

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 26, 2018

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Consistent with the requirements of the Resolution Agreements,<sup>1</sup> the independent Claims Supervisor respectfully submits this quarterly report, which, unless otherwise specified, addresses progress in Volkswagen's 2.0 Liter Claims Program for the period from November 19, 2017 through February 19, 2018.

**I. Executive Summary**

During this quarterly reporting period, Volkswagen generally administered the Claims Program effectively and efficiently. The company timely reviewed claims, issued offer letters, scheduled closing appointments, made payments, and completed AEMs for the vast majority of eligible consumers. Overall, the company also provided consistent and responsive customer support.

While Volkswagen received relatively few consumer complaints during this quarter, those consumers who had submitted claims for vehicles with branded titles continued to express frustration that their claims were not being processed. Although the population of affected consumers is relatively small, their claims have been on hold, in some cases for many months, while the Parties worked with the court-appointed Claims Review Committee ("CRC") to address how the eligibility requirements should be applied. Those efforts recently culminated in Volkswagen's implementation of an agreed upon framework to process these claims. As of February 26, 2018, Volkswagen had processed twenty-four branded title claims that were previously on hold and anticipates completing its review of the remaining claims by early May 2018.

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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.

With respect to other non-standard claims, the company began scheduling closing appointments in connection with claims submitted by consumers who purchased vehicles in the United States but registered them in Canada, and had completed 398 of these claims over the course of the quarterly reporting period. The company also completed an additional thirty-seven Buybacks on claims submitted by military members stationed overseas with their vehicles.

Relative to AEMs, there were two significant developments. First, Volkswagen advised current Owners and Lessees of 789 model year 2009 Generation 1 Vehicles that the EPA and CARB had approved a revised emissions modification for their vehicles after the previously-approved emissions modification was partially disapproved. The EPA and CARB had concluded that the partial disapproval was necessary because the company's original application for the AEM did not include sufficient information pertaining to certain hardware and software changes required as part of the AEM process. In response to the notice of partial disapproval, the company promptly sought and obtained approval of the revised AEM, which is currently available. Second, Volkswagen withdrew its application for an AEM for Generation 2 manual transmission Passats. As a result, Owners and Lessees of these vehicles may elect a Buyback or an Early Lease Termination (as applicable), or they may wait until May 2018 and elect to withdraw from the Class Action Settlement. All other vehicle types have an available AEM option.

The company also instituted a virtual closing process for Buyback and Early Lease Termination closing appointments. The process involves a team of remote closing support agents who conduct closing appointments with consumers located on-site at participating dealerships using a mobile device application installed on tablets. The application records audio and video of the closing (provided the consumer consents) to better ensure the integrity of the

closing process. Volkswagen has reported that approximately 3,000 closings have been completed utilizing the virtual closing process.

The statistics below provide a cumulative presentation of key Claims Program metrics as of February 19, 2018:

- 536,756 registrations had been created in Volkswagen's Claims Portal;
- 453,065 consumers had submitted claims for Volkswagen to review;
- 437,273 consumers had been issued offer letters, the aggregate value of which was \$7,942,094,359.25;
- 348,789 Owners and Current Lessees had scheduled Buyback or Early Lease Termination closing appointments;
- 343,908 Owners and Current Lessees had proceeded through closing, and Volkswagen has paid out a total of \$7,363,847,094.67 to, or on behalf of, these consumers;
- 30,282 consumers with Generation 1 Vehicles had completed the AEM process;<sup>2</sup>
- 9,442 consumers with Generation 2 Vehicles had completed the AEM process;
- 11,422 consumers with Generation 3 Vehicles had completed the first phase of the AEM process, which involves removal of the defeat device software; and

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<sup>2</sup> Data related to Generation 1, 2, and 3 AEMs are as of February 7, 2018.

- 12,148 Sellers and 4,095 Former Lessees had been paid on claims, the aggregate values of which were \$40,625,797.25 and \$13,775,026.53, respectively.

By the conclusion of this quarterly reporting period, Volkswagen had removed from commerce or performed a complete emissions modification on 82.5% of all Subject Vehicles. The company continues to near its obligation under the DOJ Consent Decree that it buy back or modify at least 85% of all Subject Vehicles.

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

This section discusses the status of the claims processing and closing phases of Volkswagen's Claims Program and the company's compliance with certain requirements mandated in the Resolution Agreements. All data is as of February 19, 2018, unless otherwise specified. Reference throughout this section to performance this "quarter" means the period from November 19, 2017 through February 19, 2018.

### **A. Consumer Registrations**

As of February 19, 2018, there were 536,756 consumer registrations in Volkswagen's system, including 7,463 registrations created by consumers during this quarter. 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, 503,939 related to individuals and 32,817 related to businesses.<sup>3</sup> Chart 2-1 shows the total number of registrations created by consumers during each quarter of the Claim Period.

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<sup>3</sup> These figures include a significant number of duplicate entries. Duplicate entries, however, are not identified until the requisite supporting claims information and documentation are submitted and the review periods begin. Thus, the figure overstates the number of unique claims that have been registered.

**Chart 2-1**

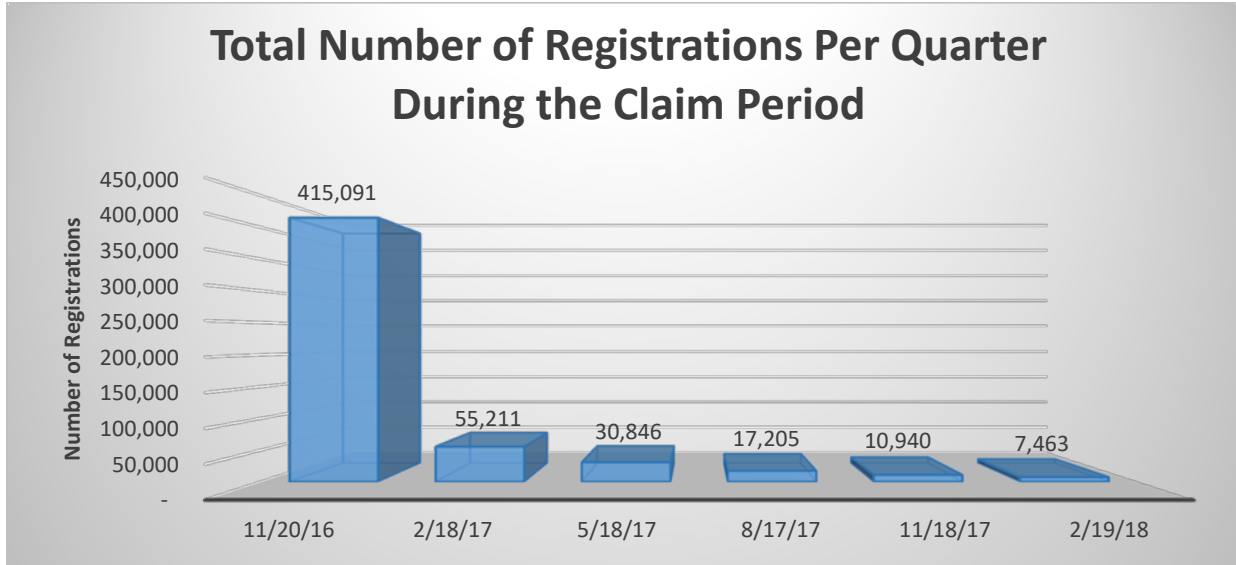


Chart 2-2 shows all registrations created by consumers during the Claim Period by eligibility category, and Chart 2-3 shows the states with the highest number of Eligible Vehicles that have been registered in Volkswagen’s Claims Portal. The “No Category Selected” population in Chart 2-2 relates to consumers who had created a registration but had not yet provided details identifying their eligibility category.

**Chart 2-2**

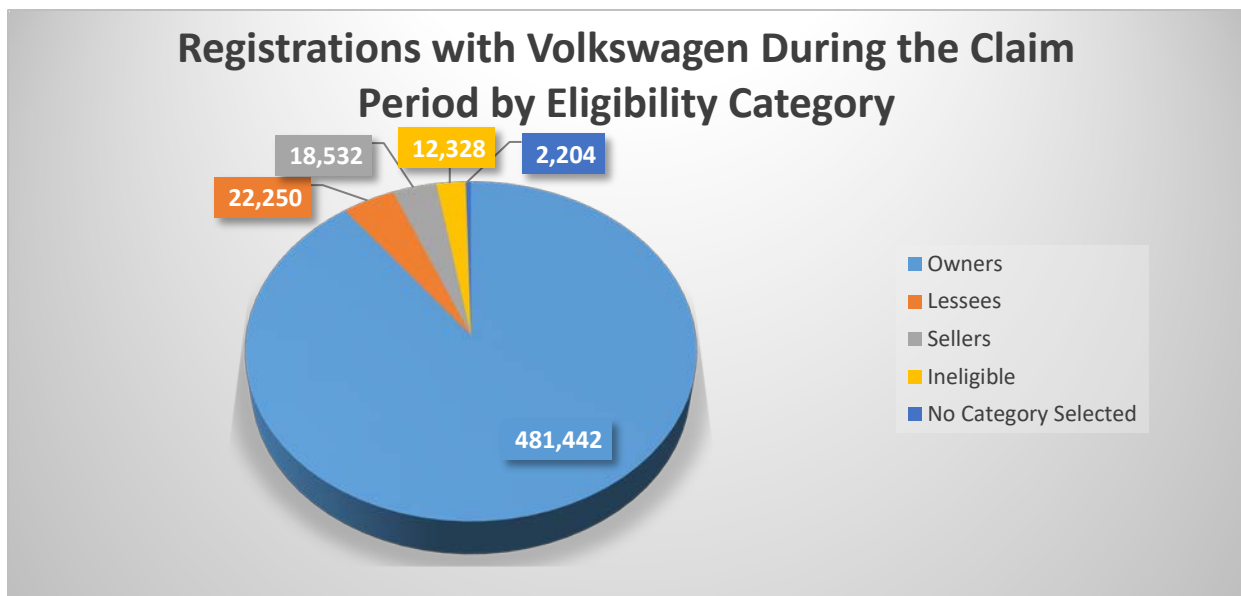
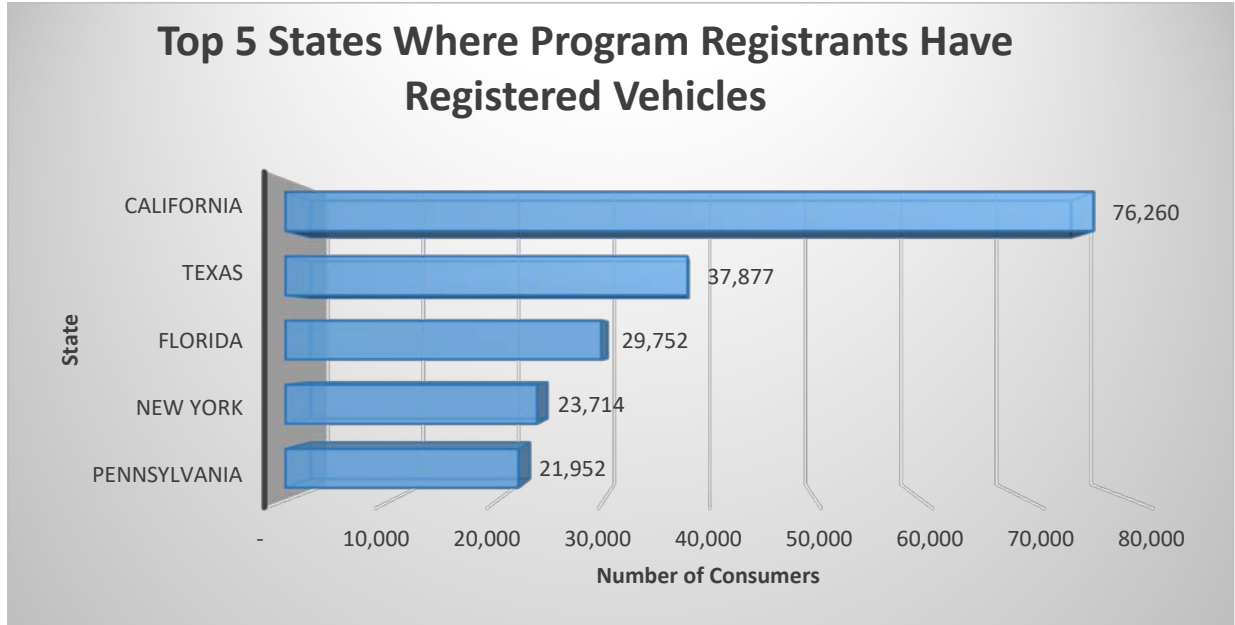


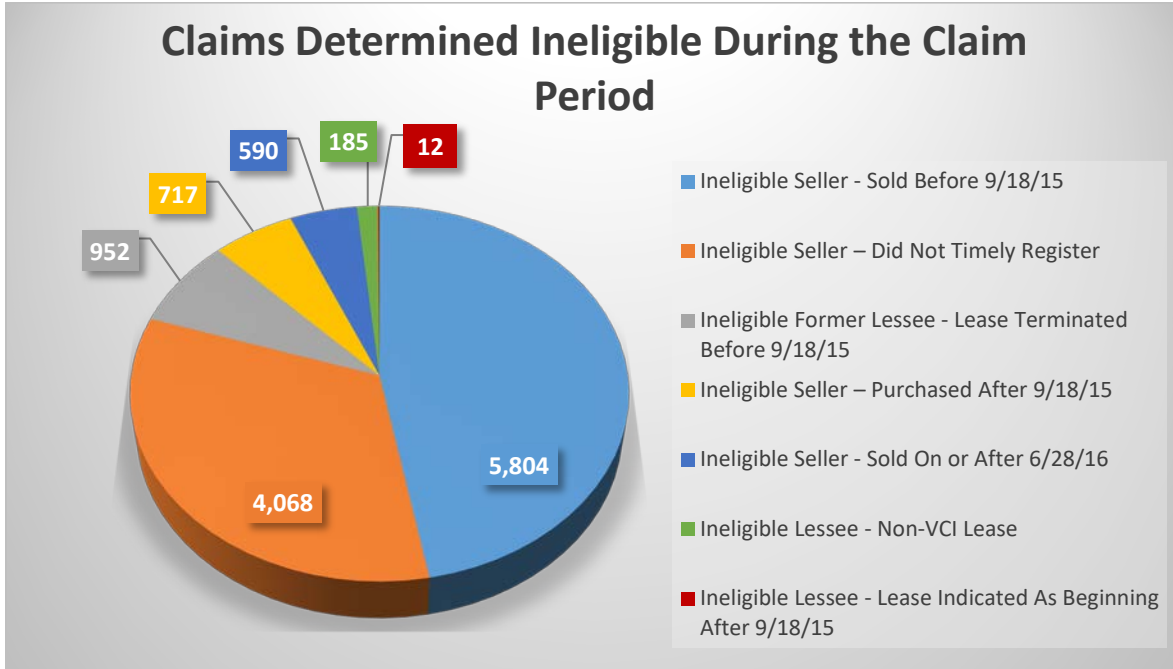
Chart 2-3



With respect to the population of 12,328 claims identified as ineligible in Chart 2-2, 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 before September 18, 2015 is ineligible under the “Eligible Seller” definition. In these instances, Volkswagen sends the consumer a letter explaining the basis for the ineligibility determination. Chart 2-4 reflects the total population of systematically ineligible claims by the reason the claim was determined to be ineligible.



Chart 2-4



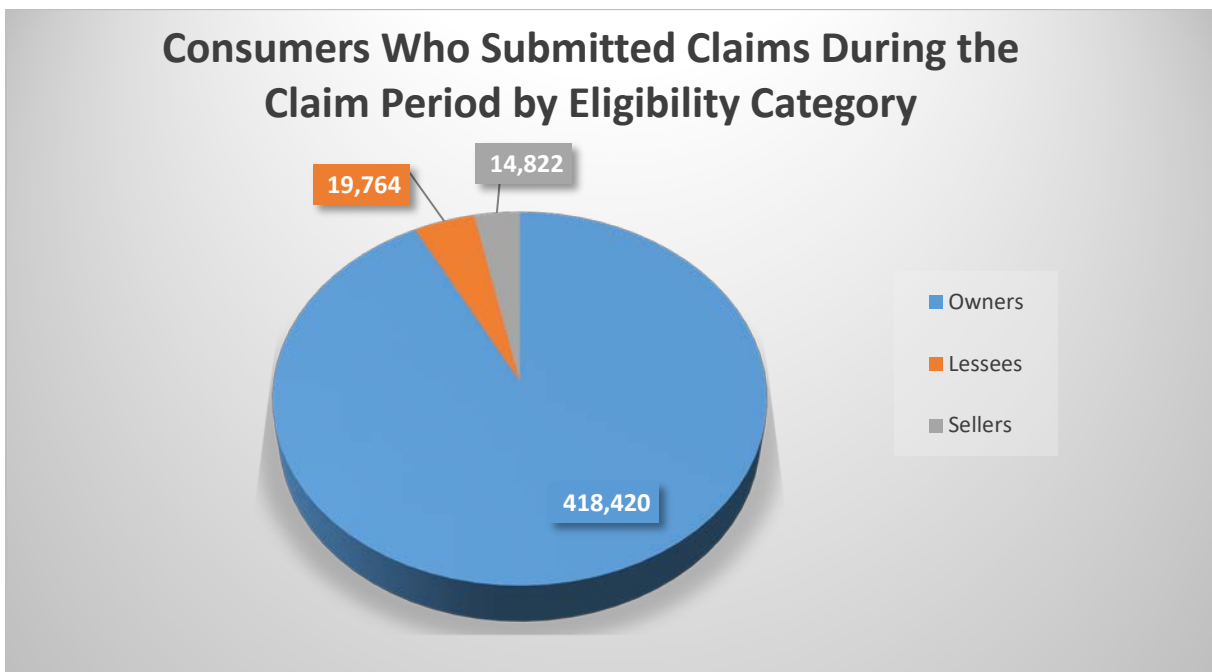
During this quarter, there were only seventy-nine new systematic ineligibility determinations. The most common reasons for these systematic ineligibility determinations related to Seller claimants who: (i) indicated that they sold the Eligible Vehicle on or before September 18, 2015 (34 claims); (ii) did not timely identify their claim by September 16, 2016 (18 claims); and (iii) reported that they sold the Eligible Vehicle between June 28, 2016 and September 16, 2016 (11 claims). The Claims Supervisor reviewed all seventy-nine new systematic ineligibility determinations this quarter, and verified that Volkswagen's systematic ineligibility logic was operating properly.

**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>4</sup> As of February 19, 2018, consumers had submitted 453,065 unique claims for Volkswagen to review, including 10,804 unique claim submissions during this quarter.<sup>5</sup> Of these, 434,192 claims related to individuals and 18,873 claims related to businesses. Chart 2-5 shows by eligibility category the total population of consumers who had submitted claims. Chart 2-6 shows the total number of claims submitted by consumers during each quarter of the Claim Period.

**Chart 2-5<sup>6</sup>**



<sup>4</sup> Former Lessees and Sellers do not select a preliminary remedy because the only available remedy to these consumers is Restitution.

<sup>5</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, claims by one Owner who owns five separate vehicles are counted as five unique claims.

<sup>6</sup> The fifty-nine claims not captured in Chart 2-5 ultimately were deemed not eligible. Notably, consumers have the right to appeal final eligibility and award determinations to the CRC, consistent with the terms of the Resolution Agreements.

Chart 2-6

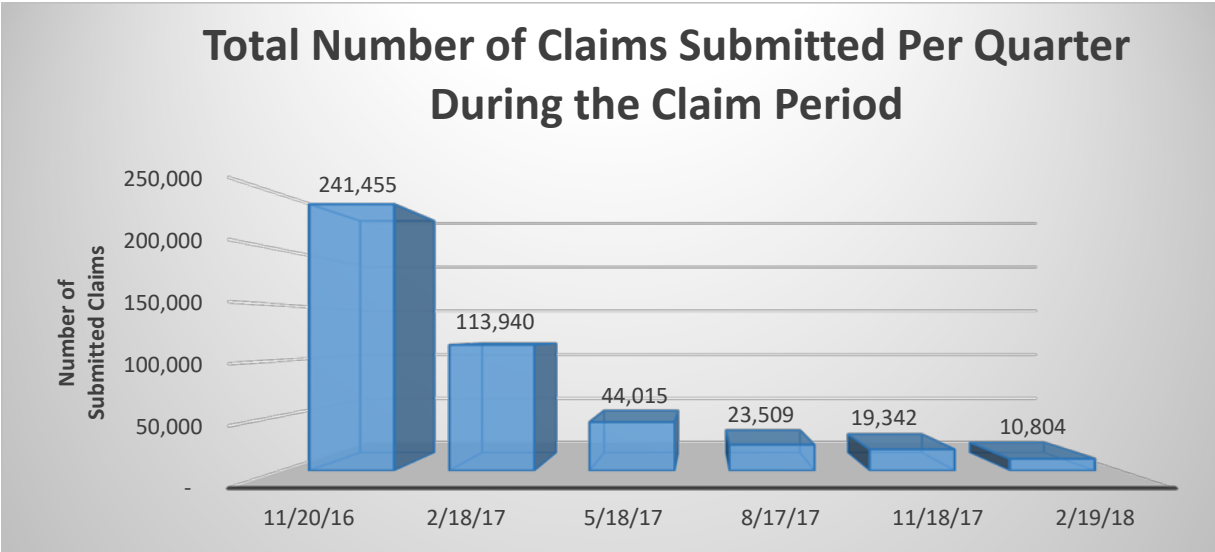
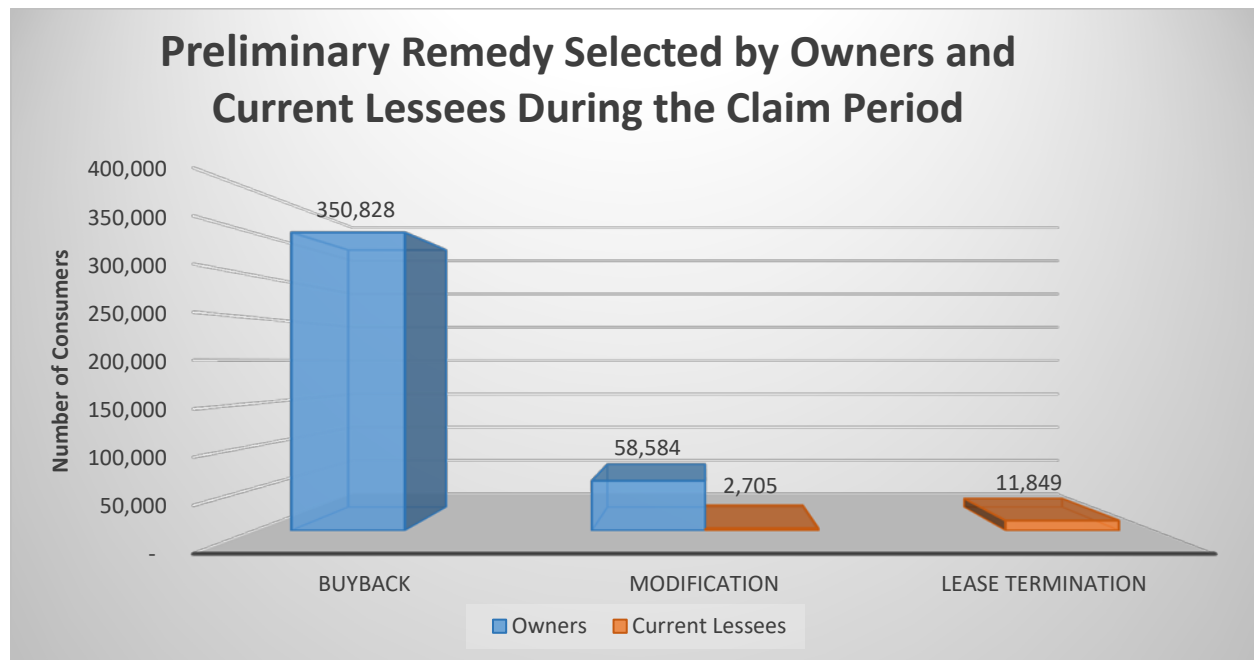


Chart 2-7 shows the preliminary remedy selections for Owners and Current Lessees who had submitted claims through February 19, 2018. The chart does not include the remedy selections for 14,999 Sellers and 4,580 Former Lessees because the only remedy available to these consumers is Restitution, nor does it include four claims where the Eligibility Category was inconsistent with the award type.<sup>7</sup> Chart 2-7 likewise excludes 9,516 cancelled claims, with most cancellations being associated with duplicate claims.

<sup>7</sup> The Eligible Seller figure includes certain Owner claims associated with totaled vehicles. As these types of claims are processed and eligibility is established, the claims are recategorized by Volkswagen as “Seller” claims so that the eligibility category corresponds with the Restitution-only award type. In terms of eligibility, for totaled vehicles where title was transferred to an insurance company between September 18, 2015 and June 27, 2016, the consumer is entitled to Seller Restitution. Consumers who totaled a vehicle and transferred title to an insurance company between June 28, 2016 and September 16, 2016, are not eligible to participate in the Claims Program. Finally, consumers who transfer title to a totaled vehicle after September 16, 2016 are entitled to receive Owner Restitution. Notably, the 189 claims where the Eligibility Category was inconsistent with the award type are Owner claims associated with totaled vehicles where the Owner eligibility category has not yet been changed to “Seller” to match the Restitution-only remedy.

Chart 2-7<sup>8</sup>

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. Through February 19, 2018, excluding the population of 701 claims for which a decision by Volkswagen was pending but the ten-business-day review period had not elapsed, Volkswagen had been required to make 707,806 first ten-business-day review period determinations. The company issued timely decisions in 681,044 instances, amounting to an overall first ten-business-day review period compliance rate of 96.2%. During this quarter, Volkswagen has been required to make 22,409 first ten-business-day review period decisions and timely did so in 21,715 instances, for a quarterly compliance rate of 96.9%.

<sup>8</sup> The total number of Current Lessees who had selected a preliminary remedy as of February 19, 2018 slightly declined as compared to the previous quarter as a result of claim cancellations as well as the recategorization of some Current Lessee claims to different eligibility categories.

Chart 2-8 reflects Volkswagen's performance during the Claim Period in timely issuing first ten-business-day review period decisions. Chart 2-9 shows Volkswagen's overall first ten-business-day review period performance by eligibility categories.

**Chart 2-8**

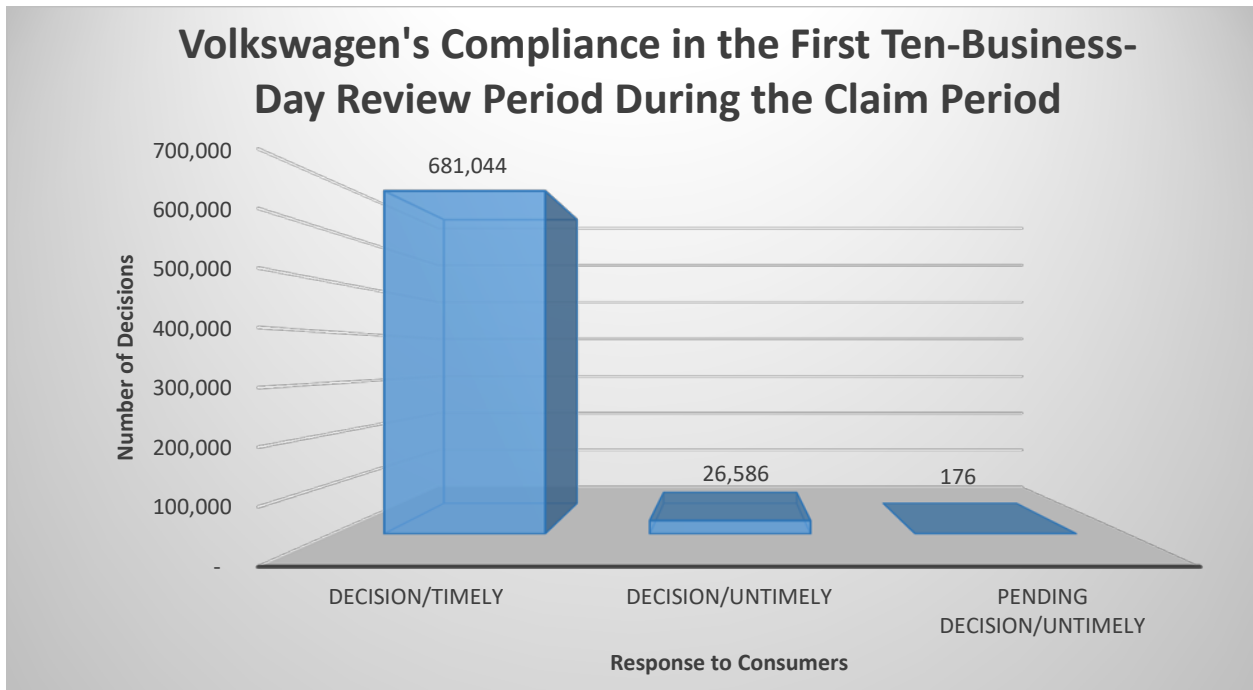


Chart 2-9<sup>9</sup>

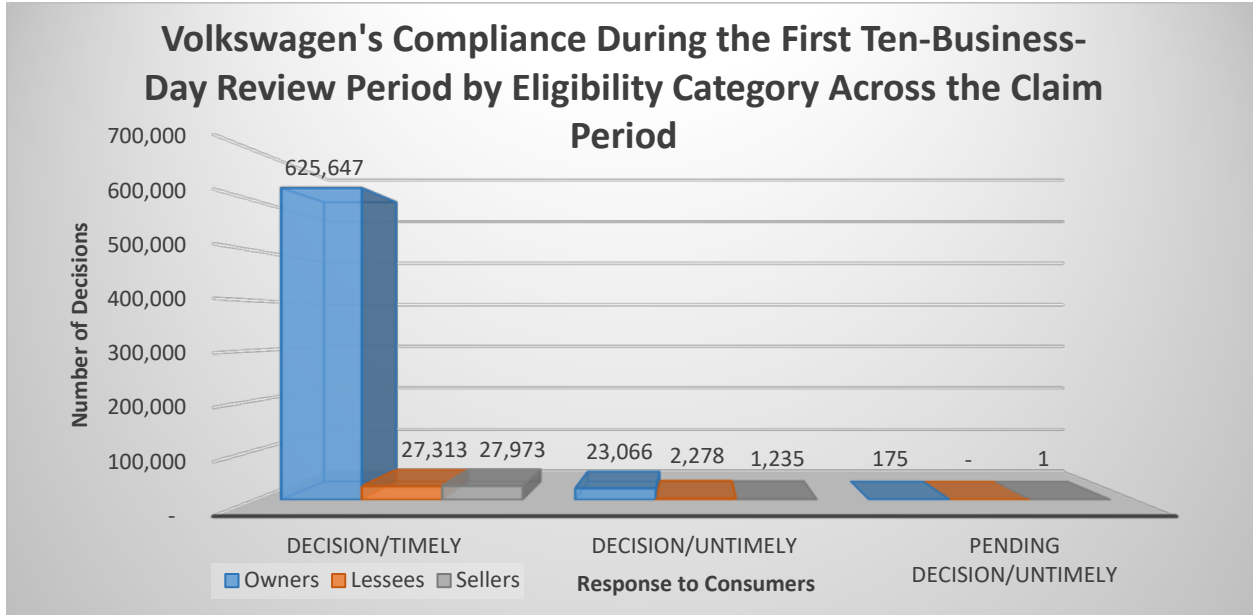
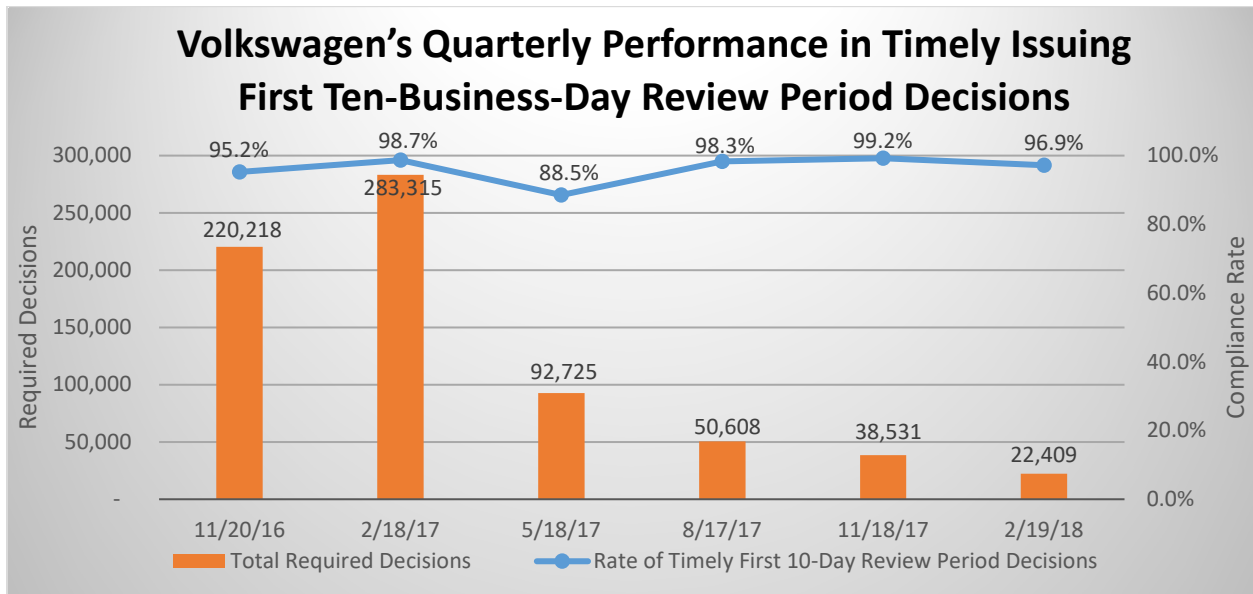


Chart 2-10 shows the number of required first ten-business-day review period decisions by quarter and the company's quarterly compliance rate.

Chart 2-10



<sup>9</sup> The 118 claims not accounted for in Chart 2-9 were ultimately deemed not eligible by Volkswagen during the first ten-business-day review period. Of these claims, 111 claims were timely first ten-business-day review period decisions, and seven were untimely.

Finally, the first ten-business-day review period figures (and the second ten-business-day review period figures below) exclude three groups of consumers who had submitted claims for Volkswagen to process. First, as of February 19, 2018, there were 214 active claims from consumers who initially purchased Eligible Vehicles in the United States but registered them in Canada.<sup>10</sup> As explained in Section III below, Volkswagen will provide these consumers with compensation if they otherwise meet the eligibility requirements. Second, as of February 7, 2018, there were six active claims from consumers who indicated in their claim submissions that they were employees of Volkswagen. Volkswagen has used the claims process to verify the information in these claims submissions and, where verified, engage with these types of consumers. However, these consumers will not receive funds out of the Funding Pool because they are not eligible Class Members. Finally, the timeliness analysis continues to exclude certain claims associated with vehicles with a branded title. As of February 26, 2018, there were 1,935 of these claims that otherwise would have been included in the first ten-business-day review period. Further discussion of the status of branded title claims is set forth in Section III below.<sup>11</sup>

### C. Preliminary Eligibility Determinations and Deficiencies

Through February 19, 2018, a total of 439,891 claims had been determined by Volkswagen to be complete and preliminarily eligible. Of these, 424,869 claims were related to

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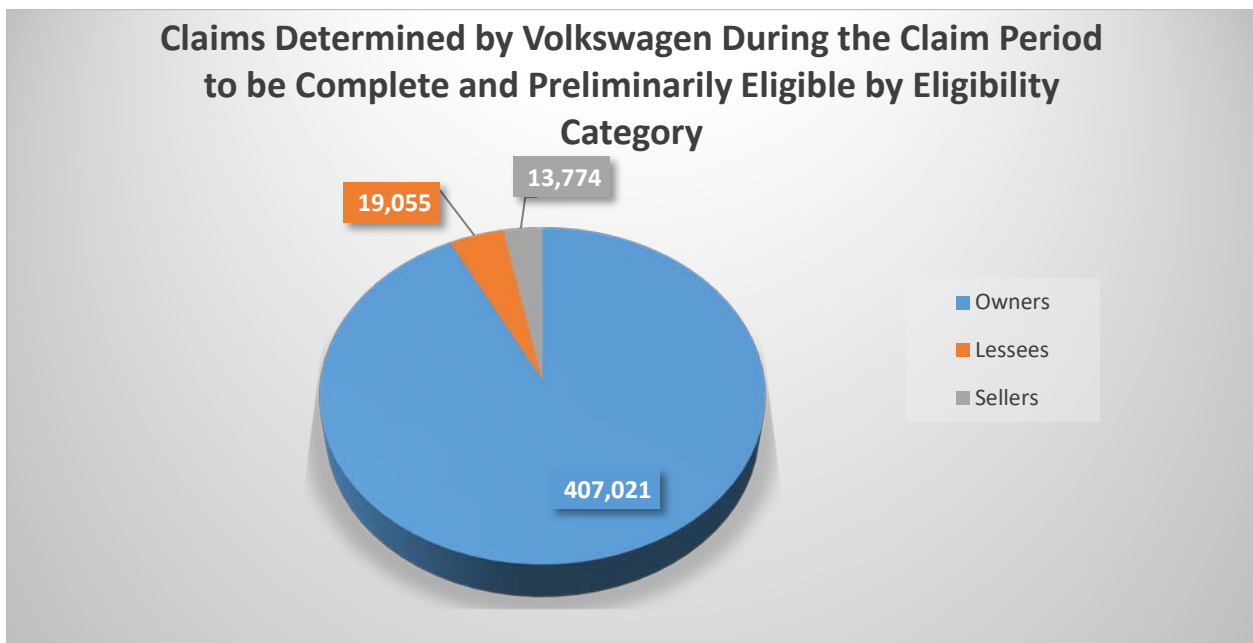
<sup>10</sup> For these purposes, a claim is considered “active” once a consumer submits it, but before a final determination on eligibility and award (or ineligibility) has been rendered.

<sup>11</sup> As discussed in Section III below, the Parties and the CRC recently agreed upon a general framework to process certain branded title claims previously on hold, though they recognize that the unique facts and circumstances of some claims may require further review and collaboration. The company has begun to process branded title claims under the new framework and, as of February 26, 2018, completed the review of twenty-four claims. Going forward, the Claims Supervisor will report on the number of branded title claims that have been processed since the implementation of the new framework. Volkswagen anticipates completing its review of these claims by early May 2018.

individuals and 15,022 claims were related to businesses. During this quarter, the number of claims determined by Volkswagen to be complete and preliminarily eligible increased by 10,405.

Chart 2-11 reflects the cumulative number of claims determined by Volkswagen to be complete and preliminarily eligible by eligibility category, and Chart 2-12 shows the most common states in which Eligible Vehicles associated with preliminarily eligible claims were registered as of February 19, 2018.

**Chart 2-11<sup>12</sup>**



<sup>12</sup> The forty-one claims not accounted for in Chart 2-11 ultimately were deemed not eligible.



Chart 2-12

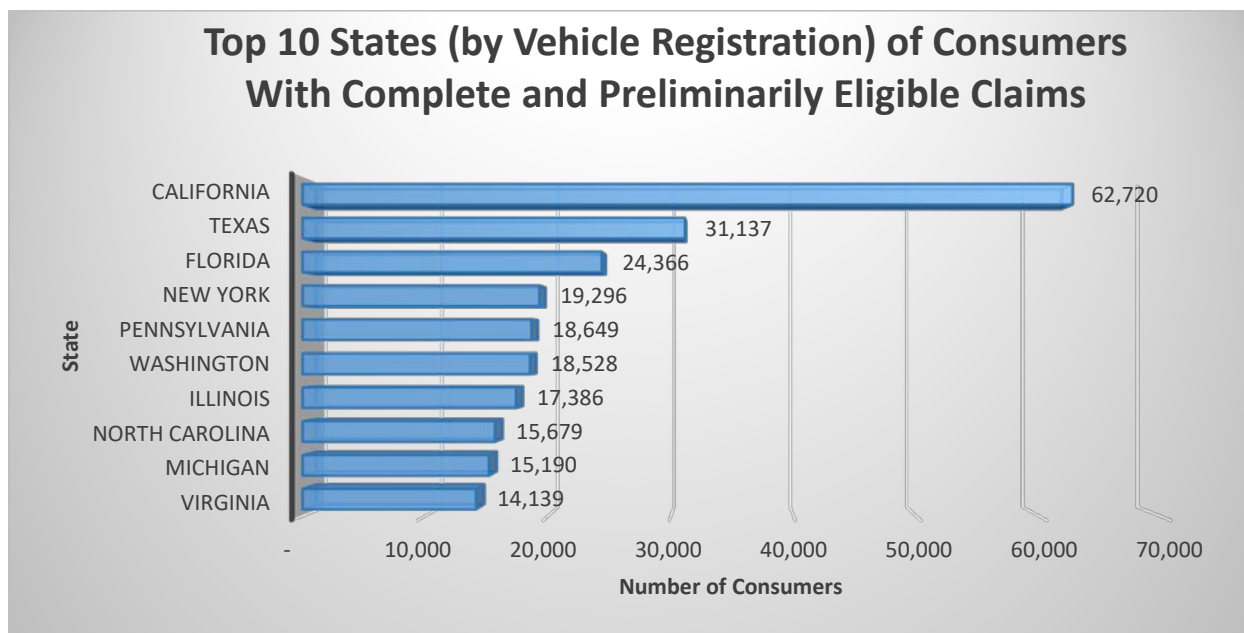


Chart 2-13 reflects the remedies selected by Owners and Current Lessees whose claims Volkswagen had deemed complete and preliminarily eligible as of February 19, 2018. The chart does not include 14,043 Sellers and 4,384 Former Lessees because the only remedy available to those consumers is Restitution.<sup>13</sup> Chart 2-13 also excludes 5,270 cancelled claims that generally were associated with duplicate claim submissions, and 4 claims where the eligibility category was inconsistent with the award type.

<sup>13</sup> As described in footnote 7, Volkswagen generally has classified Owner claims associated with totaled vehicles as Seller claims because the consumer does not possess the Eligible Vehicle and, if eligible, is solely entitled to Restitution. The universe of Eligible Seller claims therefore includes certain Owner claims associated with totaled vehicles.

**Chart 2-13**

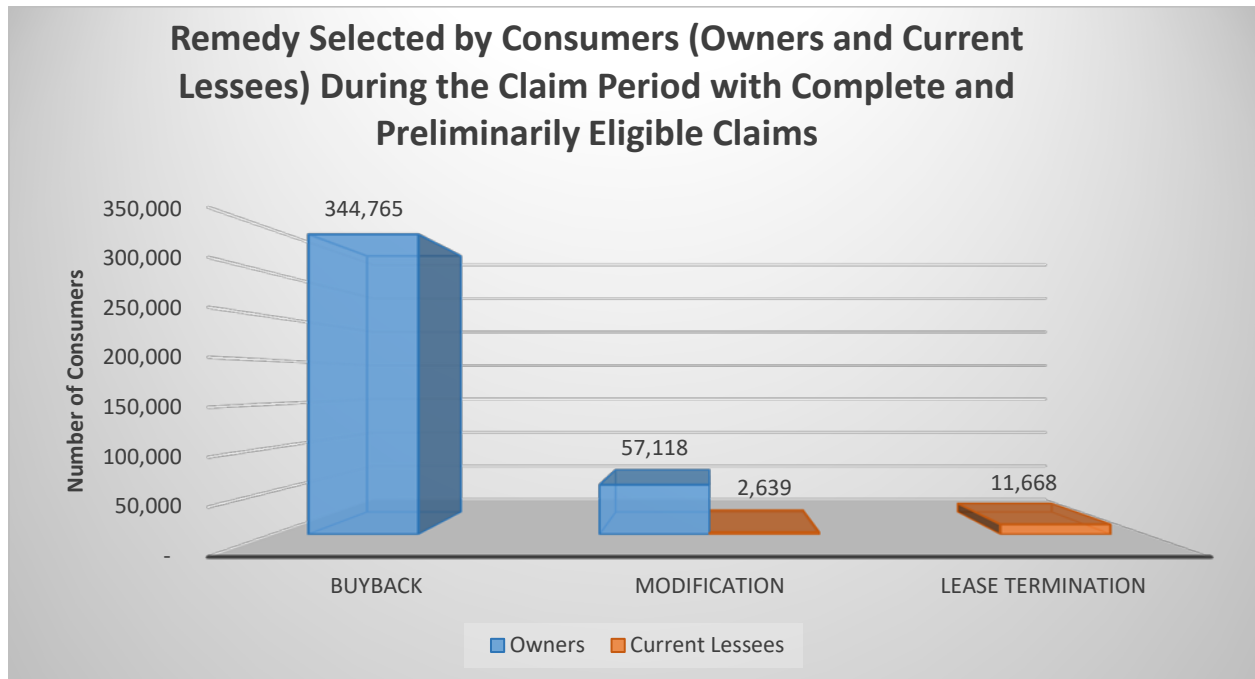
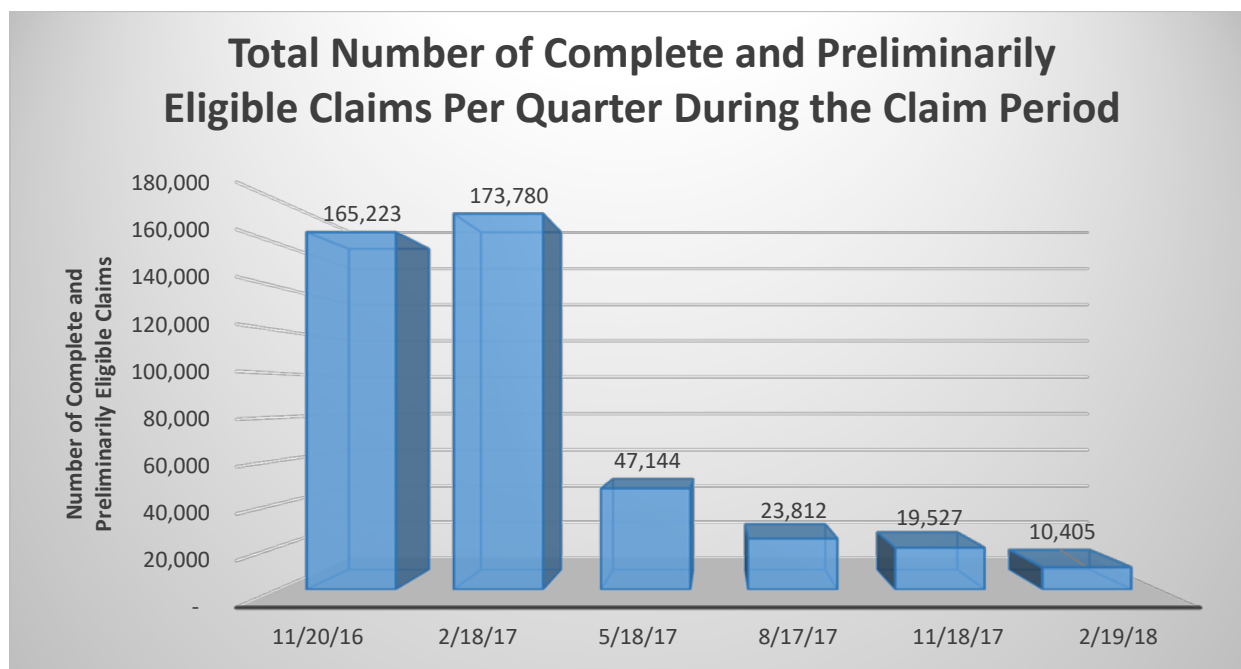


Chart 2-14 shows the total number of claims deemed complete and preliminarily eligible by Volkswagen by quarter.

**Chart 2-14**



Excluding the Subject Vehicles categorized as scrapped, there were 423,959 unique VINs that were the subject of submitted claims, of which 416,495 unique VINs were associated with Owner or Current Lessee claims. Through February 19, 2018, Volkswagen had deemed claims associated with 419,346 unique VINs complete and preliminarily eligible, including 411,510 unique VINs where a claim was submitted by an Owner or Current Lessee.<sup>14</sup>

Additionally, through February 19, 2018, there were 191,702 instances where Volkswagen had deemed a claim deficient during the first ten-business-day review period, spread across 132,269 unique claims. More than 380,000 deficiency codes had been applied by Volkswagen as of that date, as multiple deficiencies may be associated with a given claim submission. The most common deficiency codes have been: (i) an incorrect document was uploaded (100,989 claims); (ii) a document was missing pages (71,032 claims); (iii) a document was illegible (60,174 claims); (iv) a document was incomplete or the document image was cut off (28,458 claims); and (v) a name on the document did not match the name in the Claims Portal (20,172 claims).

Across these 132,269 deficient claims, 126,269 consumers (95.5%) had made at least one attempt to cure the deficiency, while 6,000 (4.5%) had not yet attempted to cure. Among the consumers who had attempted to cure: (i) 121,816 consumers (96.5%) successfully cured the deficiency; (ii) 590 consumers (0.5%) resubmitted claims that were pending a completeness determination by Volkswagen as of February 19, 2018; and (iii) 3,863 consumers (3.1%) had not resubmitted claims after their initial attempt to cure the deficiency was unsuccessful.

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<sup>14</sup> Volkswagen also received claims related to 6,796 VINs that previously were presumed to be scrapped, inclusive of 6,175 unique VINs that were the subject of Owner or Current Lessee claims.

As of February 19, 2018, there were 5,385 consumer claims with active deficiencies. Across claims with active deficiencies, the most common deficiencies were: (i) an incorrect document was uploaded (3,040 claims); (ii) a name on the documents did not match the name in the Claims Portal (1,485 claims); (iii) a document was illegible (735 claims); (iv) the VIN of the Eligible Vehicle did not match the VIN in the consumer's submission (456 claims); and (v) a document was incomplete or the document image was cut off (426 claims).

Finally, the Claims Supervisor reviewed a sample of 1,200 claims deemed deficient during this quarter by Volkswagen reviewers to assess whether they were properly applying deficiency codes. Out of this population of claims, the Claims Supervisor substantiated Volkswagen's deficiency code determinations in 1,148 instances. This concurrence rate of 95.7% is similar to those from recent quarters. Disagreements related to "complex documents" determinations continued to decrease during the quarter,<sup>15</sup> and disagreements involving financial consent form and registration documents likewise continued to decrease. There were marginal increases in disagreements involving identification documents and title documents.<sup>16</sup>

#### 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 this same review period, the

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<sup>15</sup> "Complex documents" include: power of attorney; death certificate; proof of VW Credit, Inc. account; corporate document; previous registration; proof of acquisition; proof of name change; proof of vehicle transfer to insurance; proof of lease conversion; paper claim forms; and proof of sale documents.

<sup>16</sup> Where a disagreement in the application of a deficiency code is the sole reason a claim had been deemed deficient, the claim is raised by the Claims Supervisor to Volkswagen for re-evaluation of the company's deficiency determination.

Claims Supervisor must independently verify Volkswagen's completeness and eligibility determinations as well as its offer calculation before an offer letter can issue.<sup>17</sup>

As of February 19, 2018, a total of 446,275 consumers had submitted claims that reached the second ten-business-day review period having been deemed preliminarily eligible by Volkswagen, including 11,174 claims that reached the second ten-business-day review period during this quarter.<sup>18</sup> Of these, 425,881 claims related to individuals and 20,394 claims related to businesses. Across this population, 437,273 consumers (98.0%) had been issued offer letters, inclusive of 10,817 offer letters issued during this quarter.

Through February 19, 2018, excluding the 1,148 claims that were still pending a determination by Volkswagen but for which the second ten-business-day review period had not yet elapsed, Volkswagen had been required to make 516,182 second ten-business-day review period decisions. The company had timely made the required determinations in 369,097 instances, for a cumulative compliance rate of 71.5%. During this quarter, Volkswagen was

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<sup>17</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. Through February 19, 2018, there had been 4,176 claims that had been deemed ineligible upon review by Volkswagen. For 2,054 of those claims, the ineligibility determinations were verified by the Claims Supervisor and communicated by Volkswagen to the consumer. The remaining claims that were not actively under review predominantly included instances where the Claims Supervisor determined, and Volkswagen agreed, 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 ineligible.

<sup>18</sup> As described above, there were 439,891 consumers whose claims were deemed complete and preliminarily eligible by Volkswagen, but 446,275 preliminarily eligible claims reached the second ten-business-day review period. While these figures theoretically should be identical, historically, there had been a divergence of slightly less than one-thousand claims that was primarily due to instances where claims had reached the second ten-business-day review period without having triggered the status in Volkswagen's system that indicates the start or conclusion of the first ten-business-day review period. In the past few months, however, the divergence increased significantly. The increase in the variance is a result of claims specially created in Volkswagen's system to represent Seller claims submitted by fleet vehicle owners that were reviewed, verified, and paid through an offline process. These claims appear to have skipped the status that triggers the conclusion of the first ten-business-day review period. The divergence would not substantively affect claims processing. It is only reflected when data is queried to generate aggregated figures for reporting purposes.

required to make 15,027 second ten-business-day review period decisions and timely did so in 14,355 instances, yielding a 95.5% compliance rate.

Despite Volkswagen’s substantially improved performance in timely rendering second ten-business-day decisions over the last four quarters, the company’s cumulative compliance rate has improved by only 10.0% since the February 2017 reporting period because of the comparatively smaller volume of claims that have required processing. The 15,027 instances of required second ten-business-day review period determinations over the last three months is only 4.2% of the 362,034 instances of second ten-business-day review period decisions that were required during the first four months of the Claim Period when Volkswagen’s compliance rate for timely issuing second ten-business-day review period determinations was lower.

Chart 2-15 reflects Volkswagen’s compliance in timely issuing second ten-business-day review period decisions, and Chart 2-16 shows compliance by eligibility category.

**Chart 2-15**

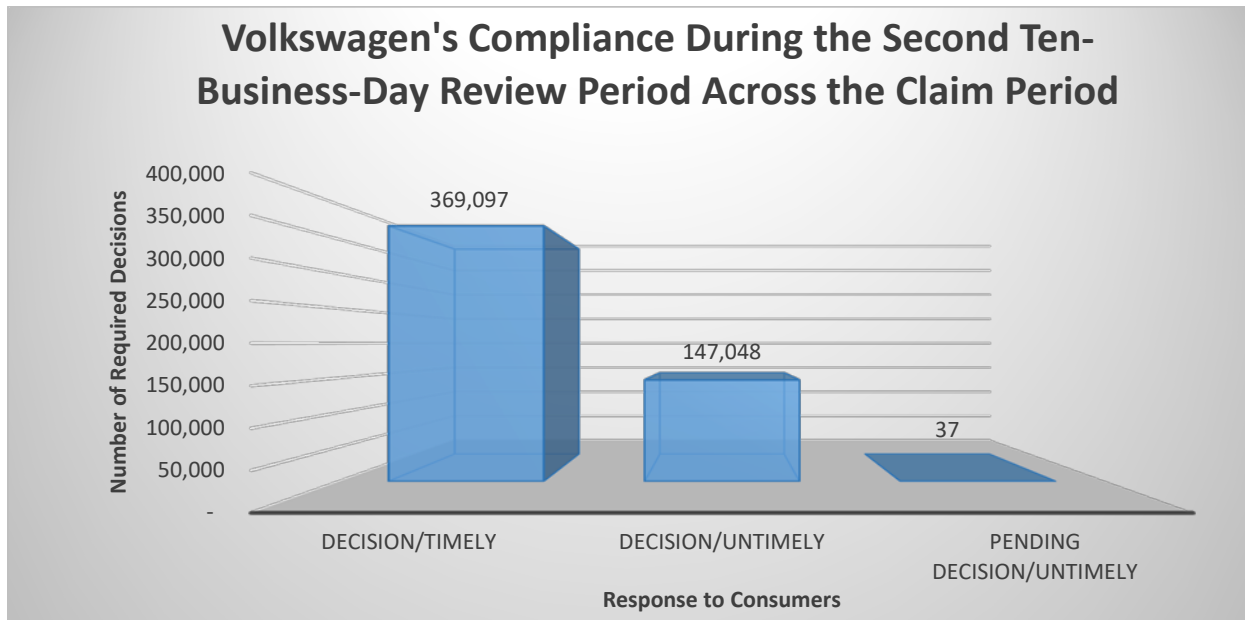


Chart 2-16<sup>19</sup>

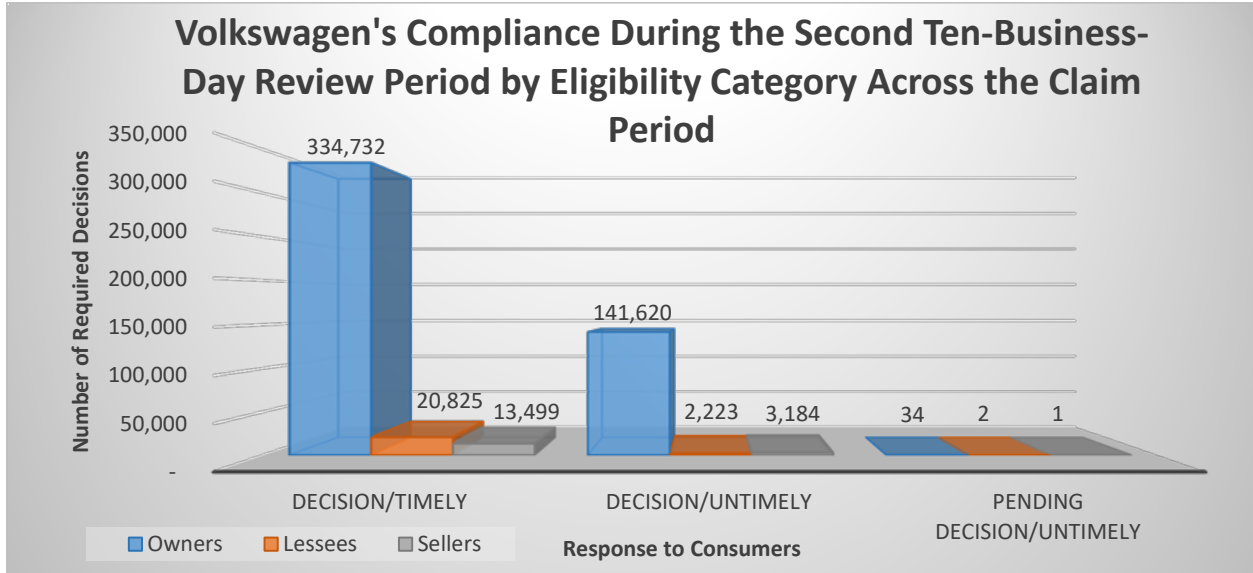
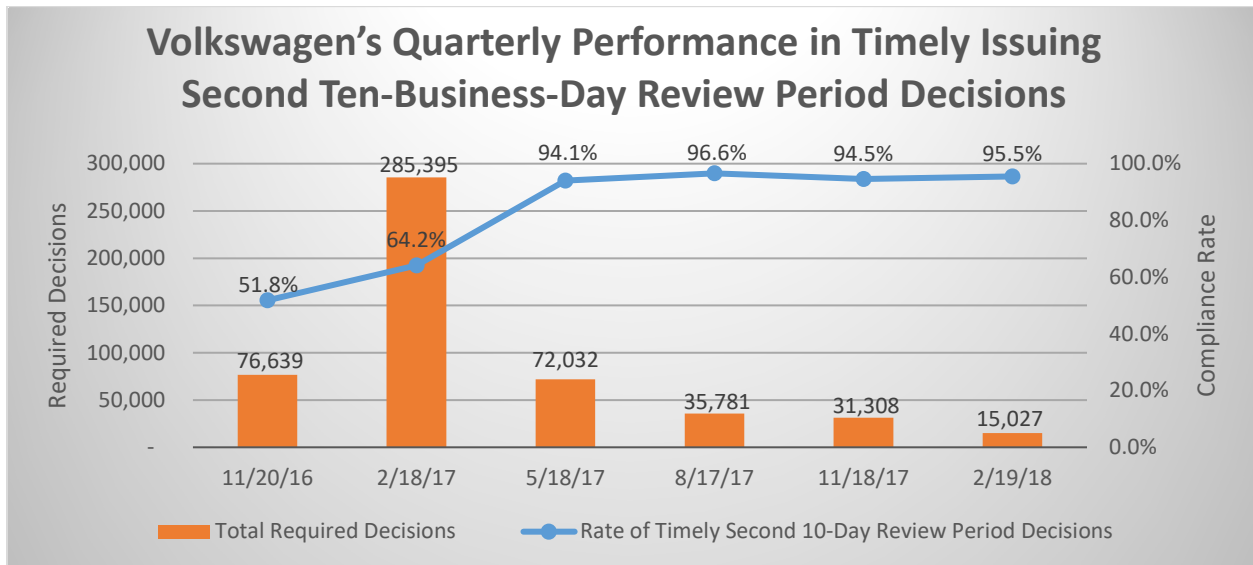


Chart 2-17 reflects the number of required second ten-business-day review period decisions by quarter as well as Volkswagen’s quarterly compliance rate.

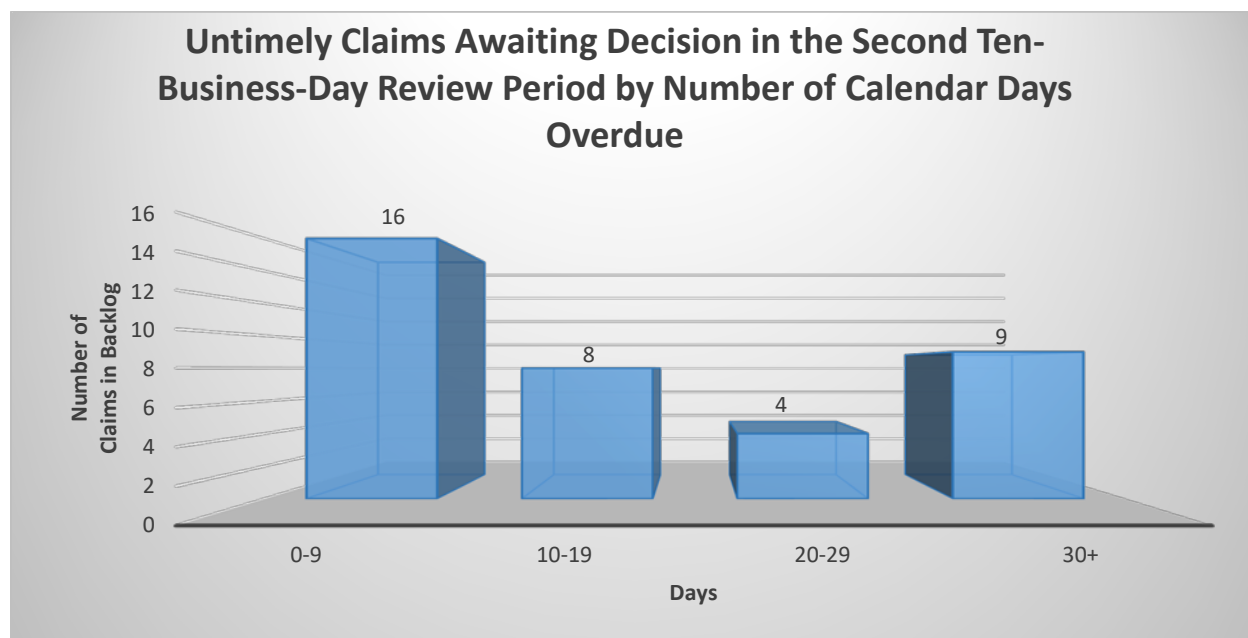
Chart 2-17



<sup>19</sup> Of the sixty-two claims not accounted for in Chart 2-16, sixty involved claims that were deemed not eligible. Forty of these claims were timely second ten-business-day review period decisions, and twenty were untimely. The remaining two claims related to determinations where the consumer changed the eligibility category after the claim was deemed deficient during the second ten-business-day review period. One determination was timely and the other was untimely.

Chart 2-18 shows the thirty-seven claims in Volkswagen's backlog as of February 19, 2018, by the number of calendar days that the claims are overdue.

**Chart 2-18**



Of the thirty-seven claims in Volkswagen's backlog, twenty-five overdue claims related to totaled vehicles. Another six claims required action by Volkswagen to resolve a document deficiency, non-document deficiency, or eligibility concern associated with the claim. The remaining six claims either were awaiting Volkswagen's generation of an offer letter or Volkswagen's resolution of a deficiency associated with a generated offer letter.<sup>20</sup>

**E. Offer Letters**

Through February 19, 2018, Volkswagen had issued 437,273 offer letters, the aggregate value of which totaled \$7,942,094,359.25. Of these, 418,057 offer letters with an aggregate value of \$7,577,258,869.74 were issued to individuals. The remaining 19,216 offer letters were

<sup>20</sup> As discussed in footnote 11 above, claims associated with branded titles have historically been excluded from the timeliness analysis. Based on available data, as of February 26, 2018, there were 1,199 of these claims pending in the second ten-business-day review period. There were another 258 pending claims that were not in either the first or second ten-business-day review periods.



issued to businesses and were aggregately valued at \$364,835,489.51. During this quarter, Volkswagen issued 10,817 offer letters aggregately valued at \$181,038,257.14.

Chart 2-19 shows the total number of offer letters issued by Volkswagen to consumers during each quarter of the Claim Period, and Chart 2-20 shows the total number of offer letters issued by Volkswagen over the last four months by eligibility category.

**Chart 2-19**

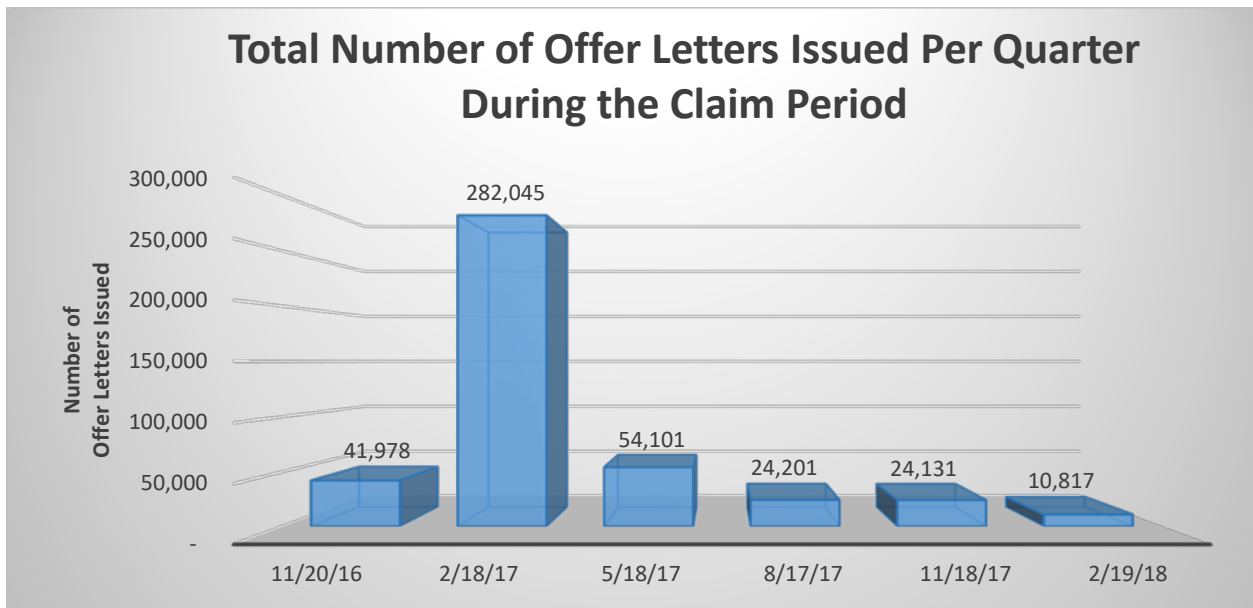


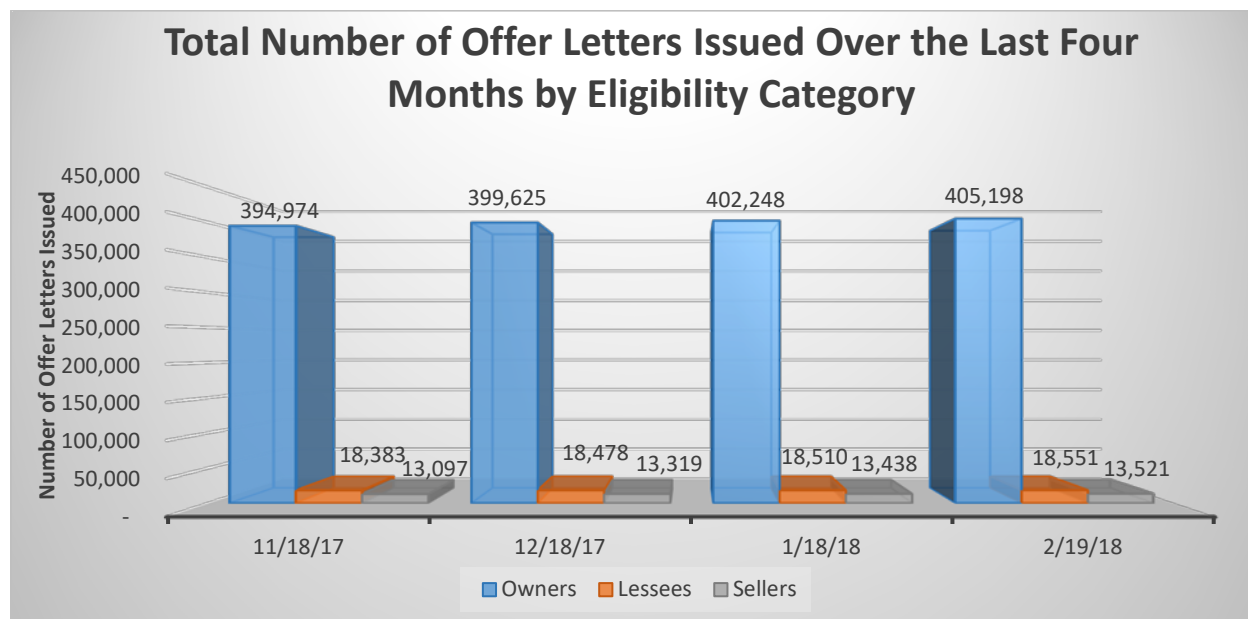
Chart 2-20<sup>21</sup>

Chart 2-21 reflects offer letters issued to Owners and Current Lessees by remedy selections. The chart excludes 13,851 Sellers and 4,297 Former Lessees because the only remedy available to those consumers is Restitution.<sup>22</sup> An additional four offers reflected an inconsistency between the consumer's eligibility category and the remedy selection. The remaining three offers were associated with claims subsequently deemed not eligible.

<sup>21</sup> The three claims not captured in Chart 2-20 ultimately were deemed not eligible. Some instances have been identified where 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 the second ten-business-day review period were resolved. As a result, a few claims for which offer letters had been generated ultimately were deemed ineligible.

<sup>22</sup> As described in footnote 7, Volkswagen generally has classified Owner claims associated with totaled vehicles as Seller claims because the consumer does not possess the Eligible Vehicle and, if eligible, is solely entitled to Restitution. The universe of Eligible Seller claims therefore includes certain Owner claims associated with totaled vehicles.

**Chart 2-21<sup>23</sup>**

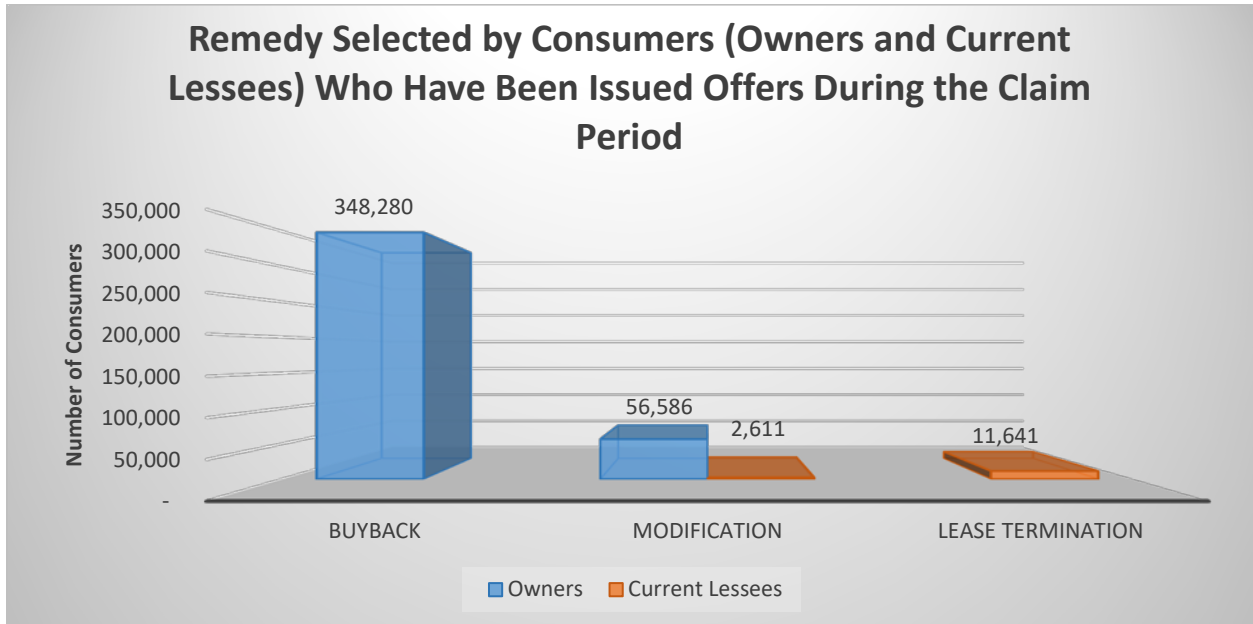
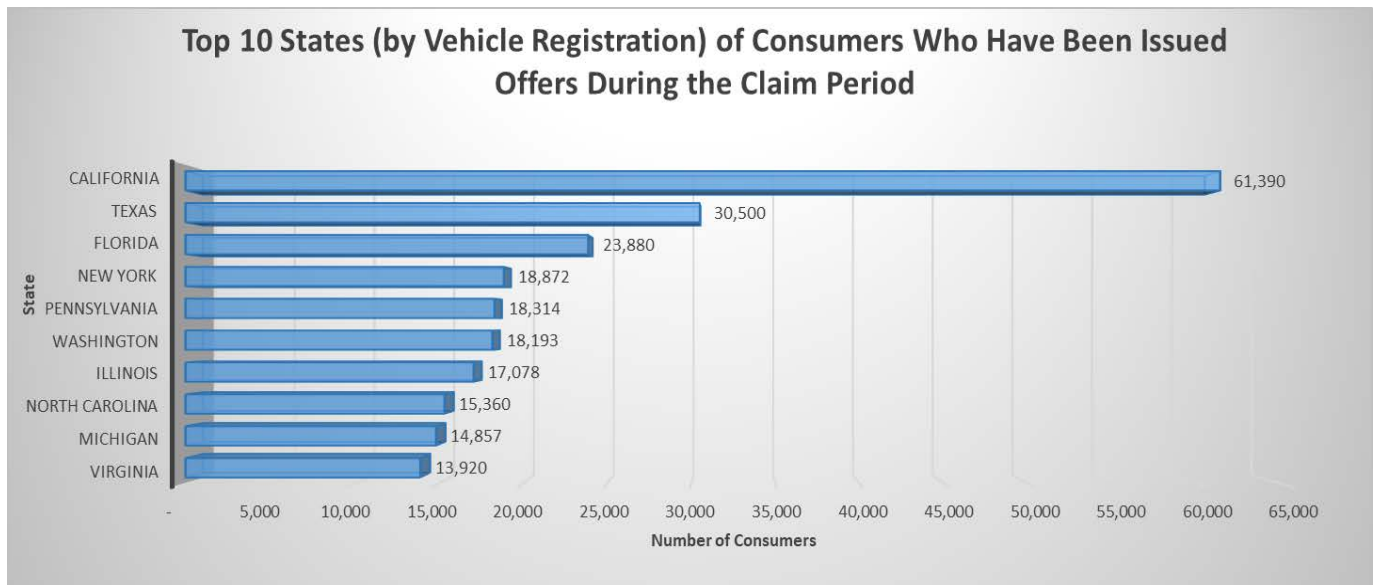


Chart 2-22 reflects, through February 19, 2018, the top ten states by vehicle registration of consumers who had received offer letters.

**Chart 2-22**



<sup>23</sup> The total number of offer letters issued to Current Lessees only slightly increased as compared to the previous quarter as a result of claim cancellations and recategorizations to other eligibility categories.

Through February 19, 2018, of the \$7.942 billion associated with offer letters extended by Volkswagen, Owners account for about \$7.832 billion. Of these, about \$4.080 billion related to Owners with loans, about \$3.750 billion related to Owners without loans, and about \$2.3 million related to Owners who purchased the vehicle off lease after September 18, 2015, but before June 28, 2016. The remainder was split among Current Lessees (14,253 offer letters valued in the aggregate at about \$50.8 million); Sellers (13,521 offer letters valued in the aggregate at about \$44.3 million); and Former Lessees (4,298 offer letters valued in the aggregate at about \$14.5 million).

Chart 2-23 shows the average, minimum, and maximum awards issued to consumers based on eligibility category and offer selection through February 19, 2018.

**Chart 2-23**

<b>Eligibility Category and Offer Selection</b>	<b>Average Value</b>	<b>Minimum Value</b>	<b>Maximum Value</b>
Owner - Buyback	\$21,492.44	\$5,100.00	\$45,407.93
Owner - AEM	\$6,031.82	\$2,274.00	\$9,991.13
Current Lessee - AEM	\$3,551.57	\$2,506.50	\$4,899.30
Current Lessee - Early Lease Termination	\$3,564.83	\$2,609.00	\$4,954.80
Former Lessee Restitution	\$3,365.68	\$2,504.00	\$4,885.30
Seller Restitution	\$3,336.17	\$2,550.00	\$8,710.33 <sup>24</sup>

<sup>24</sup> As described in footnote 7, Volkswagen has classified claims associated with totaled vehicles that were transferred to an insurance company subsequent to September 16, 2016 as Eligible Seller claims despite the fact these consumers are eligible for, and have been paid, consistent with the Owner Restitution formula. As a result, the maximum value for Seller Restitution depicted in Chart 2-23 reflects an offer amount for a claim associated with a totaled vehicle transferred to an insurance company subsequent to September 16, 2016, properly calculated using the Owner Restitution formula. The inclusion of Restitution offers associated with vehicles transferred to an insurance company subsequent to September 16, 2016, properly calculated using the Owner Restitution formula, within the universe of Seller claims slightly skews upward the average for Restitution awards associated with Seller claims.

Finally, Chart 2-24 shows, through February 19, 2018, data related to two categories of non-standard claimants: (i) military personnel deployed overseas with their vehicles; and (ii) decedent estates.<sup>25</sup>

**Chart 2-24**

	<b>Military Overseas</b>	<b>Decedent Estates</b>
Registrations	2,670	1,066
Deemed Complete and Eligible	2,556	875
Offer Letters Issued	2,529	833
Total Offer Amounts	\$49,202,251.62	\$16,183,427.71

Notably, the military overseas claim data included all consumers who self-identified as military overseas in their registrations. Through outbound communications to these individuals, as of February 20, 2018, Volkswagen had identified 755 claims where both the consumer and vehicle were located overseas. The status of these claims and information regarding completed closings is discussed in greater detail in Section III below. The remaining consumers who identified as military personnel serving overseas either have returned to the United States or currently keep their vehicle in the United States. For either category, closing can proceed in the United States in the normal course.

F. Appointments and Closings

As of February 19, 2018, a total of 423,901 consumers had accepted offer letters from Volkswagen, the aggregate value of which totaled \$7,749,450,325.59.<sup>26</sup> Of these, 405,104 offer letters were issued to individuals with an aggregate value of \$7,391,758,388.05, and the remaining 18,797 offer letters were issued to businesses with an aggregate value of

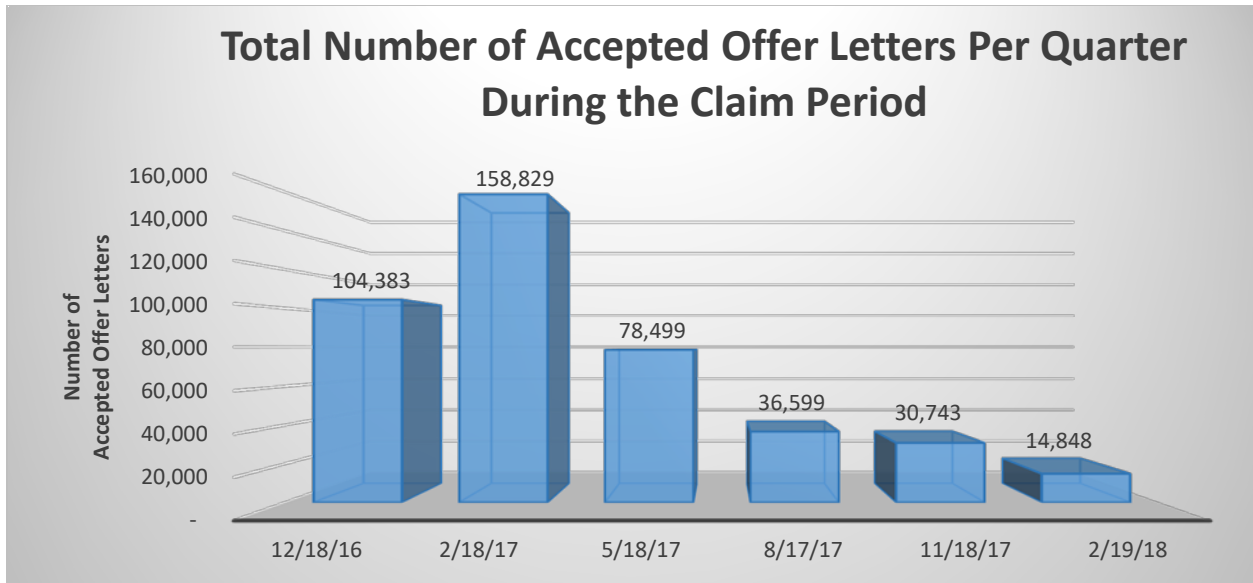
<sup>25</sup> The numbers of military overseas registrations created by these consumers and claim submissions are less than the figure reported in the November 2017 Report because of the identification of duplicate claims that were cancelled.

<sup>26</sup> In addition to Owners and Current Lessees, this figure includes Former Lessees and Eligible Sellers who were not required to proceed through the closing phase because they did not have possession of an Eligible Vehicle. Information on payments made to Former Lessees and Sellers is set forth below.

\$357,691,937.54. During this quarter, 14,848 consumers accepted offer letters, the aggregate value of which totaled \$231,239,513.14.

Chart 2-25 shows the number of accepted offer letters during each quarter of the Claim Period.

**Chart 2-25**



As of February 19, 2018, a total of 348,789 consumers had scheduled closing appointments, including 13,882 consumers who had scheduled closing appointments during this quarter.<sup>27</sup> Within this group: 343,908 consumers (98.6%) had appointments that resulted in the completion of a closing; 2,415 consumers (0.7%) had open, scheduled appointments that had yet to occur; and 2,466 consumers (0.7%) had an appointment that was cancelled and that they had yet to reschedule.

<sup>27</sup> In addition to Former Lessees and Sellers who do not need to proceed through the closing process, appointment figures associated with accepted offers also exclude Owners and Current Lessees who have scheduled AEMs. AEM appointments are coordinated directly with dealerships. Information through February 7, 2018 on completed AEMs is set forth below.

Chart 2-26 shows at different times during the Claim Period the change in the number of open and closed appointments for Owners and Current Lessees who elected a Buyback or Early Lease Termination remedy.

**Chart 2-26**

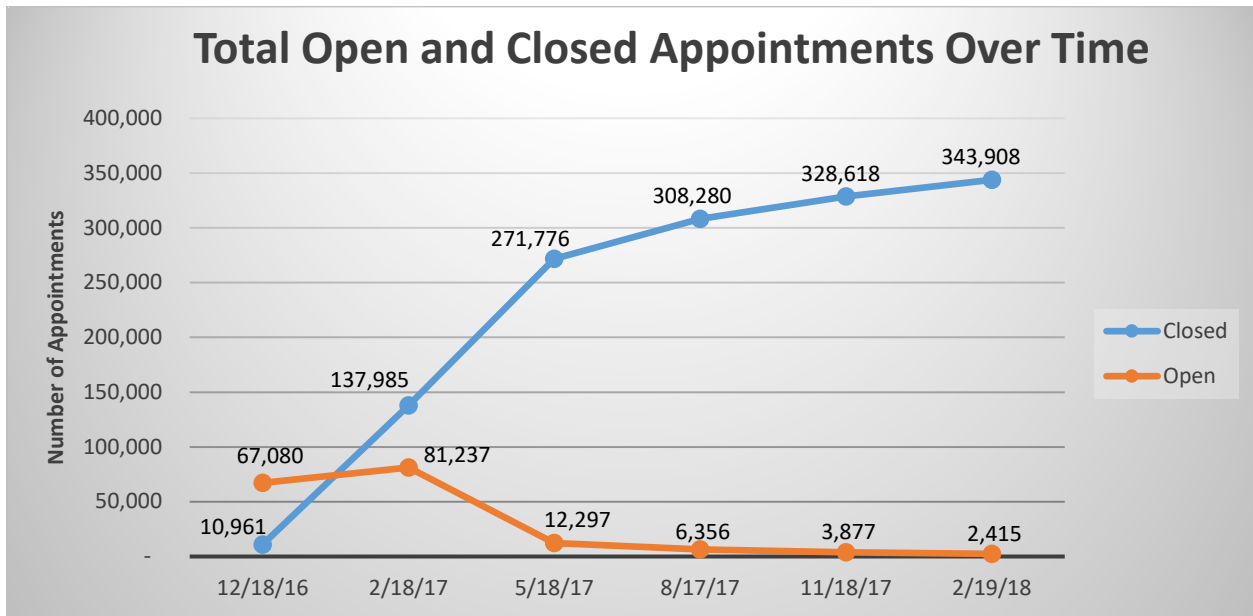
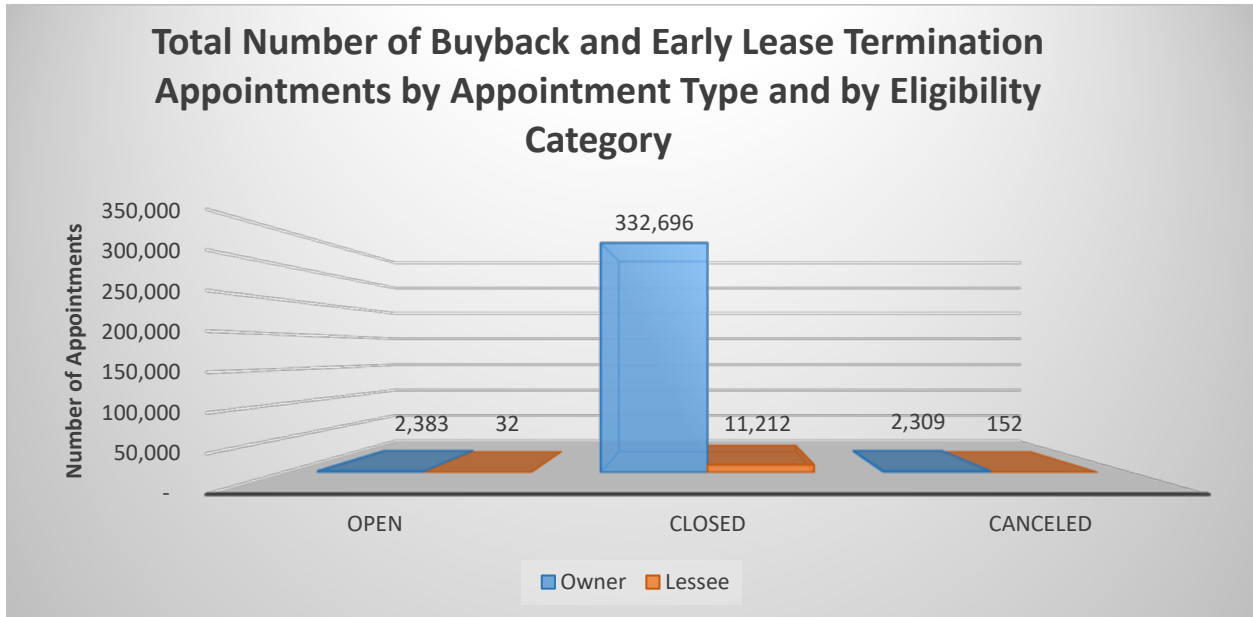


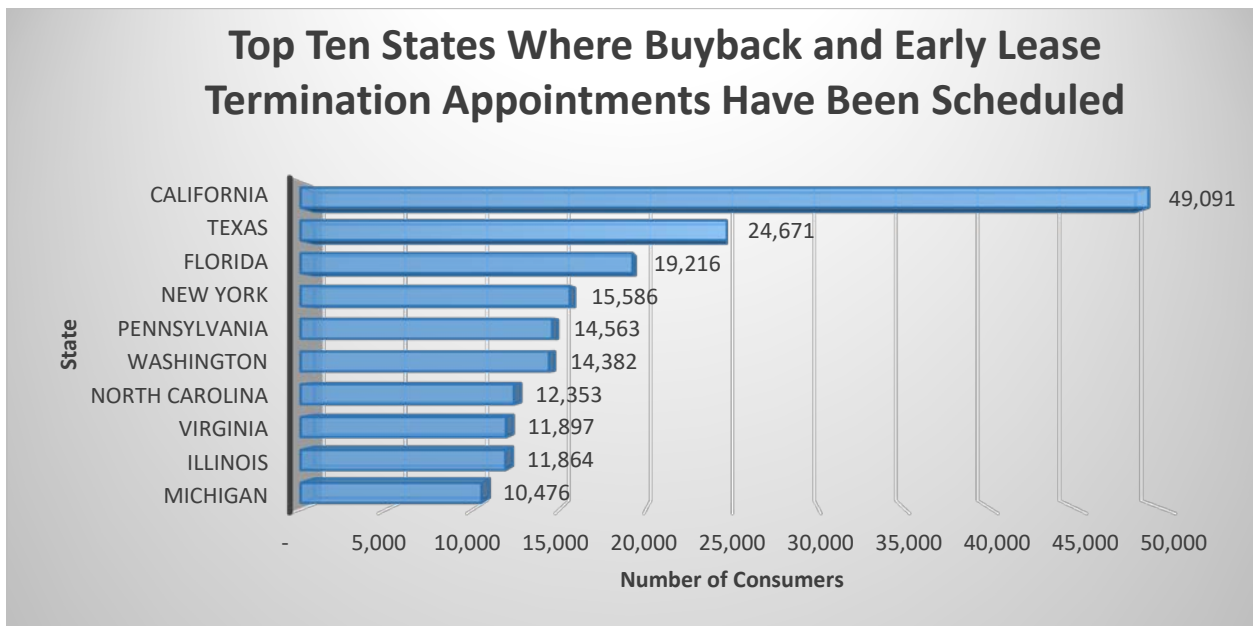
Chart 2-27 shows, for consumers who had scheduled appointments for Buybacks or Early Lease Terminations as of February 19, 2018, the total number of appointments by appointment type across the Owner and Current Lessee eligibility categories.

**Chart 2-27<sup>28</sup>**



Through February 19, 2018, the most common locations where appointments were scheduled (states and cities) are set forth in Charts 2-28 and 2-29, respectively.

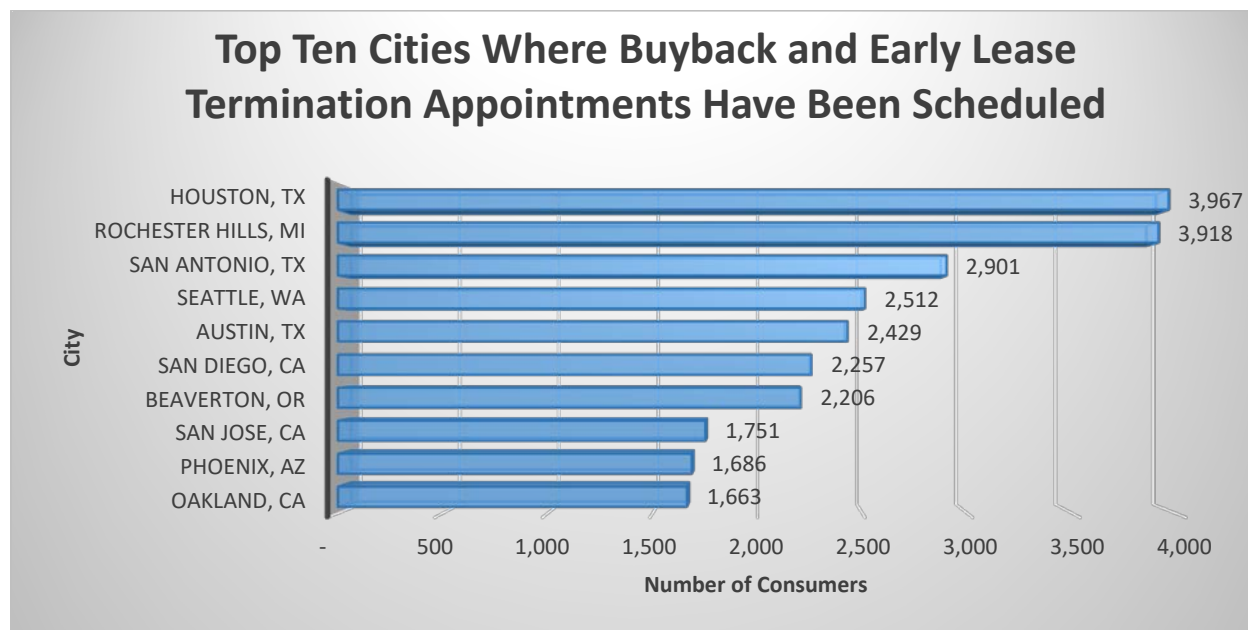
**Chart 2-28**



<sup>28</sup> The five cancelled appointments not shown in Chart 2-27 relate to claims deemed not eligible after consumers requested those claims be cancelled in order to submit additional information or change their eligibility category.



Chart 2-29



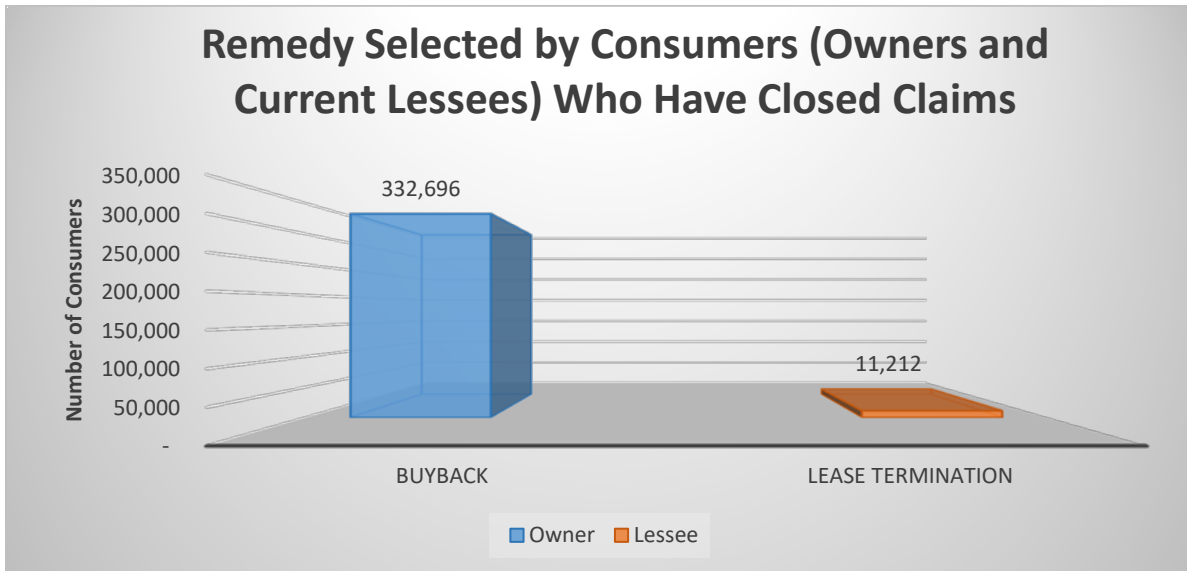
As of February 19, 2018, there had been a total of 76,702 instances where scheduled appointments had resulted in cancellation. Of these, 68,851 (89.8%) were cancelled at the consumer's request. Other reasons for cancellations included: (i) the consumer not showing up to the closing appointment (2,919 instances); (ii) the vehicle's mileage at turn-in requiring Volkswagen to reduce the amount owed to a consumer who elected to be paid by check, necessitating that Volkswagen issue a new check for the correct amount (1,384 claims);<sup>29</sup> (iii) the title not being brought to the closing (569 instances); (iv) the individual with power of attorney not being present at the closing (337 instances); and (v) the title holder not being present at the closing (312 instances).

For the 343,908 appointments that had resulted in closing as of February 19, 2018, Volkswagen had issued payments totaling \$7,363,847,094.67. Chart 2-30 reflects the remedies

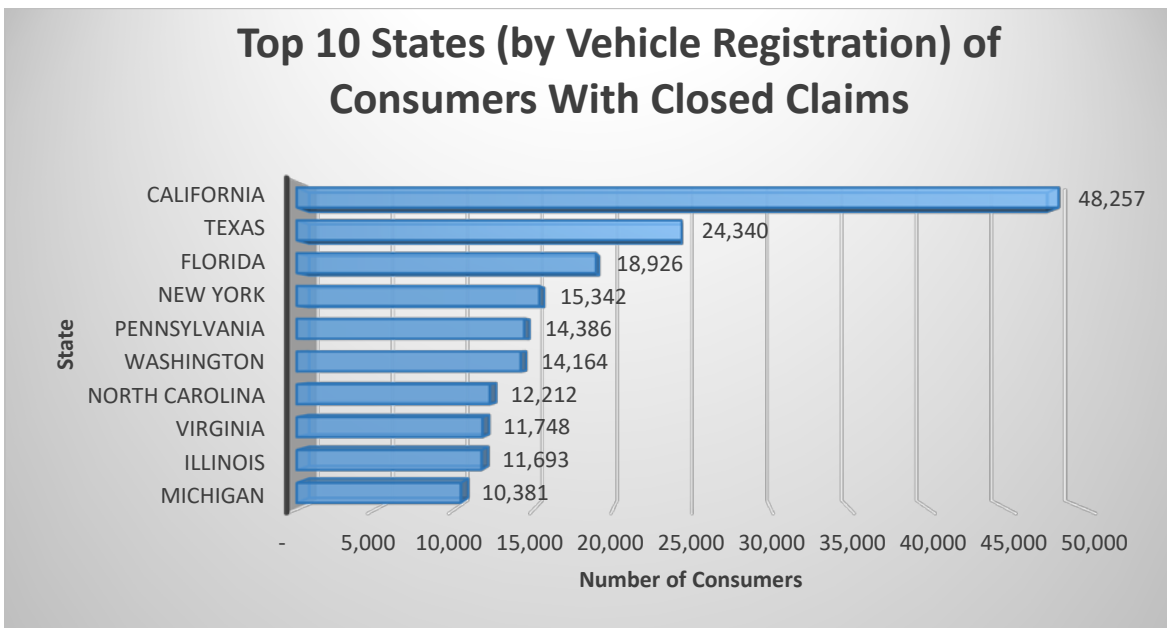
<sup>29</sup> These were all cancellations from much earlier in the Claim Period, as cancellations for being over-mileage should no longer occur based on previous process improvements implemented by Volkswagen.

that this population had selected.<sup>30</sup> Chart 2-31 shows the top ten states for consumers who proceeded through closing, based on the state in which their vehicle was registered.

**Chart 2-30**



**Chart 2-31**



<sup>30</sup> Consumers proceeding through the closing process have the choice to receive funds from Volkswagen by electronic funds transfer (“EFT”) or by check. The data show that, as of February 19, 2018, across closed appointments, approximately 76.2% of consumers have elected to be paid by EFT.

With respect to AEM remedy selections, as of February 7, 2018, a total of 29,130 consumers with Generation 1 Vehicles and 9,055 consumers with Generation 2 automatic transmission Passats who elected an AEM remedy had the AEM performed on their vehicle and also had completed the claims process.<sup>31</sup> These consumers are entitled to full payment of the offer amount once the AEM is completed, and Volkswagen had issued payments totaling approximately \$163.7 million and \$56.7 million, respectively, on these claims. There were an additional 990 claims associated with Generation 1 Vehicles and 321 claims associated with Generation 2 automatic transmission Passats where an AEM had been completed at a dealership while a consumer had either registered but not yet submitted a complete claim for Volkswagen to review, or had submitted a claim that was pending a determination by the company. Finally, an AEM had been completed on 162 Generation 1 Vehicles and 66 Generation 2 automatic transmission Passats; however, the consumer had not yet registered a claim associated with the vehicle. These consumers remain eligible for funding through the Claims Program provided that they register and substantiate their eligibility by submitting all required documentation including a “repair order” evidencing proof of repair.<sup>32</sup>

As to Generation 3 Vehicles, a total of 11,024 consumers who elected an AEM remedy had both submitted claims and completed the first phase of the AEM process -- removal of the defeat device software. Completion of the first phase triggers a payment under the terms of the Resolution Agreements to the consumer of two-thirds of the AEM Restitution amount.

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<sup>31</sup> Aggregated payment figures for AEM claims are derived from Volkswagen data provided each month on the number of completed AEMs.

<sup>32</sup> Consumers who complete an AEM without registering a claim are notified at the time of their closing appointment that, once the AEM is completed, they will no longer be eligible for a Buyback or Early Lease Termination. Once they decide to proceed with the AEM, they are provided information as to how to file a claim for Restitution.

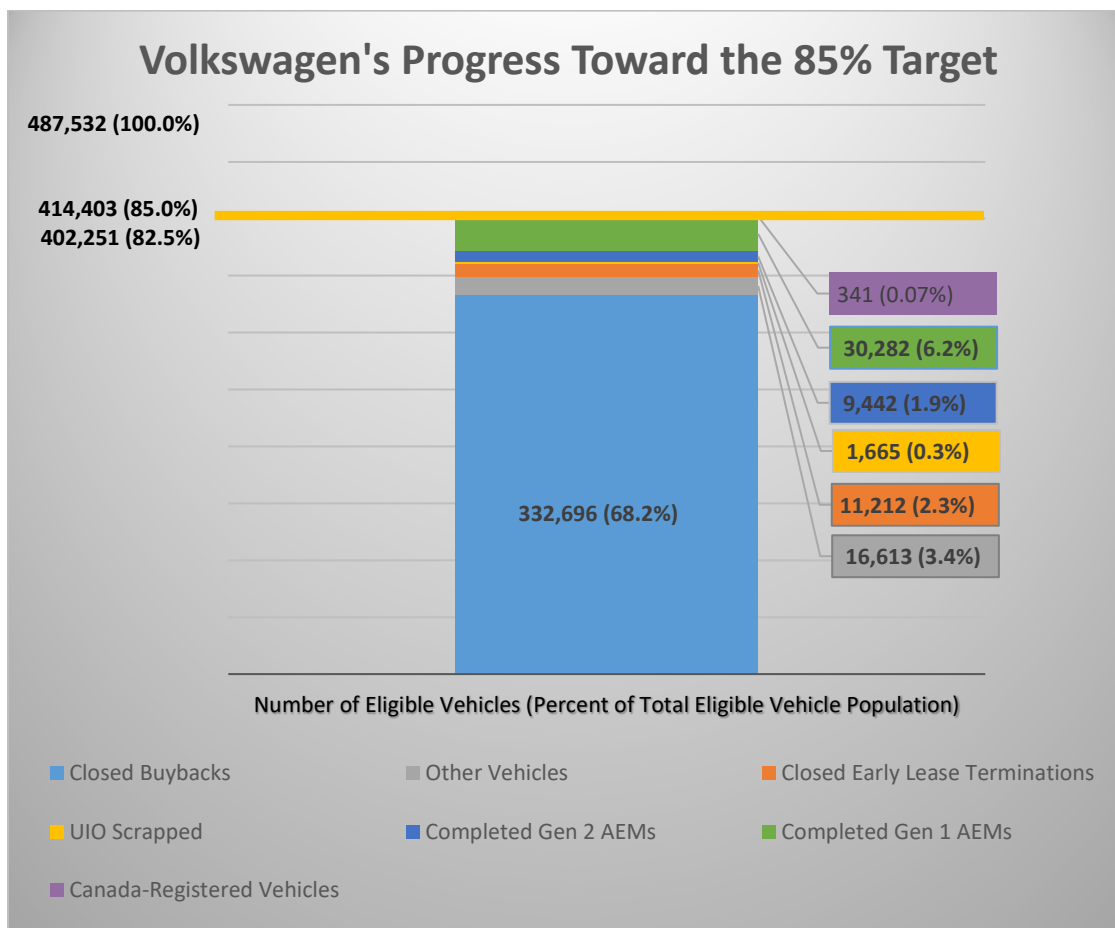
Volkswagen had issued payments totaling approximately \$48.8 million on these claims, representing approximately two-thirds of the approximately \$73.2 aggregate value of offer letters associated with these claims. Additionally, there were 293 claims associated with Generation 3 Vehicles where an AEM had been completed at a dealership while a consumer had either registered but not yet submitted a complete claim for Volkswagen to review, or had submitted a claim that was pending a determination by the company. And the first phase of the AEM had been completed on an additional 105 Generation 3 Vehicles where no consumer claim had yet been filed.

The closing figures above do not include the 12,148 Sellers and 4,095 Former Lessees who had been paid on claims as of February 19, 2018, because these consumers were not required to go through the closing process. Through February 19, 2018, Volkswagen had aggregately paid out to these consumers \$40,625,797.25 and \$13,775,026.53, respectively.

Finally, as of February 22, 2018, a total of 3,894 consumers had effectively opted out of the Class Action Settlement. Despite initially opting out, 1,739 of those consumers subsequently reached a settlement with Volkswagen.

G. Progress Toward the 85% Target

The DOJ Consent Decree sets a target that Volkswagen should remove from commerce or modify 85% of the Subject Vehicles captured within the settlement. The DOJ Consent Decree also provides that “the total number of 2.0 Liter Subject Vehicles is 487,532 (499,406 vehicles less scrapped vehicles as of October 1, 2015).” Through February 19, 2018, Volkswagen had removed approximately 82.5% of Subject Vehicles from commerce. Chart 2-32 shows Volkswagen’s progress toward the 85% target.

Chart 2-32<sup>33</sup>

The “Other Vehicles” category depicted in Charts 2-32 and 2-33 represents vehicles Volkswagen has removed from commerce outside of the Claims Program. This includes, among other things, leased vehicles that were returned by a consumer to VW Credit, Inc. or Audi Financial Services, used vehicles that Volkswagen acquired from dealerships, and company cars previously utilized by Volkswagen employees that have since been retired.

<sup>33</sup> Figures in Charts 2-32 and 2-33 relating to Polk Units in Operation (“UIO”) Scrapped and Other Vehicles were based on Volkswagen data as of December 31, 2017. Vehicles purchased in the United States but registered in Canada are also included in measuring Volkswagen’s progress toward the 85% target because these VINs are within the “total number of 2.0 Liter Subject Vehicles” set forth in the Resolution Agreements. The figures in Chart 2-32 for “Canada-Registered Vehicles” capture only completed Buybacks and Early Lease Terminations. Data on Canadian-registered vehicles that have received an AEM are subsumed within the AEM figures shown by vehicle generation.

Chart 2-32 does not include 11,422 consumers with Generation 3 Subject Vehicles (2.3% of the “total number of 2.0 Liter Subject Vehicles”) who had completed the first phase of the AEM process. Nor does it include 11,907 Subject Vehicles (2.4% of the “total number of 2.0 Liter Subject Vehicles”) that were part of dealers’ stock at the time Volkswagen issued the stop-sale order in response to the notices of violation and, according to Volkswagen, subsequently received the first phase of the AEM process. These Generation 3 Vehicles will be included in the 85% analysis once the final phase of the AEM process is completed. If all Generation Three vehicles that, through February 7, 2018, had completed the first phase of the AEM process also complete the second phase of the AEM once available, Volkswagen will have met the requirement to modify or remove from commerce at least 85% of Subject Vehicles.

Finally, the DOJ Consent Decree also specifically requires that Volkswagen remove from commerce or modify 85% of the Subject Vehicles registered in California and captured in the settlement. The DOJ Consent Decree further states that “the total number of all 2.0 Liter Subject Vehicles registered in California is 70,814.” Through February 19, 2018, Volkswagen had removed from commerce or modified approximately 80.3% of Subject Vehicles registered in California. Chart 2-33 shows Volkswagen’s progress toward the California-specific 85% target.

Chart 2-33

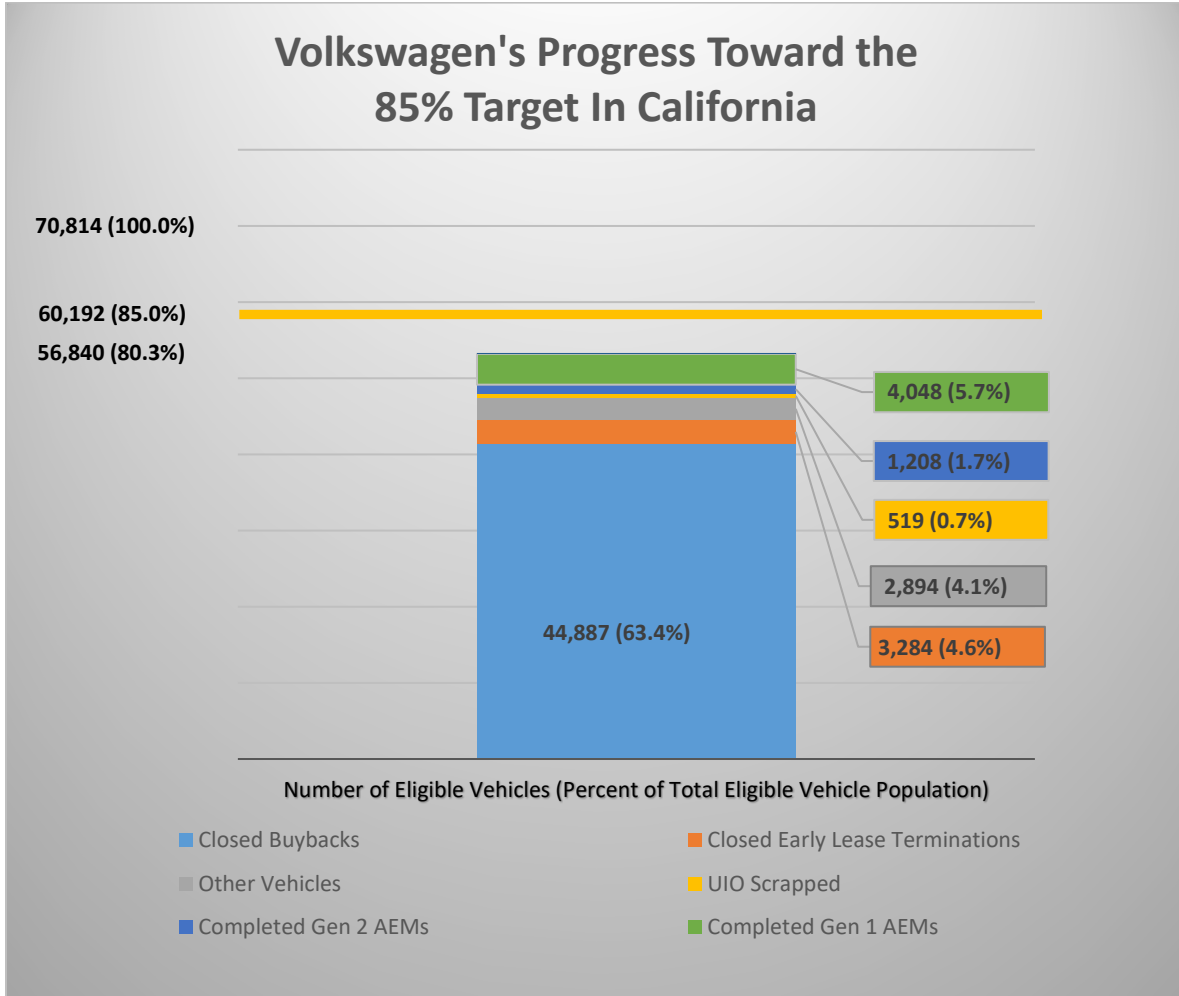


Chart 2-33 does not include 2,233 consumers with Generation 3 Vehicles from California who had completed the first phase of the AEM process (3.2% of the “total number of all 2.0 Liter Subject Vehicles registered in California”). Nor does it include nine Subject Vehicles (0.01% of the “total number of all 2.0 Liter Subject Vehicles registered in California”) that were part of dealers’ stock at the time Volkswagen issued the stop-sale order in response to the notices of violation and, according to Volkswagen, subsequently received the first phase of the AEM. These Generation 3 Vehicles will be included in the California-specific 85% analysis once the final phase of the AEM is completed.

### **III. Consumer Experience**

As reflected in the above performance metrics, Volkswagen administered the Claims Program effectively over the course of the quarter with most eligible consumers proceeding through the process without issue. This section provides updates pertaining to certain key components of the Claims Program and an analysis of the company's performance in delivering customer support.

#### **A. Claims Program Updates**

##### **1. Non-Standard Claims**

##### **a) Branded Title Claims**

As set forth in previous reports dating back to June 2017, the Parties have been working with the court-appointed CRC to address how the eligibility requirements in the Class Action Settlement Agreement apply to certain consumers who submitted claims involving vehicles they acquired with a branded title sometime after September 18, 2015 -- the date the EPA issued its first notice of violation after discovering the existence of defeat devices.<sup>34</sup>

Following the first notice of violation, a limited number of consumers acquired vehicle models that were part of the notice of violation -- often at insurance auctions after the vehicles had been totaled in an accident. Indeed, of the 2,140 claims submitted by consumers who had acquired vehicles with a title that previously had been branded sometime after September 18, 2015, a total of 1,415 of these claims (66.1%) were submitted by 267 consumers. Additionally,

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<sup>34</sup> Title brands include salvage, rebuilt, reconstructed, and prior salvage, and indicate, among other things, whether a vehicle has sustained damage or may be unsafe to drive. A vehicle branded with a salvage title is typically one that was damaged to the point that it was declared a total loss by an insurance company, often because the cost to repair the vehicle was greater than the value of the vehicle in its damaged state. Generally, a vehicle with a salvage title cannot be registered with a state department of motor vehicles. However, the nomenclature related to title brands varies from state to state and will be analyzed accordingly, so that the eligibility requirements are consistently applied.



the same 267 consumers submitted 72.2% of the 1,959 claims involving vehicles with branded titles that were acquired following the Court's approval of the Class Action Settlement Agreement on July 26, 2016. By undertaking repairs necessary to convert these vehicles back to an operable state, the apparent intent of many of these consumers is to profit through participation in the Claims Program. Some of these consumers have taken the position that, because claims on these types of vehicles are not expressly excluded in the Class Action Settlement Agreement, they should be deemed eligible.

The Class Action Settlement Agreement expressly excludes claims by consumers with a vehicle that "had a Branded Title of Assembled, Dismantled, Flood, Junk, Rebuilt, Reconstructed, or Salvage on September 18, 2015, and was acquired from a junkyard or salvage yard after September 18, 2015." It does not, however, expressly address circumstances involving a vehicle with a title that was branded subsequent to September 18, 2015. The stated goal of the Class Action Settlement Agreement "is to compensate owners or lessees of Eligible Vehicles for any harm they suffered as a result of the emissions issues and to ensure that Volkswagen's 2.0-liter TDI vehicles do not generate excess NOx emissions." Because some consumers acquired the vehicles at issue with a branded title after discovery of the defeat device became public, and many of the vehicles were out of commerce at the time they were acquired, the Parties and the CRC undertook to further scrutinize whether their claims should be deemed eligible.

Based on a holistic review of the Class Action Settlement Agreement in response to consumer appeals, the CRC adopted a general framework for processing branded title claims, which has been implemented by Volkswagen. The following is a non-exhaustive list of

categories of branded title Buyback claims and the eligibility determinations that Volkswagen anticipates reaching as to each, based on the CRC's guidance:<sup>35</sup>

- (i) Owners of vehicles that were branded on or before September 18, 2015, and were acquired from a junk yard, salvage yard, or the equivalent (i.e., insurance auction) with a branded title after September 18, 2015, will be deemed ineligible for compensation.
- (ii) Owners who acquired their vehicles prior to September 18, 2015, with a non-branded or salvage rebuilt title may be eligible for both Vehicle Value and Owner Restitution if the vehicles currently have a branded title (including salvage and salvage rebuilt titles), provided that all other eligibility requirements are met. If the vehicle currently has a brand of junk, non-repairable, "parts only," or any equivalent brand denoting that the vehicle can never be rebuilt or repaired, the vehicle is eligible only for Owner Restitution.
- (iii) Owners of used vehicles that were purchased with a branded title and had a "salvage rebuilt" or equivalent title as of February 26, 2018, are potentially eligible for Vehicle Value if all other eligibility requirements are met. If the previous owner of the vehicle does not submit a claim for Owner Restitution by the September 1, 2018 claim filing deadline, the consumer also may be eligible to receive Owner Restitution in addition to Vehicle Value.
- (iv) Owners of used vehicles that were purchased with a salvage title and continue to have a salvage title on or after February 26, 2018, are ineligible for compensation. Once a vehicle has been deemed ineligible to participate in the Claims Program

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<sup>35</sup> Consumers with a branded title vehicle deemed to be eligible also will have the option of electing an AEM.

due to the existence of a salvage title, no new claims submitted in connection with the VIN will be accepted for processing.

The Parties recognize that some claims relating to vehicles with branded titles involve unique factual circumstances. Due to these complexities, the Parties have advised the Claims Supervisor that they will continue to work collaboratively with the CRC to address such claims requiring more detailed analysis, so that determinations may be reached in conformity with the letter and spirit of the Class Action Settlement Agreement. As with all eligibility determinations, consumers may file an appeal from Volkswagen's claims determinations with the CRC.

Following the CRC's framework, Volkswagen has begun processing branded title claims that were previously on hold, and has reached determinations in connection with twenty-four such claims. Practically, the company is also providing notice to impacted consumers as their claims are processed. Of the 3,392 related claims that have not yet been processed, 1,935 claims are in the first ten-business-day review period, 1,199 claims are in the second ten-business-day review period, and 258 claims are in various other stages of the claims review process.<sup>36</sup> The Claims Supervisor will continue to monitor the status of Volkswagen's processing of claims involving vehicles with branded titles, and will provide updates in future reports.

b) Canadian Claims

As detailed in the November 2017 Report, Volkswagen has agreed to provide consumers who purchased their vehicles in the United States, but registered them in Canada, with compensation if they otherwise meet the eligibility requirements. Following the successful

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<sup>36</sup> Included in these totals are claims submitted by consumers who Volkswagen has identified as acquiring a significant number of vehicles with branded titles for the purpose of participating in the Claims Program. Although some of these consumers have also submitted claims involving vehicles with non-branded clean titles, Volkswagen previously placed all claims submitted by these consumers on hold while it continued discussions with the Plaintiffs' Steering Committee and analyzed the details surrounding these consumers' acquisition of their vehicles.

completion of a pilot program during which Volkswagen addressed challenging logistical, tax, and customs issues attendant to cross-border transactions, the company provided notifications to potentially eligible consumers that their claims would begin to be processed.<sup>37</sup> Over the course of this quarterly reporting period, Volkswagen made substantial progress issuing offer letters and completing closing appointments. Volkswagen reported that as of February 20, 2018, it had closed 398 Canadian claims (consisting of 340 Buybacks and 58 AEMs) out of a total of 1,139 received.

c) Military Overseas Claims

Volkswagen continued to make progress processing claims submitted by military personnel deployed overseas with their vehicles. As of February 20, 2018, Volkswagen reported completing Buybacks in connection with 624 of the 755 claims (82.6%) it received, including 37 Buybacks over the course of the quarterly reporting period. The Buybacks have occurred in twenty-four different countries. Volkswagen leadership has advised that it also will continue working towards developing and implementing processes for completing AEMs for military personnel serving overseas in the coming months.

d) Hawaiian Claims

The company reported completing closings for all sixty-seven claims that it has received from consumers residing on Hawaiian Islands that do not have a Volkswagen dealership. Thirty-four of the processed claims were completed through on-island appointments and thirty-three

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<sup>37</sup> As previously reported, these claims were initially deemed ineligible by Volkswagen based on express language in the Class Action Settlement Agreement requiring Eligible Vehicles to have been registered in the United States at some point between September 18, 2015 and June 28, 2016. Upon further analysis, it appeared that these claims were not covered by either the United States or Canadian settlements. Consequently, after consultation with the Parties, Volkswagen ultimately determined to provide compensation to consumers who purchased an Eligible Vehicle in the United States but registered it in Canada if they otherwise meet the eligibility requirements.

involved instances where the consumer shipped the vehicle to a designated location and was reimbursed by Volkswagen for expenses incurred.

## 2. AEM Updates

As previously reported, the EPA and CARB approved emissions modifications for all 2.0-Liter vehicles with the exception of Generation 2 manual transmission Passats. A full list of vehicle models eligible for an AEM is depicted in Chart 3-1.<sup>38</sup>

**Chart 3-1**

<b>Generation 1 Vehicles</b>		<b>Generation 3 Vehicles</b>	
<b>Model</b>	<b>Model Years</b>	<b>Model</b>	<b>Model Years</b>
VW Jetta	2009-2014	VW Jetta	2015
VW Jetta SportWagen	2009-2014	VW Golf 4-Door	2015
VW Golf 2-Door	2010-2013	VW Golf SportWagen	2015
VW Golf 4-Door	2010-2014	VW Beetle	2015
VW Beetle	2013-2014	VW Beetle Convertible	2015
VW Beetle Convertible	2013-2014	VW Passat	2015
Audi A3	2010-2013	Audi A3	2015

<b>Generation 2 Vehicles</b>	
<b>Model</b>	<b>Model Years</b>
VW Passat (auto)	2012-2014

During this quarterly reporting period, there were two significant developments pertaining to AEMs, which are discussed below.

### a) Revised AEM for Certain Generation 1 Vehicles

The emissions modification for Generation 1 Vehicles was approved by the EPA and CARB on July 27, 2017. On November 9, 2017, the EPA and CARB issued a notice of partial disapproval of that emissions modification, which related to approximately 2,800 model year 2009 Generation 1 Vehicles designated for sale in the United States and Canada. Volkswagen

<sup>38</sup> For Generation 3 Vehicles, only the first phase of the AEM -- removal of the defeat device software -- is available. The second phase of the AEM -- implementing new emissions control mechanisms that will further reduce emissions output and maintain emissions performance for the full useful life of the vehicle -- is anticipated to become available in the early part of this year.

has reported that approximately 830 of these vehicles currently are in the possession of United States-based consumers. The basis for the partial disapproval was the EPA and CARB's finding that Volkswagen's application for the AEM did not disclose that the Transmission Mechatronic Unit ("TMU"), which houses the device that controls the vehicle's automatic transmission, along with its associated software, needed to be replaced prior to the emissions modification being installed.<sup>39</sup> In accordance with the terms of the DOJ Consent Decree, the EPA and CARB provided Volkswagen with an opportunity to remedy the deficiency within thirty days.

By submissions dated December 5, 2017 and December 28, 2017, Volkswagen sought approval of a revised AEM. The company's submissions included updated information and disclosures related to the TMU, in addition to revised dealer repair instructions for certain model year 2010 vehicles with single part exhaust systems. On December 28, 2017, the EPA and CARB approved the revised AEM, finding that the company's submissions included the necessary information and disclosures. The EPA and CARB noted, however, that they were continuing to work with Volkswagen on finalizing and approving the revised dealer repair instructions related to model year 2010 vehicles with single part exhaust systems.

As a result of the approval of the revised AEM, the EPA and CARB directed Volkswagen to provide a corrected AEM disclosure and extended emissions warranty statement to all impacted Owners and Lessees by December 29, 2017. Volkswagen reported that, on December 28, 2017, it complied by sending the corrected materials by first-class mail to 789 current Owners and Lessees of the approximately 830 affected vehicles.<sup>40</sup> On January 10, 2018, the company also displayed the corrected AEM disclosure on [www.vwcourtsettlement.com](http://www.vwcourtsettlement.com).

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<sup>39</sup> The TMU is also referred to in EPA and CARB notices as the "Transmission Control Unit."

<sup>40</sup> The Owners and Lessees who did not receive notices either were located in Canada, had totaled vehicles, or could not be identified or located.

The corrected AEM disclosure advised consumers that the EPA and CARB had disapproved the previous AEM for certain Generation 1 Vehicles and that Volkswagen had submitted an application for a revised AEM for the impacted vehicles, which was approved. The disclosure also advised consumers that, in addition to modifying the vehicles' emissions control system software, the revised AEM includes the additional required step of replacing the TMU at no cost to the consumer. The disclosure stated that, once the AEM is performed, the emissions control systems of the vehicles will function effectively in all normal driving conditions. The disclosure also stated, however, that the AEM may have effects that are potentially noticeable to the consumer -- namely, differences in engine sound, frequency and occurrence of special engine operating modes, operation in "Sport mode," vehicle drivability (*i.e.*, minor changes in engine torque while transitioning between operating modes), fuel economy, drive mode changes (*i.e.*, shifting behavior), and on-board diagnostic system operations. Finally, the disclosure included a corrected extended emissions warranty statement, providing coverage for the transmission and TMU.

Consistent with prior AEMs, consumers should not incur any cost to obtain the revised AEM and will be provided a complimentary loaner vehicle for the duration of their appointment, which is expected to last approximately eight hours. Consumers retain the option of changing their AEM election to a Buyback or Early Lease Termination (as applicable) on or before September 1, 2018.

b) Withdrawal of AEM Application for Generation 2 Manual Transmission Passats

As stated above, the only vehicle type that has not obtained an AEM is the Generation 2 manual transmission Passat manufactured between 2012 and 2014. On September 7, 2017, the EPA and CARB issued a notice of disapproval of Volkswagen's proposed emissions

modification for these vehicles because the modified vehicles provided by the company for testing exceeded applicable emissions limits. As contemplated by the DOJ Consent Decree, Volkswagen's options following the notice of disapproval included submitting a revised proposed emissions modification within ninety days (*i.e.*, by December 6, 2017) to resolve the EPA and CARB's bases for disapproval, or withdrawing its application for the AEM. Volkswagen opted to withdraw its AEM application for these vehicles.

The DOJ Consent Decree provides that, in the event of a withdrawal of an application for an AEM, the company is required to notify all affected Owners and Lessees within two business days through a public website and within ten days by first-class mail that the proposed emissions modification will not be available. In conformity with the requirements of the DOJ Consent Decree, the company displayed notice of the withdrawal on December 11, 2017, on [www.vwcourtsettlement.com](http://www.vwcourtsettlement.com), and sent notice of the withdrawal the week of December 11, 2017, by first-class mail to current Owners and Lessees of these vehicles. There are approximately 6,440 Generation 2 manual transmission Passats on which a claim by a current Owner or Lessee potentially could be made. As of December 19, 2017, claims were submitted on 6,210 of these vehicles, but only 891 consumers selected the AEM remedy.

The notice advised consumers that, if they had previously elected an AEM, they would be entitled to change their remedy to a Buyback or an Early Lease Termination (as applicable), or they could wait until May 2018 and withdraw from the Class Action Settlement.<sup>41</sup> The notice further advised consumers that, if they switched their election from an AEM to a Buyback or an Early Lease Termination, they could expect to attend a closing appointment and receive

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<sup>41</sup> The notice additionally stated that the claims of consumers who previously elected an AEM would be automatically adjusted in the Claims Portal to enable the execution of steps necessary to complete either a Buyback or Early Lease Termination (as applicable). As of February 23, 2018, only thirty-one consumers had not changed their AEM election.



compensation within thirty days from the date of filing a complete and eligible claim with the new remedy selected.

### 3. Virtual Closing Process

As described in the February 2017 Report, closing appointments have historically been facilitated by on-site program ambassadors and settlement specialists. Program ambassadors are employed by the dealer and are responsible for escorting consumers to settlement specialists who are Volkswagen's agents responsible for conducting the closing.

Between October 25, 2017 and November 10, 2017, Volkswagen instituted a pilot program to explore the possibility of conducting closing appointments for Buybacks and Early Lease Termination appointments virtually by Volkswagen closing support agents located in Auburn Hills, Michigan with the assistance of program ambassadors located on-site at dealerships. The consumer is required to be present at the dealership with his or her vehicle. Volkswagen developed the pilot program to achieve the following objectives: (i) memorializing the closing process for the benefit of both the company and consumer through the voluntary recording of audio and video; and (ii) enhancing the efficiency with which closings are conducted by utilizing dedicated and specially trained personnel (*i.e.*, closing support agents).

The virtual closing process begins with the establishment of a connection between the consumer and closing support agent through a mobile device application that is enabled to record audio and video. The closing is led by the closing support agent who interacts with the consumer through the application. The on-site program ambassador provides assistance to the closing support agent by, among other things, operating the mobile device, taking photographs of the consumer's vehicle and identification, assisting the consumer with the completion of any documents, and providing payment, if the consumer is owed money and elects to receive a check.

Thirty-nine consumers agreed to participate in the pilot program at nine different dealerships. Based on the generally positive feedback provided by those consumers and the company's own analysis of the efficacy of the pilot program, Volkswagen began to implement the virtual closing process for Buybacks and Early Lease Terminations closing appointments more broadly, seeking the participation of dealerships throughout the country. As of February 23, 2018, about 87% of Volkswagen dealerships and 94% of Audi dealerships have agreed to participate in the virtual closing process. At this point, the virtual closing process has been fully implemented and consumers are required to schedule a Buyback or Early Lease Termination appointment at a dealership that has elected to participate in the virtual closing program. Based on analysis, Volkswagen has determined that there is sufficient geographical coverage, even for consumers located in rural areas. Consumers electing an AEM may select any authorized dealership.

The virtual closing process does not have any impact on the claims process prior to the closing appointment stage. Consumers will, therefore, continue to utilize the Claims Portal to register and submit claims and, if approved, they will continue to schedule Buyback or Early Lease Termination closing appointments at dealerships of their choice (provided those dealerships have opted into the virtual closing process). Prior to attending a closing appointment, the consumer will be provided with a notification generally describing the virtual closing process and advising that, with the consumer's consent, audio and video of the closing will be recorded. The notification also will advise consumers that photographs, including of the consumer's vehicle and identification, are mandatory.<sup>42</sup> Finally, the notification will include

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<sup>42</sup> At the beginning of the appointment, the consumer's consent to record the closing is requested. If the consumer provides consent, the closing support agent will notify the consumer that he or she is waiving the right to inspect or approve any audio and video captured during the closing.

disclosures regarding, among other things, the use and storage of photographs and recordings taken at the closing.

As of February 21, 2018, approximately 3,000 closings were conducted utilizing the virtual closing process and the company has reported that they have generally proceeded without issue. The limited issues experienced so far mainly have related to difficulties establishing connectivity between the closing support agent and consumer. In response, Volkswagen has developed a workaround solution that allows the closing to be completed telephonically, with the requisite photographs being taken by program ambassadors who then upload them through a web application to the closing support agent. This solution allows all other aspects of the virtual closing process to proceed as intended, including the recording of the audio, provided the consumer consents. The Claims Supervisor will continue to monitor the progress of the implementation of the virtual closing process and provide updates in future reports.

#### 4. Claims Review Committee

Over the course of this quarterly reporting period, the CRC continued to make progress in adjudicating consumer appeals. As of February 22, 2018, a total of 1,532 unique appeals (0.3% of all submitted claims) had been filed by consumers, the majority of which challenged Volkswagen's eligibility determinations or award calculations. The CRC had reached determinations and provided consumer notifications with respect to 776 (50.7%) of all appeals. The outcome of the 163 CRC determinations over the course of this quarterly reporting period are summarized as follows:

- The CRC denied 101 appeals;
- For 42 consumers, the CRC advised that the issues that were the subject of the appeal had previously been resolved, thus mooting the appeal;

- In 7 instances, the CRC advised consumers that they may be eligible for benefits, provided that a new claim be submitted for review and consideration;
- The CRC ruled in favor of the consumer in 7 instances;<sup>43</sup> and
- The CRC ruled partially in favor of the consumer in 6 instances.<sup>44</sup>

Currently, all decisions issued by the CRC have involved appeals in which the Volkswagen and Class Counsel representatives have agreed on the outcome. The Parties continue to work together to resolve pending appeals with the assistance of the court-appointed neutral where necessary.

#### 5. Post-Closing Processing of Vehicles

As discussed in prior reports, once a Buyback appointment is completed, arrangements are made by Volkswagen to transfer the vehicle to one of thirty-seven secure storage facilities throughout the country, at which point each vehicle is inspected to determine if it should be destroyed due to excessive wear and tear or undergo an AEM, if one is available, and be offered for sale in accordance with the approved resale plan. Volkswagen is required to track each vehicle from closing to either destruction, or modification and resale, in order to report these figures to the DOJ, EPA, and CARB on a quarterly basis. The most recent data supplied by Volkswagen to the DOJ reflects that, as of December 31, 2017, Volkswagen had reacquired 335,063 Eligible Vehicles through the Claims Program, resold 13,096 Eligible Vehicles, and destroyed 27,970 Eligible Vehicles. Accordingly, approximately 294,000 Eligible Vehicles

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<sup>43</sup> In all of these instances, Consumers provided additional information in support of their appeal that changed Volkswagen's initial eligibility determination.

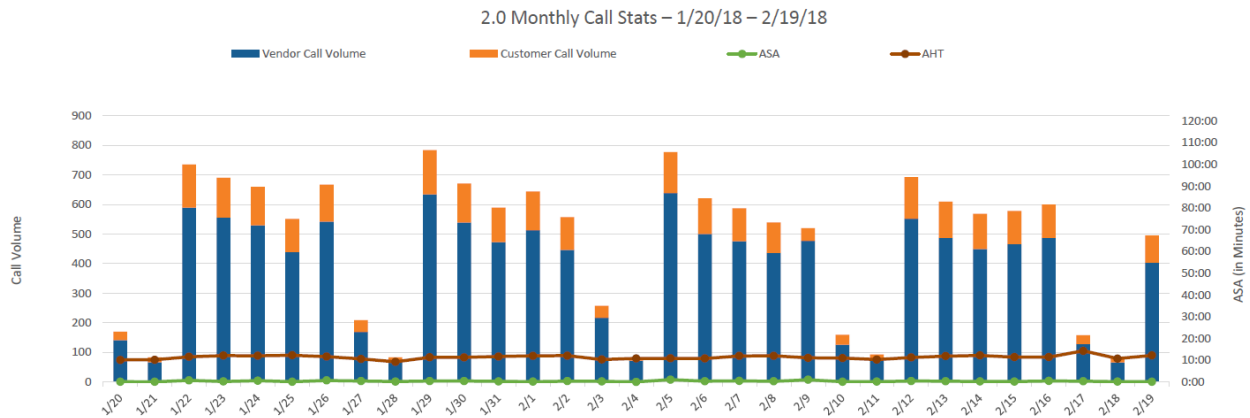
<sup>44</sup> The CRC awarded these consumers additional compensation for expenses incurred as a result of delays in the receipt of payoff checks by their respective lenders. However, to the extent that these consumers requested compensation for other expenses not provided for in the Resolution Agreements (*e.g.*, transportation costs and insurance payments), those portions of their appeals were denied.

reacquired through the Claims Program were in a Volkswagen storage facility or in transit to a storage facility as of December 31, 2017.<sup>45</sup>

**B. Analysis of Consumer Outreach & Volkswagen’s Response**

Consumer call and chat volume continued to decline over the course of the quarter. Between November 20, 2017 and February 19, 2018, call volume averaged 916 calls per weekday, as compared to 1,579 calls per weekday during the prior quarterly reporting period. The average abandonment rate over the course of the quarter was 3.5% -- nearly identical to the abandonment rate during the previous quarter (3.4%) -- and the average speed to answer remained less than one minute. The following chart depicts the daily Hotline call volume and related data from January 20, 2018 to February 19, 2018.<sup>46</sup>

**Chart 3-2**



Between November 20, 2017 and February 19, 2018, the company received an average of 403 chats per weekday, a decline from the prior quarterly reporting period when it received an

<sup>45</sup> The company’s progress toward satisfying its obligation under the DOJ Consent Decree that it buy back or modify at least 85% of all Subject Vehicles is detailed in Section II above.

<sup>46</sup> ASA is the abbreviation for average speed of answer and AHT represents average handle time. The chart only reflects calls received from consumers and does not include calls received from dealers.

average of 668 chats per weekday. The abandonment rate slightly decreased from the prior quarterly reporting period, from 16.3% to 16.1%.

The Claims Supervisor's review of a sample of 582 recorded calls and 1,044 chats that occurred during the quarterly reporting period showed that Volkswagen's customer support agents remained effective in assisting consumers. The vast majority of calls and chats reviewed were deemed successful. The overall success rate for the sample of calls evaluated was 95.9%, a 1.0% decrease from the prior quarterly reporting period. The overall success rate for the sample of chats evaluated was 98.4% -- a 0.9% decrease from the prior quarterly reporting period. The primary reasons that the limited number of calls and chats were deemed unsuccessful were that agents failed to properly verify the identity of the caller (an error that increased in frequency over the past several months), or provided incorrect information to the consumer regarding the processing of claims. In the past few weeks, the company has taken steps to address the issue of agents failing to properly verify the identity of a caller by re-training all agents on proper caller verification through email communications, the posting of caller identity verification protocol reminders at workstations, and individualized coaching as necessary.

Volkswagen's Resolution Team continued to provide assistance in connection with more challenging claims over the course of the quarterly reporting period. From November 20, 2017 to February 19, 2018, the Resolution Team resolved 1,174 consumer inquiries. Since the inception of the Claims Program, the Resolution Team has received a total of 11,900 inquiries and resolved 11,260 of them (a 94.6% resolution rate). Consistent with prior reporting periods, the most common consumer inquiries handled by the Resolution Team involved payment issues, although the overall volume of such inquiries has declined, which Volkswagen has attributed, in

part, to the company's inclusion of more detailed EFT instructions in the appointment packets consumers receive prior to attending closing appointments.

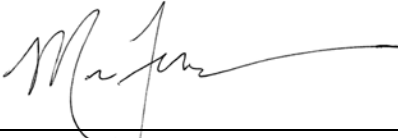
Complaint volume remained relatively low and decreased since the last quarterly reporting period. Of the limited complaints received by Volkswagen, the most common related to: (i) the processing of certain claims, particularly those involving branded titles and AEMs; (ii) documentation requirements, including the length of time it takes for them to be validated and documents being rejected; (iii) payments to consumers (including the failure of consumers to receive the initiating EFT e-mail from J.P. Morgan Chase); (iv) incorrect information being provided; and (v) the Claims Process in general, including its length.

#### **IV. Conclusion**

Over the course of this quarterly reporting period, Volkswagen on the whole continued to administer the Claims Program efficiently and effectively. As of February 19, 2018, the company had removed from commerce or performed AEMs on 82.5% of all Subject Vehicles and issued payments to, or on behalf of, consumers in the aggregate amount of \$7,418,279,249.09. Following guidance from the CRC, Volkswagen implemented a general framework for processing certain claims involving vehicles with branded titles and, as of February 26, 2018, had completed twenty-four related claims that were previously on hold. The company expects that the review of all such pending claims will be completed by early May 2018. The company also made progress advancing claims submitted by consumers who purchased vehicles in the United States but registered them in Canada -- completing 398 such claims over the course of the quarterly reporting period. 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**



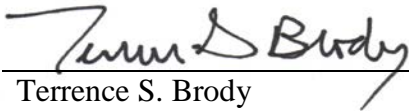
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Marc-Philip Ferzan  
Senior Managing Director



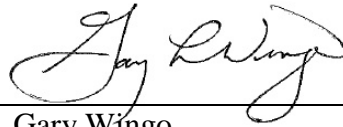
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Edward J. Bell  
Senior Managing Director



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Terrence S. Brody  
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Submitted: February 26, 2018