Chart 3-29, as of February 18, 2017, Volkswagen had taken possession of 137,979 Eligible Vehicles (i.e., 132,188 Buyback closings and 5,791 Early Lease Terminations). Therefore, thus far Volkswagen has taken possession of just over 28% of Eligible Vehicles.

**IV. The Consumer Experience**

As indicated above, the majority of consumers were able to proceed fairly smoothly through the initial stages of Volkswagen’s Claims Program and receive timely offers. However, a significant population of consumers experienced delays. Analysis of consumer sentiment revealed increased frustration resulting from these delays, which was compounded by customer service challenges.<sup>46</sup> Consumer feedback since the November 2016 Report highlighted opportunities for Volkswagen to invest more time and effort on customer service. Volkswagen

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<sup>46</sup> It should be noted that consumers who encounter delays and other challenges may be more likely to provide feedback focused on their negative experiences. Consumers who successfully complete the process without issue often provide no feedback at all.



has made adjustments to Claims Hotline operations as well as to how it manages more challenging claims and issues. Nevertheless, opportunities for improvement remain and Volkswagen's leadership continues to express commitment to addressing challenges as they are identified.

A. Analysis of Consumer Outreach

Some consumers who encountered challenges with the claims process have been vocal, raising concerns and frustrations with the Parties, the independent Claims Supervisor, and the Court. Indeed, while Volkswagen has received tens of thousands of complaints since the launch of the Claims Program on November 1, 2016, negative consumer sentiment was also expressed more broadly:

- The PSC has logged outreach from nearly 20,000 consumers;
- The FTC has received complaints lodged through the Agency's website, hundreds of comments on its consumer blog, and telephone calls to its call center.<sup>47</sup> DOJ and EPA received some similar outreach from consumers as well;
- The Claims Supervisor fielded more than 600 consumer emails and telephone calls;<sup>48</sup>
- The Court was also contacted directly by some consumers;

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<sup>47</sup> The volume of comments to the blog increased significantly around November 20, 2016, and remained high for several weeks, but has since tapered off.

<sup>48</sup> The Claims Supervisor most often responds by email, directing consumers to information in the public reports when applicable. Questions regarding a consumer's individual claim or circumstances are directed to Volkswagen's Claims Hotline, or the PSC if the consumer is seeking legal advice. The Claims Supervisor also conducts interviews of select consumers to gain additional insight into the consumer experience. Issues identified through these interactions are shared with Volkswagen in order to enable it to consider systemic claims processing and customer service improvements when possible.

- And notably, consumer perspective has also been reported by the media and expressed in blogs and other public fora.

The Claims Supervisor routinely analyzes the complaints Volkswagen has received and also directly engages with consumers to identify systemic challenges and derive insights into the efficacy of Volkswagen's customer service efforts. As might be expected, dissatisfaction has been primarily centered around claims processing delays and other related customer service shortfalls. Complaints related to processing delays peaked in late November and early December 2016 and subsequently leveled off. While they remained relatively steady through January 2017, a decline in negative feedback has been noticed in recent weeks, as Volkswagen is processing the remaining backlog of overdue claims. Notably, the initial complaints regarding delays were generally distributed among different eligibility classes and concerned a range of Claims Program challenges. However, complaints regarding processing lags by consumers with third-party loans steadily increased over the course of this reporting cycle, while complaints from other types of consumers have steadily declined. Over the past month in particular, more consumers raised questions and expressed frustration concerning the timing of when they or lenders could expect to receive post-closing payments from Volkswagen.

With respect to Volkswagen's customer service capabilities, complaints peaked in December 2016, and have steadily declined since then. Nevertheless, expressions of dissatisfaction regarding the consistency and quality of Volkswagen's responsiveness have remained in certain key areas, and are addressed more fully below. As might be expected, consumers have generally been annoyed by many of the unavoidable bureaucratic aspects of the claims process. Providing consumers with increased visibility into the systemic challenges Volkswagen faced (e.g., delays caused by loan balance verifications) and, importantly, its efforts

to address them may have diffused tensions, at least somewhat. During the reporting period, Volkswagen acknowledged increased consumer frustration and implemented a number of enhancements to be more responsive. These enhancements are also discussed below.

B. Volkswagen's Interaction with Consumers

While Volkswagen's settlement website contains a broad range of information about the Claims Program, many consumers prefer to speak with a live representative to ask questions or to obtain information about the status of their claims. As a result, Volkswagen has received 951,521 calls since the Claims Hotline first launched on July 25, 2016. Volkswagen also enables consumers to interact with agents via a live Chat feature. Outlined below are Claims Hotline and Chat usage data, as well as discussion of customer service challenges and actions that have been taken to enhance the consumer experience.

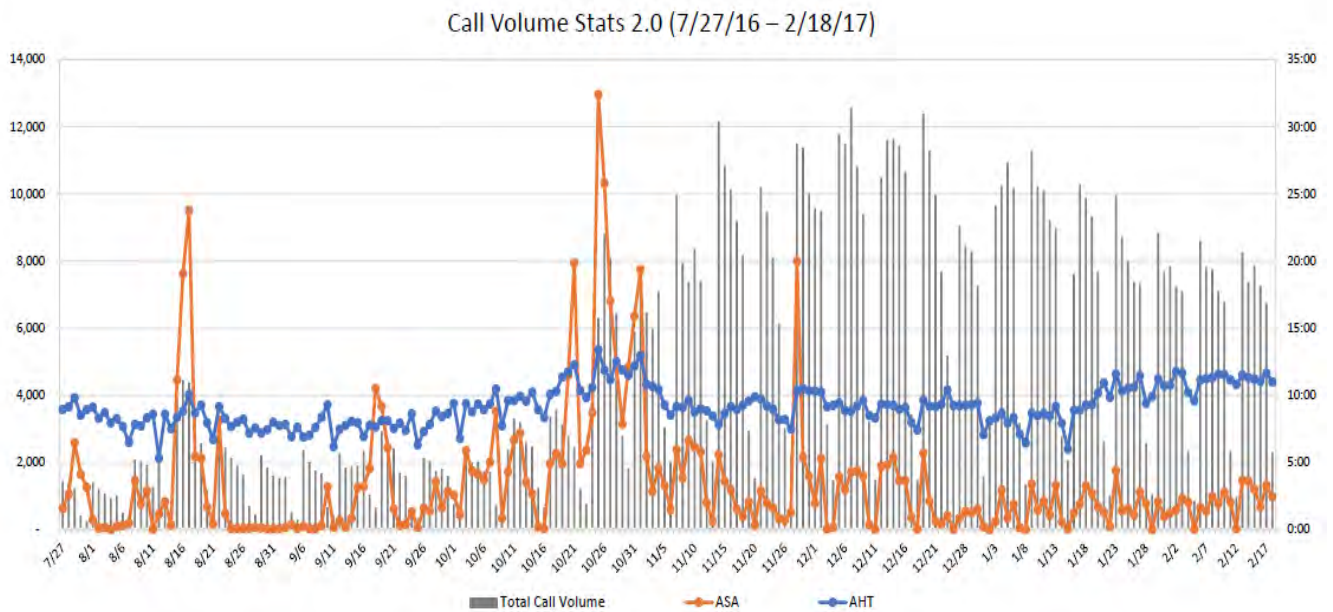
1. Claims Hotline

Claims Hotline volume has remained high since the November 2016 Report. Between the period of November 21, 2016 and February 18, 2016, the Claims Hotline received 621,687 phone calls, with an average weekday call volume of 6,908 calls. The following chart depicts the daily call volume.<sup>49</sup>

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<sup>49</sup> ASA is the abbreviation for average speed of answer and AHT represents average handle time.

Chart 4-1



The average wait time to reach a Claims Hotline representative is now just under two minutes and the average length of time a consumer interacts with an agent is between ten and eleven minutes. The call abandonment rate averages approximately 15% of total calls received. This is a reduction from initial usage statistics reported in the November 2016 Report, when wait times sometimes reached several hours and the abandonment rate was almost 70%. The reduction in call wait times is directly attributable to a substantial increase in the number of Claims Hotline agents the company engaged through a third-party service provider to augment its own team of Hotline agents. The Hotline originally deployed 67 telephone agents in July 2016, but after the surge in call volume following Court approval of the Resolution Agreements, Volkswagen increased Hotline staff to 109 agents, with staff levels growing to 536 agents over the course of subsequent weeks. Notably, of the more than 500 Claims Hotline agents, 450 work for the third-party contractor.

Over the course of the reporting cycle, consumers have reported various challenges in seeking assistance through Claims Hotline resources. For example, consumers reported that Claims Hotline agents: (i) have not known answers to program and processing questions;<sup>50</sup> (ii) were unable to provide information regarding the cause and expected timelines relative to processing delays, especially for claims that were well past the ten-day deadline;<sup>51</sup> (iii) provided inaccurate information, including erroneously suggesting that delays were caused by the “third-party auditor;”<sup>52</sup> (iv) failed to fulfill requests for a call back (in lieu of electing to hold for an agent);<sup>53</sup> and (v) at times, conducted themselves in an unprofessional manner. Consumers also previously reported difficulty navigating the automated prompts on the Claims Hotline to reach a live agent.

As alluded to in the November 2016 Report, it appears that the rapid on-boarding of hundreds of additional Hotline agents may have adversely impacted the quality of customer service in some cases, at least until more robust training was conducted and Volkswagen management was able to provide more direct oversight of vendor resources. Moreover, the Hotline agents at Volkswagen’s third-party vendor initially did not have access to Volkswagen’s Knowledge Management software tool (the “KM Tool”) or the Claims Portal. The KM Tool is a

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<sup>50</sup> As one measure of the overall satisfaction with the Claims Hotline, the Claims Supervisor requested first-call resolution statistics. Consumers who do not follow up after an initial call may be more likely to have been satisfied with the information received. Volkswagen informed the Claim Supervisor that it does not track first-call resolution statistics.

<sup>51</sup> To address inquiries regarding claims processing delays, between December 6, 2016, and January 11, 2017, Volkswagen posted a banner on its Claims Website advising that some consumers could expect delays of approximately two to three weeks, and a similar message was incorporated into an automated recording on the Claims Hotline.

<sup>52</sup> On December 14, 2016, Volkswagen added language in its Knowledge Management software tool for Hotline agents instructing that accountability for delays should not be deflected to the Claims Supervisor or any Volkswagen business unit. Despite this instruction, some Hotline agents continued to erroneously inform consumers that delays were the result of a third-party auditor.

<sup>53</sup> The Claims Supervisor’s request for data relating to call backs has been pending since December 7, 2016.

web-based application that allows agents to perform key word searches across a library of content created by Volkswagen to facilitate answers to common consumer questions. Without access to these important tools, the Hotline agents staffed by the third-party vendor were necessarily limited in their ability to assist consumers.

Volkswagen took steps to improve the quality of the Claims Hotline. Among other things, Volkswagen implemented a more in-depth training regimen for new agents. The training curriculum was recently revamped again in January 2017, and now provides new agents with greater visibility to the entire claims process from end-to-end. In addition, the company has regularly updated the content in the KM Tool to address systemic issues, hot topics, and recurring areas of consumer concern, and has also recently incorporated more scripted responses to ensure consistency. Hotline agents regularly receive email alerts highlighting programmatic or process changes and other ways to better assist consumers. Volkswagen was also able to provide the third-party service provider with access to the KM Tool and the Claims Portal in December 2016.

While training is vital to achieving effective customer service, management oversight is also necessary to ensure that underperforming resources are identified and addressed to ensure a uniform level of service. In an effort to achieve consistent quality among agents, Volkswagen supervisors have undertaken a monthly review of a sample of recorded calls from each agent in order to provide feedback and coaching as necessary. Also in mid-January 2017, Volkswagen implemented a more formal quality assurance program whereby a dedicated team regularly reviews calls for every Hotline agent. Increased monitoring has enabled additional opportunities for coaching.

In addition to these efforts to improve the capabilities of Claims Hotline agents, Volkswagen also undertook steps to enhance the Hotline's automated prompt system so that consumers with frequently asked questions could more quickly receive recorded guidance. Similarly, Volkswagen updated its website for consumers to find answers to these frequently asked questions. In December 2016, the Claims Supervisor identified a concern that consumers who previously submitted their documents did not have a menu option to speak with an agent. After Volkswagen was apprised of the issue, the company promptly addressed the shortcoming to ensure that all consumers utilizing the Hotline would have the option to connect with a live agent.

Subsequently, in January 2017, Volkswagen integrated new automated prompts for the Hotline to direct consumers to more experienced agents in order to provide assistance with, among other things, scheduling closing appointments and addressing payment issues. Volkswagen anticipates that these efforts will lead to better customer service. Consumers with more general inquiries will continue to be routed to Volkswagen's third-party vendor, where agents have been trained to handle more basic questions about the settlement and the Claims Program.

Over the months following the November 2016 Report, consumers continued to report that requests for return calls from Hotline supervisors were not always fulfilled. These consumers had been told by Claims Hotline agents that their issues would be escalated to a supervisor and that they should expect to receive a return call within three business days. However, some consumers reported that either they had not received a call back at all, or if they did, it took a number of weeks to hear back. It appears that this problem stemmed from a miscommunication between Volkswagen and its vendor. Ineffective coordination generally

resulted in those consumers who spoke with agents from the third-party vendor to not receive return calls between mid-November and mid-December. Once the problem was identified and resolved, consumers began to receive call-backs from supervisors. In mid-January, Volkswagen's vendor also implemented an assistance queue that allows agents to escalate calls to supervisors on a real-time basis whenever possible. In addition, Volkswagen has also implemented a more formal escalation procedure for those calls that cannot be immediately resolved.

In an effort to further assess Claims Hotline performance, the Claims Supervisor has continued to evaluate random samples of recorded calls with consumers. For the period of January 2017 to February 2017, Volkswagen produced a statistically reliable sample of 1,060 recorded calls, which included more than two-hundred calls handled by Volkswagen agents and in excess of eight-hundred calls handled by Volkswagen's vendor's agents. A review of these calls indicates that the overall performance of the Claims Hotline continues to improve slightly and is now close to 90%.<sup>54</sup>

Notably, Volkswagen continued to struggle with providing consumers information related to the cause of claims processing delays. Some agents in the call sample were able to give consumers an update on the status of their claim or the reason for delay, but many agents could not. Other issues observed in reviewing the recorded calls included instances where: (i) Claims Hotline agents incorrectly told consumers that they did not have the capability to schedule appointments; (ii) consumers complained about not receiving callbacks from supervisors after requesting that their claims be escalated; (iii) consumers encountered

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<sup>54</sup> Performance is measured by the Hotline agent's ability to properly and accurately answer the consumer's questions.



processing delays when documents were submitted via mail or fax; and (iv) consumers reported that they were locked out of the system because they could not recall their passwords.<sup>55</sup>

Volkswagen has committed to providing additional training to address each of these issues, and performance will continue to be evaluated.

## 2. Chat Functionality

The Chat functionality initially became available to consumers in mid-September, but after call volumes increased, Volkswagen elected to deactivate the Chat feature and reassign the Chat agents to the Claims Hotline. On December 6, 2016, after Volkswagen had increased staffing at the Claims Hotline, the Chat function went live again. As of February 9, 2017, eighteen agents were assigned to the Chat function. While Volkswagen provided the Chat feature in an effort to offer consumers an additional avenue to receive helpful information and guidance, during the reporting period consumers expressed similar frustrations related to the quality of information provided through the Chat agents. Some consumers also reported difficulty in connecting with a Chat agent. Volkswagen did not incorporate functionality to fully track chat statistics as it does for the Hotline calls; however, based on informal statistics maintained by the supervisor overseeing the Chat function, it does appear that Volkswagen is only able to respond to approximately one out of every four chats initiated by a consumer.

The Claims Supervisor reviewed a statistically reliable sample of chats to determine how successful the chat agents were in responding to consumer questions. As with the review of the sample of calls to the Claims Hotline, success was determined based on the content of the

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<sup>55</sup> For consumers who forget their passwords, the Claims Portal has a password recovery tool that requires the consumer to answer a security question. If a consumer also forgets the answer to the security question, he or she must contact the Claims Hotline to have the password reset. Volkswagen indicated that it will provide refresher training to Hotline agents to ensure that these requests are properly escalated to Volkswagen's IT department for prompt handling.

agents' responses as opposed to the consumers' satisfaction with the responses. Overall Chat agents performed well, with a success rate in chats administered of just over 95%. The Chat function appears to be a helpful tool that consumers have taken advantage of, although the number of abandoned and dropped chats may mitigate its overall efficacy.

C. Complex Claims Processing

As pockets of consumer frustration increased over late November and December 2016, the need for more highly trained dedicated resources became apparent. Initially, Volkswagen created an "Escalation Team" within the Claims Hotline, which was responsible for addressing consumer inquiries that Hotline agents were unable to handle. Additionally, the Escalation Team conducted a number of proactive outbound campaigns where it attempted to identify potential issues and resolve them with consumers before problems surfaced.

In January 2017, Volkswagen reevaluated suggestions that it develop targeted expert resources within a special response team capable of rapidly and effectively handling more complex consumer inquiries and claims-related challenges, as well as responding to outreach from those consumers experiencing difficulties navigating the ordinary steps in the claims process. This led to the launch of the "Resolution Team" on February 6, 2017. The Resolution Team established the following preliminary guidelines for the categories of claims it will handle: (i) claims that cannot be resolved within any given day by another business unit at Volkswagen; (ii) claims with extenuating circumstances; (iii) claims where the consumer has called the Hotline three times without resolution; and (iv) claims referred by the Parties. In addition, the other business units within Volkswagen each have triage teams responsible for referring claims to the Resolution Team based on these guidelines. The Resolution Team is staffed with document validators, offer specialists, scheduling analysts, check administrators, and case

managers, enabling the Resolution Team to independently investigate and resolve issues without support from other business units. Since the launch of the Resolution Team approximately three weeks ago, it has been able to resolve hundreds of consumer issues.

While Volkswagen ultimately took steps to assemble these resources, a fully functioning team was not established in time to address the influx of more challenging inquiries received during December 2016 and January 2017. Going forward, it is expected that the Resolution Team will continue to facilitate consumer needs, particularly in more difficult cases.

**V. Conclusion**

During this reporting period, Volkswagen was able to significantly increase its output of offer letters as a result of improvements in the company's claims processing operations and supporting technology infrastructure. Through these efforts, more than 95% of consumers who had submitted complete claims and were determined eligible by Volkswagen have received offers. Earlier on in the reporting period, delays and customer service challenges resulted in increased frustration among some consumers. However, complaints have declined in recent weeks, as Volkswagen has continued to process the remaining backlog of overdue claims. Going forward, Volkswagen remains committed to improving the consumer experience, while simultaneously ensuring that approximately 15,000 closings per week are effectively coordinated and administered. As contemplated by the Resolution Agreements, the Claims Supervisor will continue to evaluate and report on Volkswagen's progress with and adherence to the terms of the Resolution Agreements for the duration of the Settlement Program.

Sincerely,

**Ankura Consulting Group, LLC**



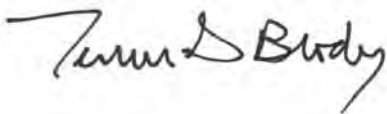
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Dated: February 27, 2017