

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 2.0  
LITER 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

MAY 25, 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 February 20, 2018 through May 17, 2018.

**I. Executive Summary**

During this quarterly reporting period, Volkswagen generally administered the Claims Program in accordance with the terms of the Resolution Agreements. In the vast majority of cases, the company timely reviewed claims, issued offer letters, completed Buybacks, Early Lease Terminations, and AEMs, and made payments to eligible consumers. The company also was generally effective in providing customer support and addressing consumer inquiries.

Volkswagen made additional progress processing various types of non-standard claims. Following the February 26, 2018 adoption of a general framework developed by the Parties and the CRC for the processing of branded title claims, Volkswagen processed 2,428 claims that previously were on hold. At the end of the quarterly reporting period, 306 claims remained on hold -- claims Volkswagen largely determined to involve unique factual circumstances requiring further collaboration with the PSC regarding the application of the established framework. The company also had completed an additional 383 closings during this quarterly reporting period in connection with claims submitted by consumers who purchased vehicles in the United States but registered them in Canada. Additionally, Volkswagen completed fifty-one Buybacks in connection with claims submitted by military members stationed overseas with their vehicles, as well as the first six AEMs in Germany for deployed military personnel. The company

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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.

anticipates expanding the offering of AEMs to additional military personnel stationed overseas in the coming weeks.

Apart from its progress processing non-standard claims, on April 18, 2018, Volkswagen received approval from the EPA and CARB for the second phase of the emissions modification for Generation 3 Vehicles. Following the approval, the company notified potentially impacted consumers by email of the approval, and appointments to complete phase two of the AEM became available in late April. Based on data provided by Volkswagen, during the first week of appointment availability, the company completed phase two of the AEM on 405 consumer vehicles.

The statistics below provide a cumulative presentation of key Claims Program metrics as of May 17, 2018:

- 545,098 registrations had been created in Volkswagen's Claims Portal;
- 463,591 consumers had submitted claims for Volkswagen to review;
- 447,775 consumers had been issued offer letters, the aggregate value of which was \$8,117,748,434.10;
- 358,521 Owners and Current Lessees had scheduled Buyback or Early Lease Termination closing appointments;
- 353,267 Owners and Current Lessees had proceeded through closing, and Volkswagen has paid out a total of \$7,399,680,897.65 to, or on behalf of, these consumers;
- 33,460 consumers with Generation 1 Vehicles had completed the AEM process;<sup>2</sup>

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<sup>2</sup> Data related to AEMs are as of May 6, 2018.

- 10,012 consumers with Generation 2 Vehicles had completed the AEM process;
- 11,833 consumers with Generation 3 Vehicles had completed the first phase of the AEM process, which involves removal of the defeat device software;
- 405 consumers with Generation 3 Vehicles had completed the entire AEM process including the second phase, which involves the implementation of new emissions control mechanisms;
- \$293,827,514.45 had been paid out to consumers by Volkswagen in connection with completed AEM appointments; and
- 13,441 Sellers and 4,230 Former Lessees had been paid on claims, the aggregate values of which were \$44,137,847.46 and \$14,240,814.93, respectively.<sup>3</sup>

At the conclusion of this quarterly reporting period, Volkswagen had removed from commerce or performed a complete emissions modification on approximately 85.8% of all Subject Vehicles. The company therefore achieved its obligation under the DOJ Consent Decree to remove from commerce or modify at least 85% of all Subject Vehicles. Additionally, Volkswagen had removed from commerce or performed a complete emissions modification on approximately 83.5% of all Subject Vehicles registered in California -- placing the company within 1.5% of meeting its obligation under the DOJ Consent Decree to remove from commerce or modify at least 85% of Subject Vehicles registered in California.

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<sup>3</sup> An additional 590 consumers had been paid on claims where the eligibility category was inconsistent with the remedy selection-type -- all Owner claims associated with totaled vehicles where the eligibility category had not yet been changed to match the Restitution remedy -- with the aggregate value of these payments totaling \$3,439,432.58.

## **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 May 17, 2018, unless otherwise specified. Reference throughout this section to Volkswagen's performance "during this quarter" means the period from February 20, 2018 through May 17, 2018.

### **A. Consumer Registrations**

As of May 17, 2018, there were 545,098 consumer registrations in Volkswagen's system, including 8,342 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, 511,214 related to individuals and 33,884 related to businesses.<sup>4</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>4</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**

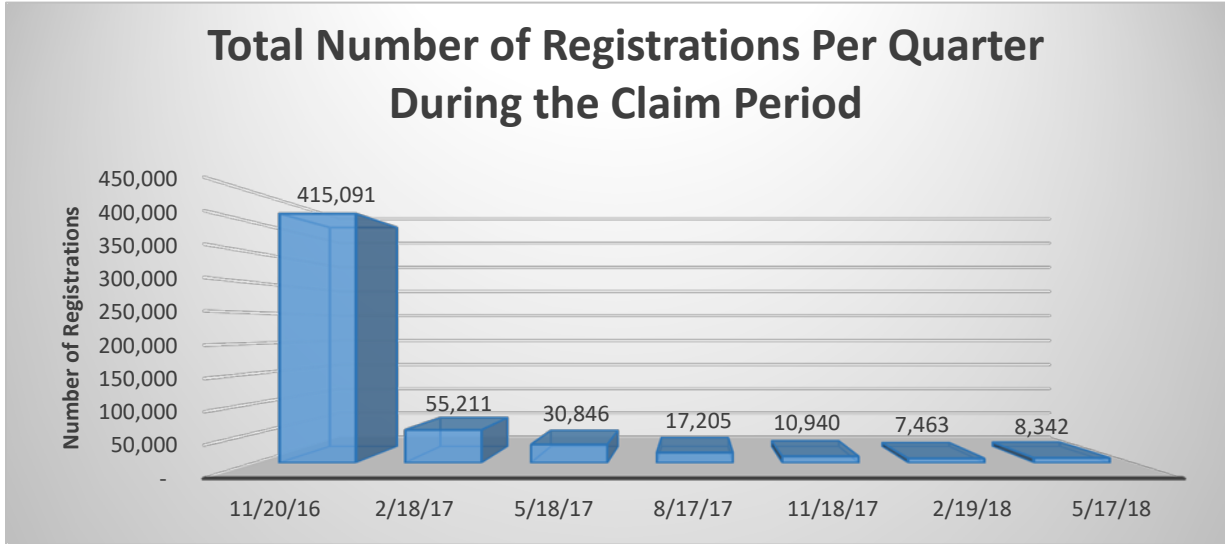


Chart 2-2 shows all registrations created by consumers during the Claim Period by eligibility category, and Chart 2-3 shows the states with the highest number of Eligible Vehicles that have been registered in Volkswagen’s Claims Portal. The “No Category Selected” population in Chart 2-2 relates to consumers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

**Chart 2-2**

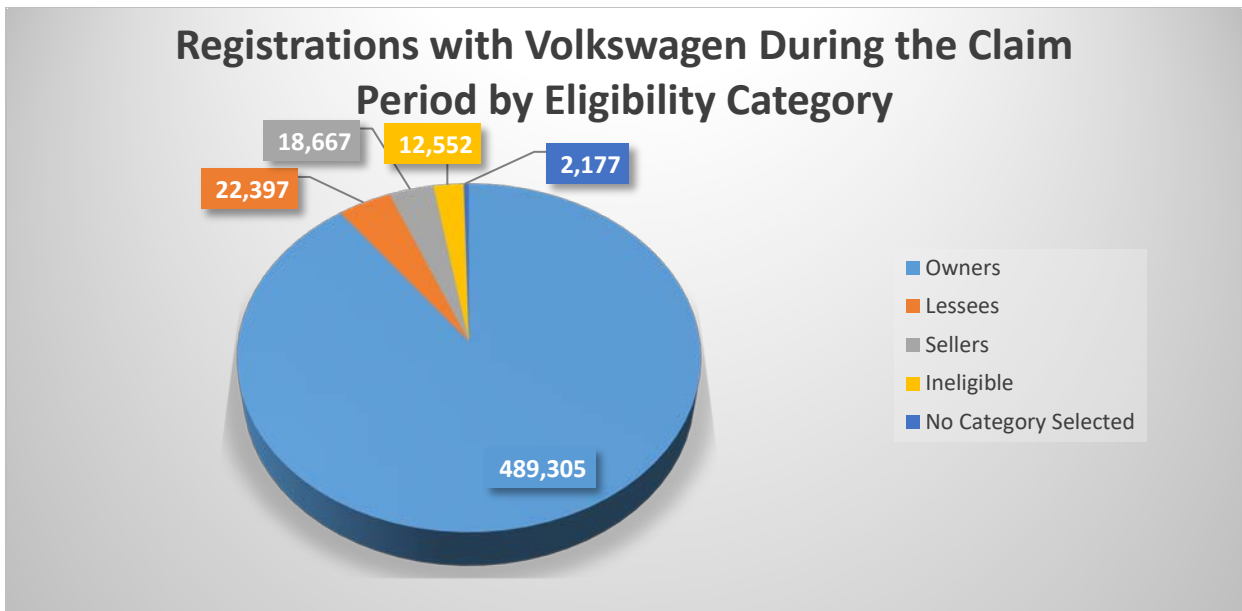
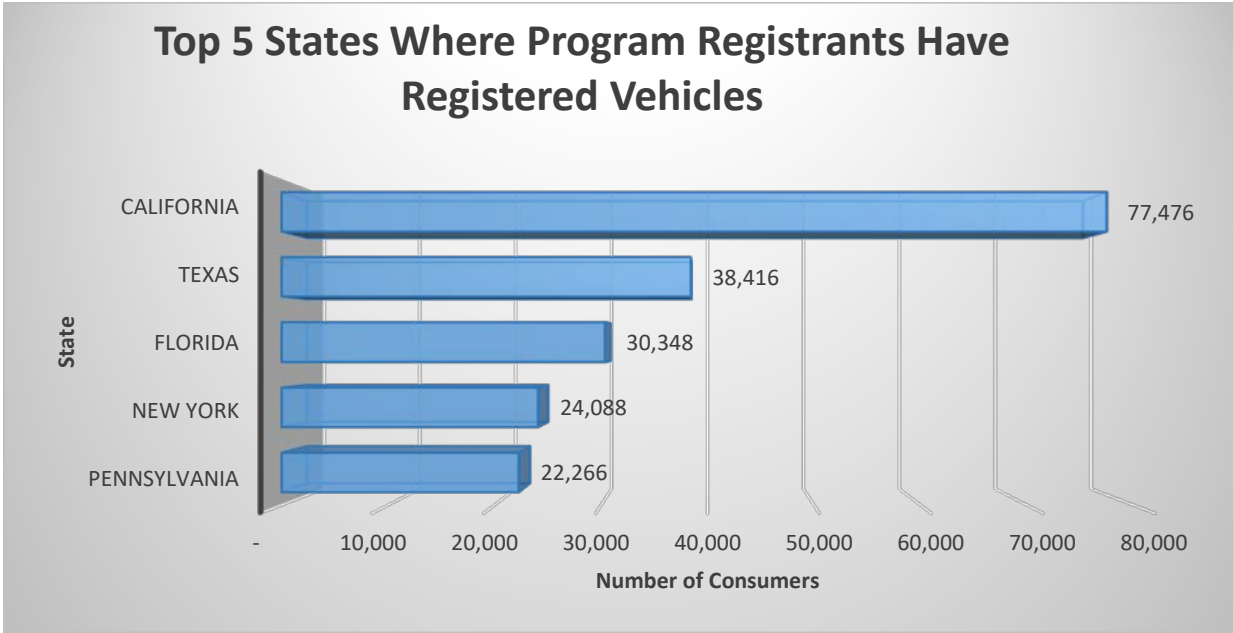


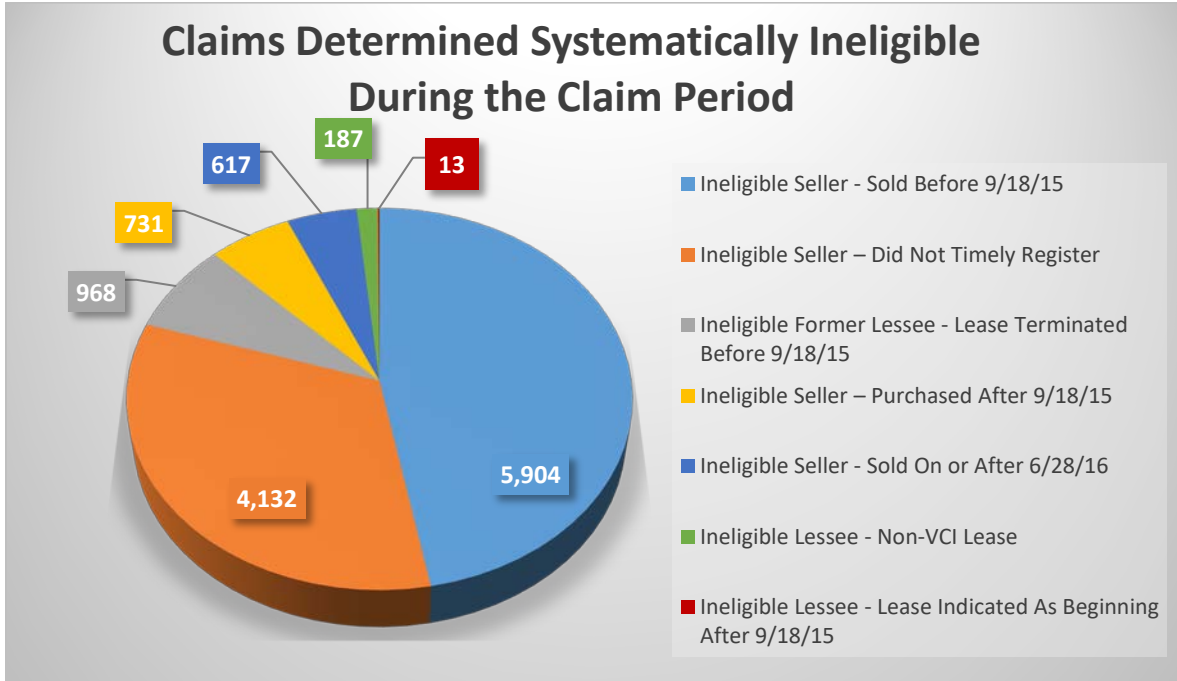
Chart 2-3



With respect to the population of 12,552 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 265 new systematic ineligibility determinations. The Claims Supervisor reviewed all 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**

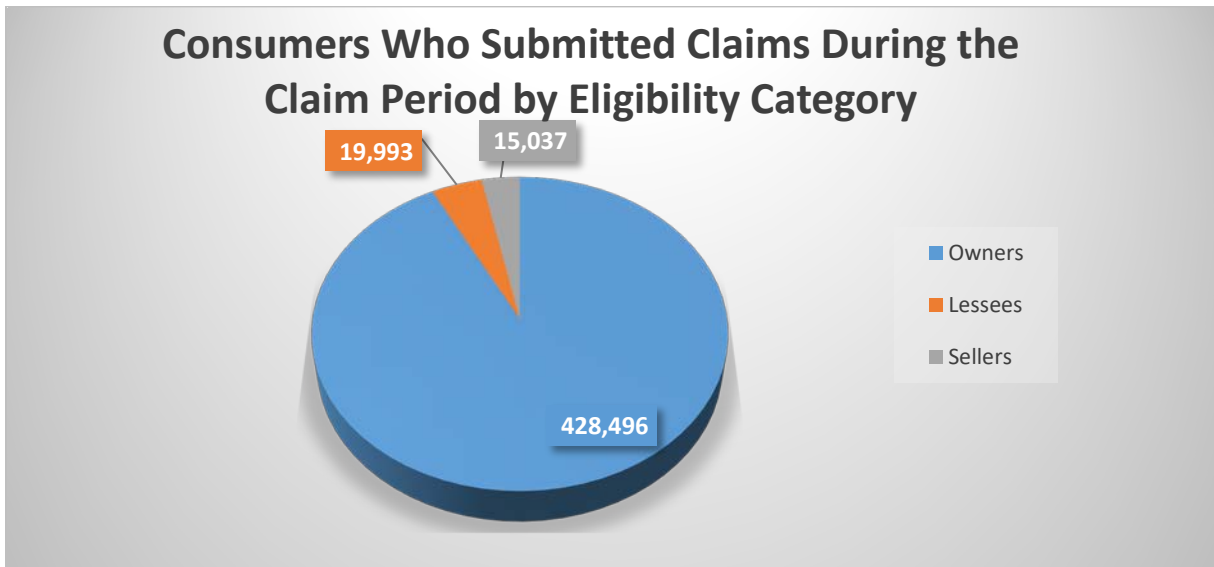
After a consumer registers, the next step in the process is to select a preliminary remedy, provide prescribed documents needed to substantiate the claim, and submit the claim to Volkswagen for review.<sup>5</sup> As of May 17, 2018, consumers had submitted 463,591 unique claims for Volkswagen to review, including 10,526 unique claim submissions during this quarter.<sup>6</sup> Of these, 443,938 claims related to individuals and 19,653 claims related to businesses. Chart 2-5

<sup>5</sup> Former Lessees and Sellers do not select a preliminary remedy because the only available remedy to these consumers is Restitution.

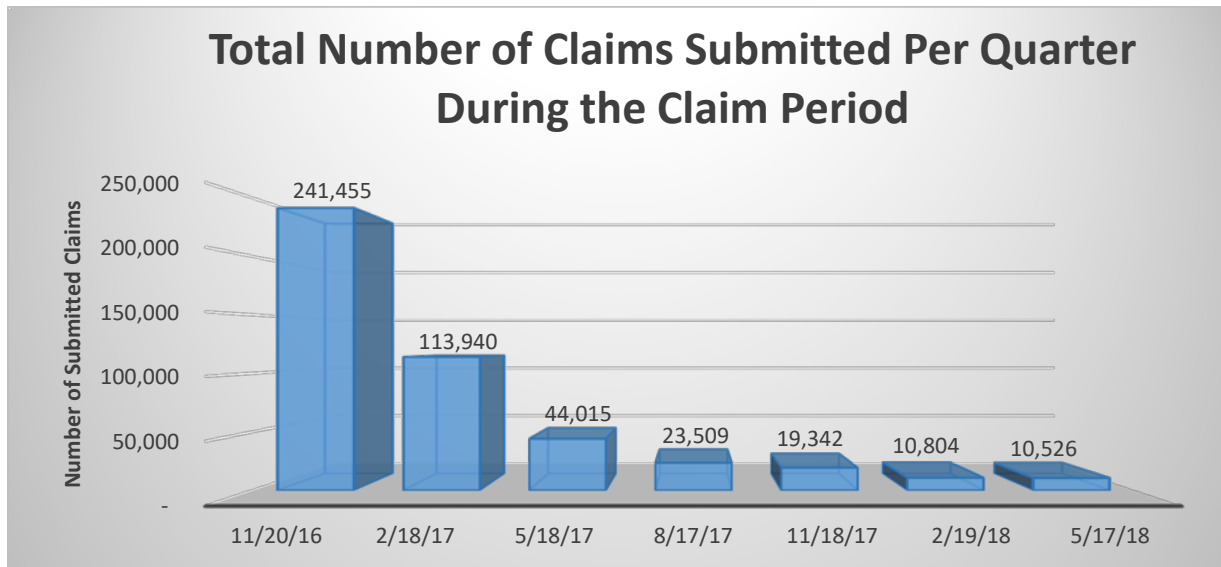
<sup>6</sup> “Unique claims” means unique VINs within unique eligibility categories. A claim by an Owner and a Seller regarding the same VIN is counted as two unique claims. Likewise, claims by one Owner who owns five separate vehicles are counted as five unique claims.

shows by eligibility category the total population of consumers who had submitted claims during the Claim Period. Chart 2-6 shows the total number of claims submitted by consumers during each quarter of the Claim Period.

**Chart 2-5<sup>7</sup>**



**Chart 2-6**



<sup>7</sup> The sixty-five 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 2-7 shows the preliminary remedy selections for Owners and Current Lessees who had submitted claims through May 17, 2018.

**Chart 2-7**

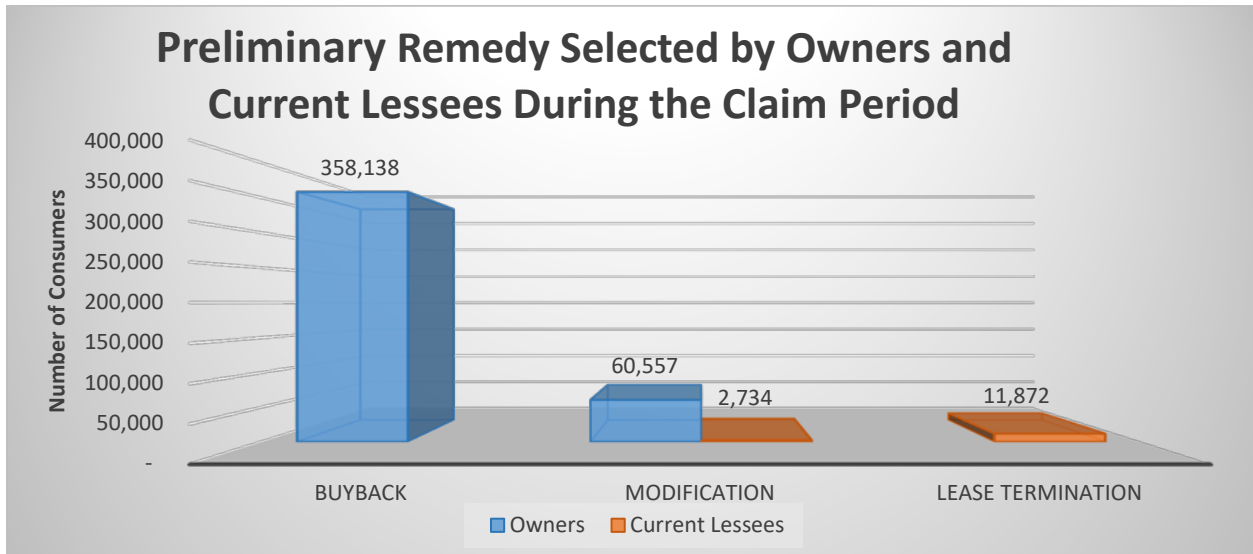


Chart 2-7 does not include the remedy selections for 14,864 Sellers and 4,719 Former Lessees because the only remedy available to these consumers is Restitution, nor does it include 598 claims where the Eligibility Category was inconsistent with the award type.<sup>8</sup> Additionally, Chart 2-7 does not include 10,109 cancelled claims, with most cancellations being associated with duplicate claims.

Throughout the Claim Period, Volkswagen has continued to substantially satisfy the requirement that it render a completeness determination within ten business days following a

<sup>8</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 historically have been 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 of a totaled vehicle after September 16, 2016 are entitled to receive Owner Restitution. Notably, the 598 claims where the Eligibility Category was inconsistent with the award type are nearly all Owner claims associated with totaled vehicles where the Owner eligibility category had not yet been changed to “Seller” to match the Restitution-only remedy.

consumer's submission of a claim. Through May 17, 2018, excluding the population of 1,871 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 716,805 first ten-business-day review period determinations. The company had issued timely decisions in 691,586 instances, amounting to an overall first ten-business-day review period compliance rate of 96.5%. During this quarter, Volkswagen was required to make 15,960 first ten-business-day review period decisions and timely did so in 15,866 instances, for a quarterly compliance rate of 99.4%.

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**

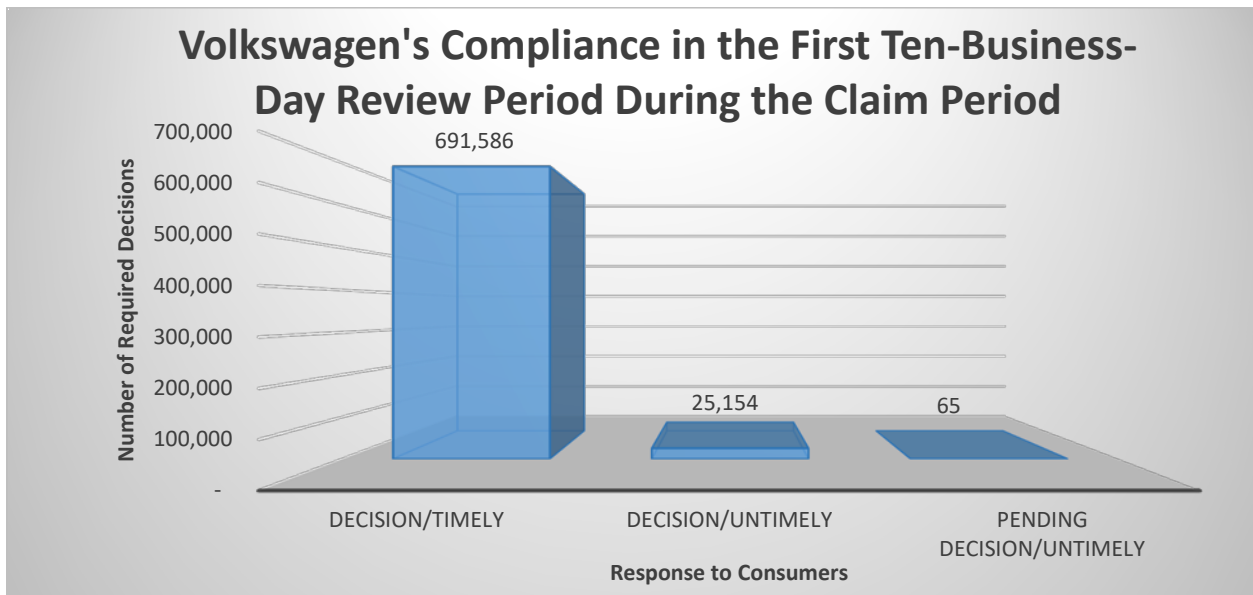


Chart 2-9<sup>9</sup>

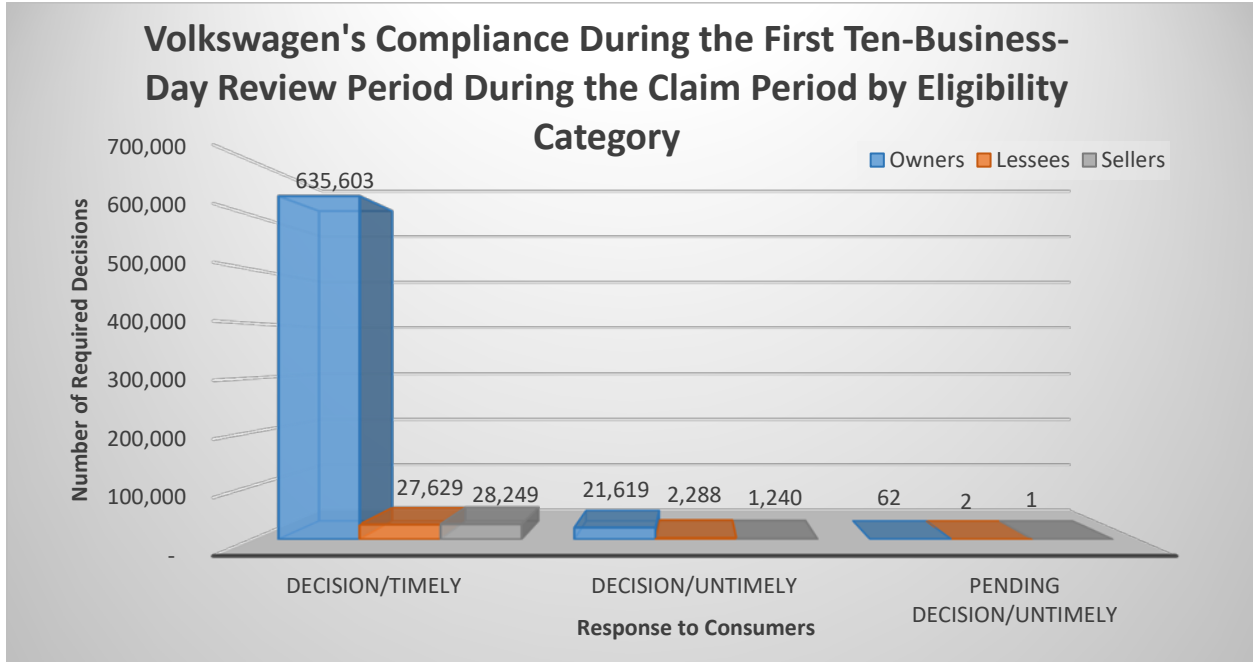
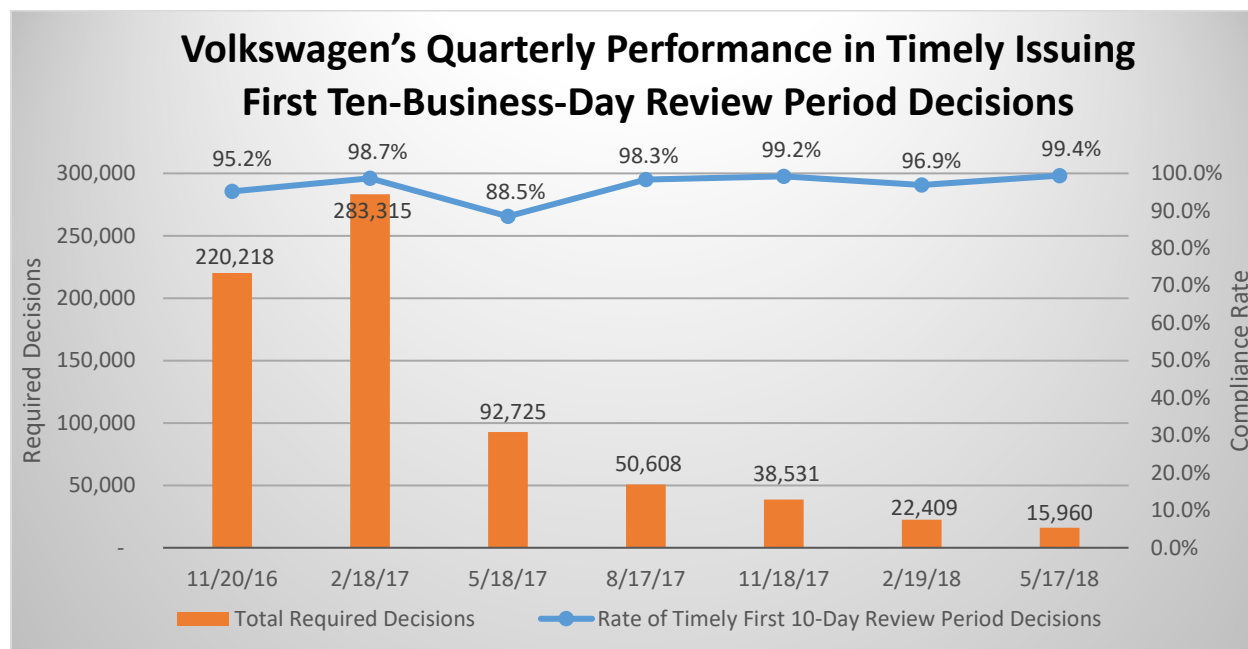


Chart 2-10 shows the number of required first ten-business-day review period decisions by quarter and the company's quarterly compliance rate.

<sup>9</sup> The 112 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, 105 claims were timely first ten-business-day review period decisions, and seven were untimely.

Chart 2-10<sup>10</sup>



The first ten-business-day review period figures (and the second ten-business-day review period figures below) continue to exclude fifty-one active claims from consumers who initially purchased vehicles in the United States but registered them in Canada.<sup>11</sup> Additionally, as of May 17, 2018, there were no active claims from consumers who had indicated that they were employed by Volkswagen or the Court. These types of claims also historically have been excluded from the timeliness analysis, as Volkswagen has used the claims process to identify and engage with these consumers though they would not receive any funds out of the Funding Pool.

<sup>10</sup> The aggregated total of all claims in Chart 2-10 is 6,961 decisions (1.0%) greater than the aggregated total of 716,805 required decisions through May 17, 2018. The divergence is the result of changes over time in the definitions of excluded claims from the timeliness analysis, including claims associated with branded titles as described below. Chart 2-10 reflects the required number of decisions by quarter based on the exclusionary rules that were applied at the time of each quarter, while the aggregated total of required decisions (716,805) and timely decisions (691,586) set forth above yields Volkswagen's overall compliance rate (96.5%) based on applying the current exclusionary rules across the entire Claim Period.

<sup>11</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.

Finally, the timeliness analysis also continues to exclude certain claims associated with vehicles with a branded title. At the end of February 2018, Volkswagen and the PSC, working with the CRC, agreed to a framework that would govern the processing of branded title claims. However, Volkswagen and the PSC recognized that unique factual circumstances associated with certain claims may require further collaboration. Through May 17, 2018, Volkswagen had processed 2,428 claims previously placed on hold, while 306 claims remained to be processed.<sup>12</sup> Branded title claims are discussed in greater detail in Section III below.

C. Preliminary Eligibility Determinations and Deficiencies

Through May 17, 2018, a total of 449,344 claims had been determined by Volkswagen to be complete and preliminarily eligible. Of these, 433,491 claims were submitted by individuals and 15,853 claims were submitted on behalf of businesses. During this quarter, the number of claims determined by Volkswagen to be complete and preliminarily eligible increased by 9,453.

Chart 2-11 reflects the cumulative number of claims determined by Volkswagen to be complete and preliminarily eligible by eligibility category during the Claim Period, and Chart 2-12 shows the most common states in which Eligible Vehicles associated with preliminarily eligible claims were registered as of May 17, 2018.

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<sup>12</sup> There were an additional 661 claims that required additional information from the consumer.

Chart 2-11<sup>13</sup>

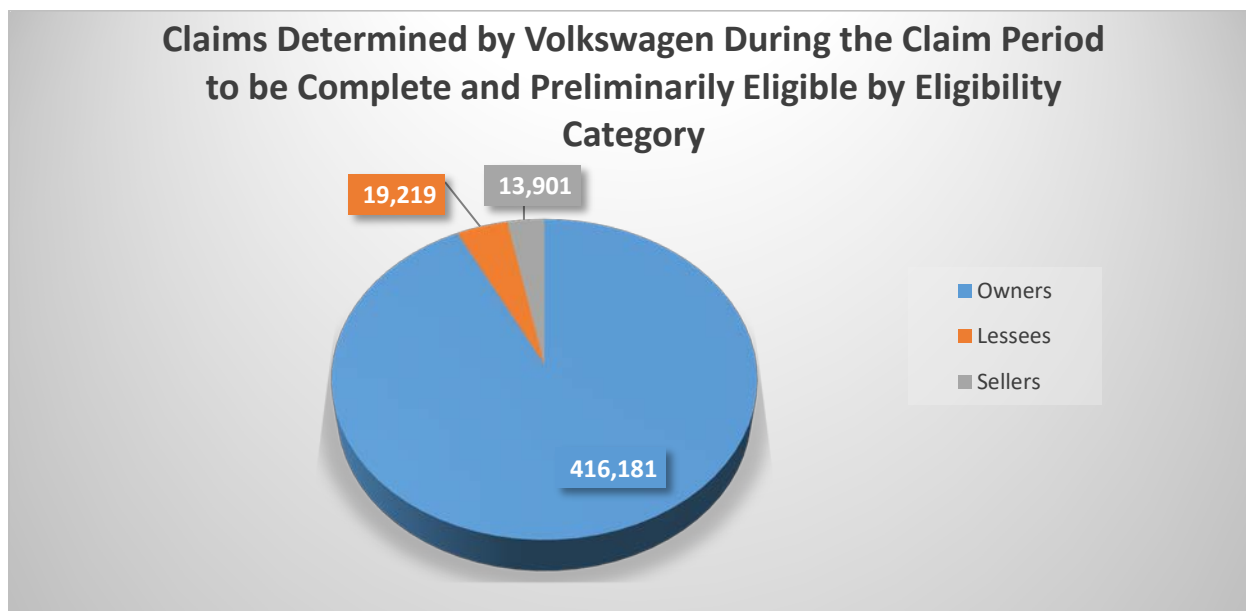


Chart 2-12

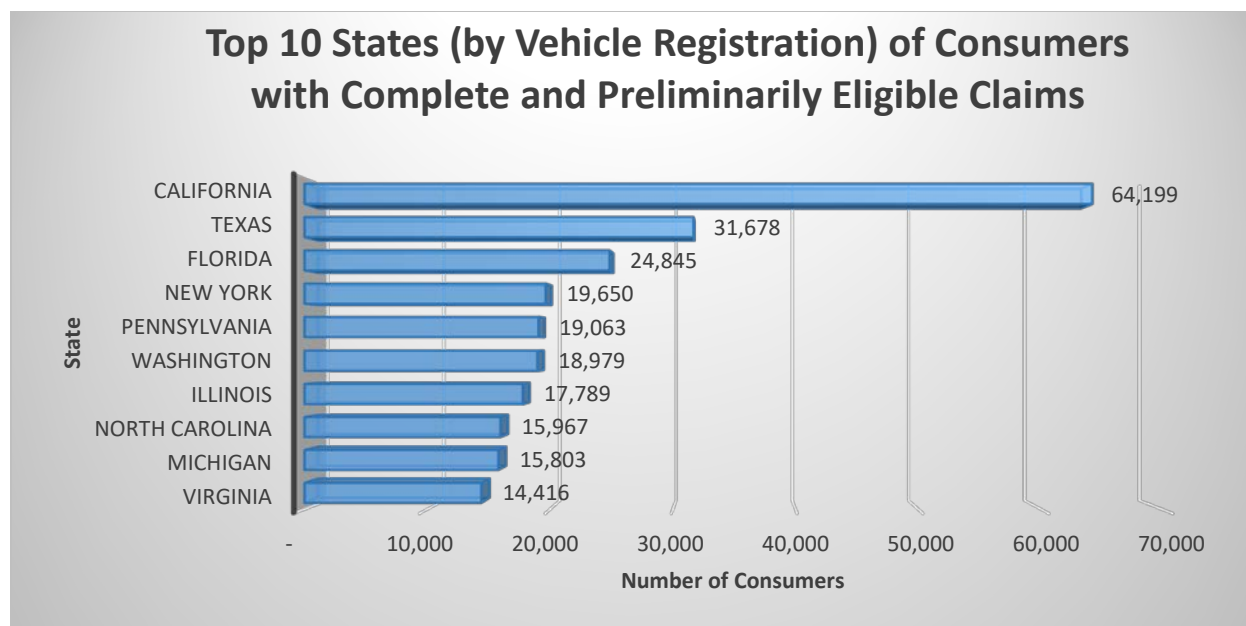


Chart 2-13 reflects the remedies selected by Owners and Current Lessees whose claims Volkswagen had deemed complete and preliminarily eligible as of May 17, 2018.

<sup>13</sup> The forty-three claims not accounted for in Chart 2-11 ultimately were deemed not eligible.



**Chart 2-13**

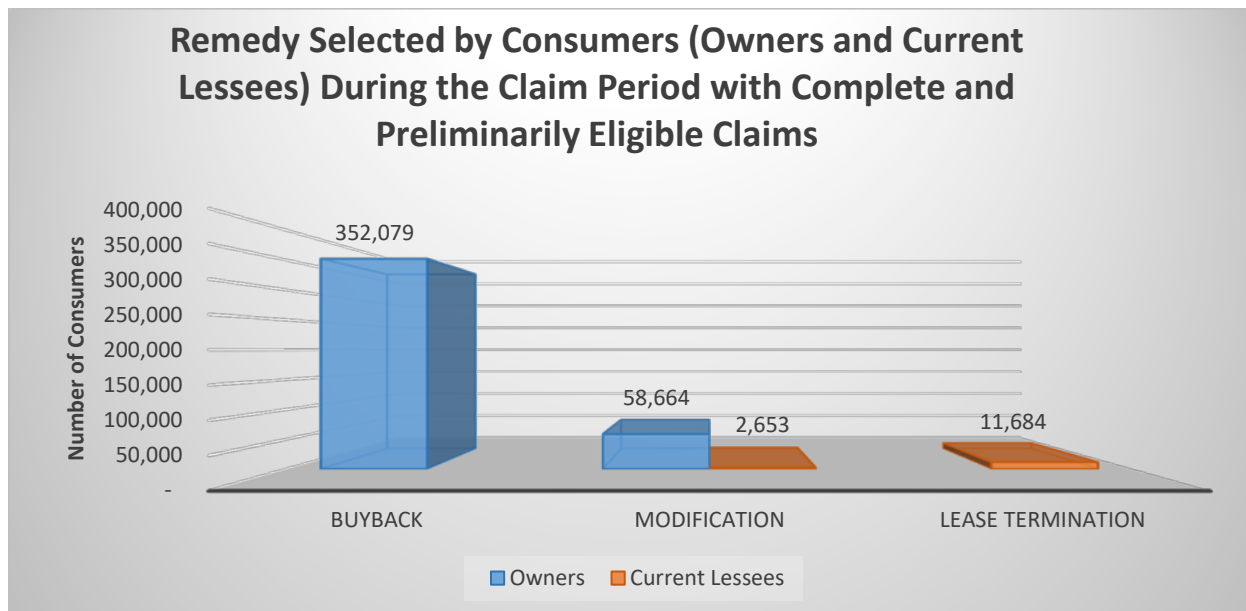
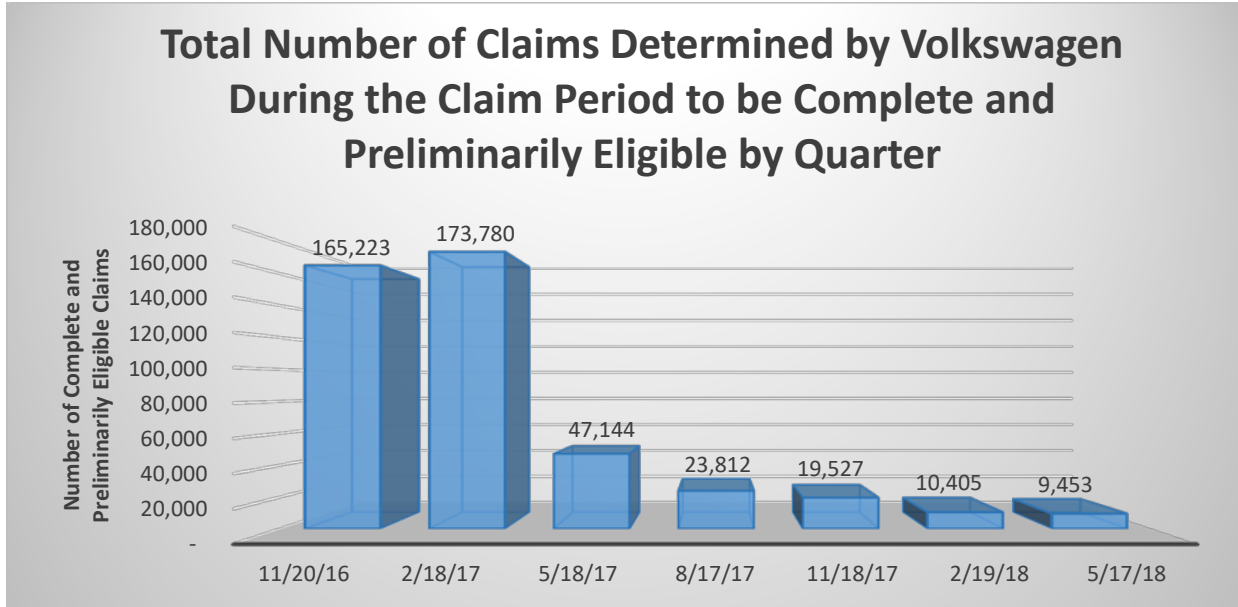


Chart 2-13 does not include 13,833 Sellers and 4,501 Former Lessees because the only remedy available to those consumers is Restitution. It also excludes 5,332 cancelled claims that generally were associated with duplicate claim submissions, and 598 claims where the eligibility category was inconsistent with the award type, which overwhelmingly were Owner claims associated with totaled vehicles that had not been converted to the “Seller” eligibility category in Volkswagen’s system to match the Restitution-only remedy available to these consumers.

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

Chart 2-14



Excluding the 11,874 Subject Vehicles that were identified in the DOJ Consent Decree as scrapped as of October 1, 2015, there have been 438,048 unique VINs that were the subject of submitted claims, of which 430,733 unique VINs were associated with Owner or Current Lessee claims. Volkswagen had deemed claims associated with 432,627 unique VINs complete and preliminarily eligible, including 425,045 unique VINs where a claim was submitted by an Owner or Current Lessee.<sup>14</sup>

Additionally, through May 17, 2018, there were 198,037 instances where Volkswagen had deemed a claim deficient during the first ten-business-day review period, spread across 135,833 unique claims. More than 390,000 deficiencies had been assessed by Volkswagen as of that date, as multiple deficiencies may be associated with a given claim submission. The most common identified deficiencies have been: (i) an incorrect document was uploaded (103,668

<sup>14</sup> The populations of non-scrapped and scrapped vehicles are separated consistent with the categorization of Subject Vehicles in the Resolution Agreements. As to the Subject Vehicles initially categorized as scrapped, there were 7,380 unique VINs associated with submitted claims, inclusive of 6,908 unique VINs that were the subject of Owner or Current Lessee submitted claims.

claims); (ii) a document was missing pages (72,496 claims); (iii) a document was illegible (61,327 claims); (iv) a document was incomplete or the document image was cut off (29,475 claims); and (v) a name on the document did not match the name in the Claims Portal (20,775 claims).

Across the 135,833 unique claims that had been deemed deficient, 129,941 consumers (95.7%) had made at least one attempt to cure the deficiency, while 5,892 (4.3%) had not yet attempted to cure. Among the 129,941 consumers who had attempted to cure: (i) 125,373 consumers (96.5%) successfully cured the deficiency; (ii) 500 consumers (0.4%) resubmitted claims that were pending a completeness determination by Volkswagen as of May 17, 2018; and (iii) 4,068 consumers (3.1%) had not resubmitted claims after their initial attempt to cure the deficiency was unsuccessful.

As of May 17, 2018, there were 4,856 consumer claims with active deficiencies. Across claims with active deficiencies, the most common deficiencies were: (i) an incorrect document was uploaded (2,728 claims); (ii) a name on the documents did not match the name in the Claims Portal (1,362 claims); (iii) a document was illegible (636 claims); (iv) the VIN of the Eligible Vehicle did not match the VIN in the consumer's submission (430 claims); and (v) a document was incomplete or the document image was cut off (351 claims).

Finally, the Claims Supervisor reviewed a sample of 1,200 claims deemed deficient by Volkswagen reviewers during this quarter to assess whether deficiency codes were properly applied. Out of this population of claims, the Claims Supervisor substantiated Volkswagen's deficiency code determinations in 1,123 instances. The concurrence rate of 93.6% is marginally lower than concurrence rates from past quarters. Disagreements related to "complex documents"

determinations increased slightly during the quarter,<sup>15</sup> as did disagreements involving financial consent forms, registrations, and identification 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 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 May 17, 2018, a total of 456,140 consumers had submitted claims that reached the second ten-business-day review period having been deemed preliminarily eligible by Volkswagen.<sup>18</sup> These included 9,865 claims that reached the second ten-business-day review period during this quarter. Of these, 434,496 claims related to individuals and 21,644 claims

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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.

<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 referenced in Chart 2-4 above that were automatically deemed ineligible by Volkswagen's system based on information input by the consumer. Through May 17, 2018, there were 5,402 claims that had been deemed ineligible upon review by Volkswagen. For 3,522 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 claims 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 449,344 consumers whose claims were deemed complete and preliminarily eligible by Volkswagen, but 456,140 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. The more recent 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.

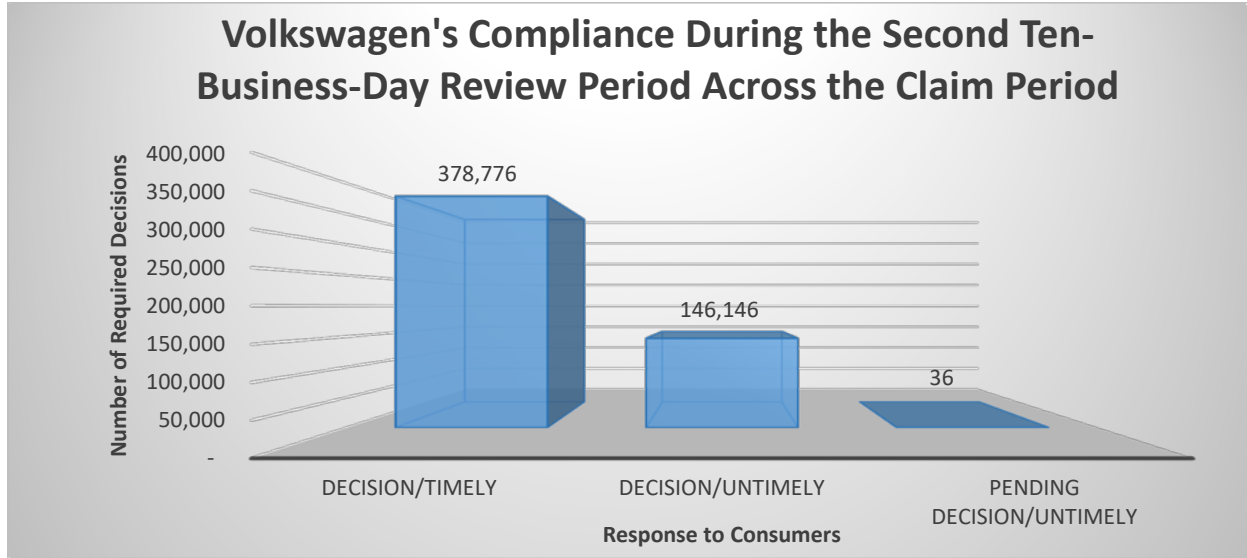
related to businesses. Across this population, 447,775 consumers (98.2%) had been issued offer letters, inclusive of 10,502 offer letters issued by Volkswagen during this quarter.

Through May 17, 2018, excluding the 453 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 524,958 second ten-business-day review period decisions. The company had timely made the required determinations in 378,776 instances, for a cumulative compliance rate of 72.2%. During this quarter, Volkswagen was required to make 11,090 second ten-business-day review period decisions and timely did so in 11,049 instances, yielding a 99.6% quarterly compliance rate.

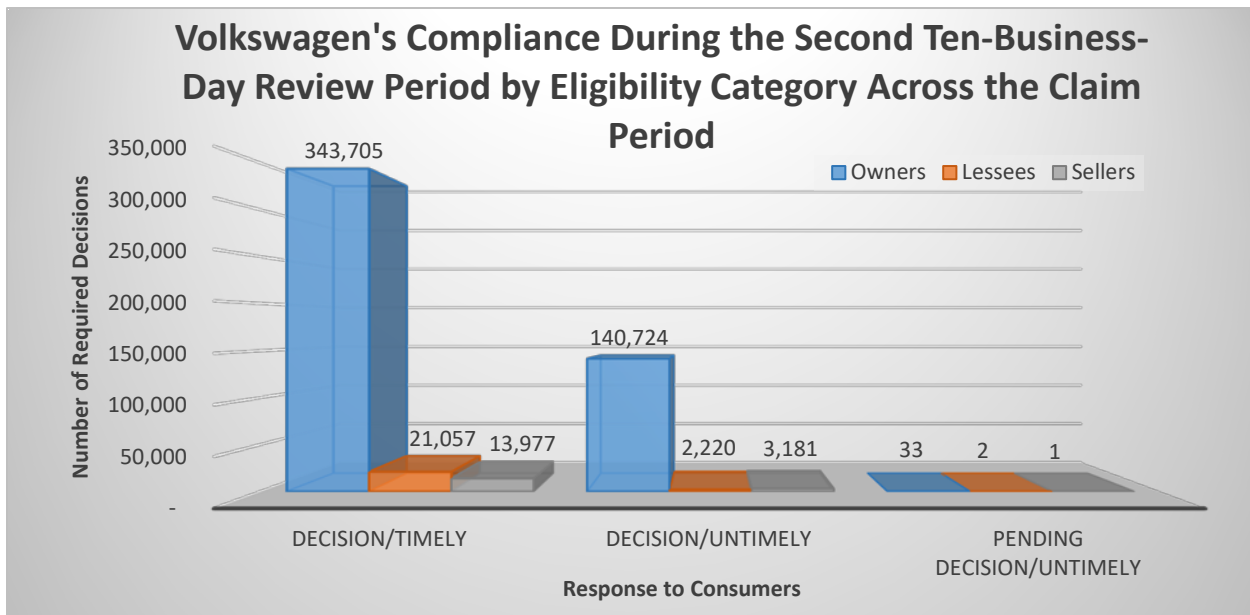
Despite Volkswagen's substantially improved performance in timely rendering second ten-business-day decisions over the last five quarters, the company's cumulative compliance rate has improved by only 10.7% since the February 2017 reporting period because of the comparatively smaller volume of claims that have required processing. The 11,090 instances of required second ten-business-day review period determinations over the last three months is only 3.1% 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>**



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

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>20</sup>**

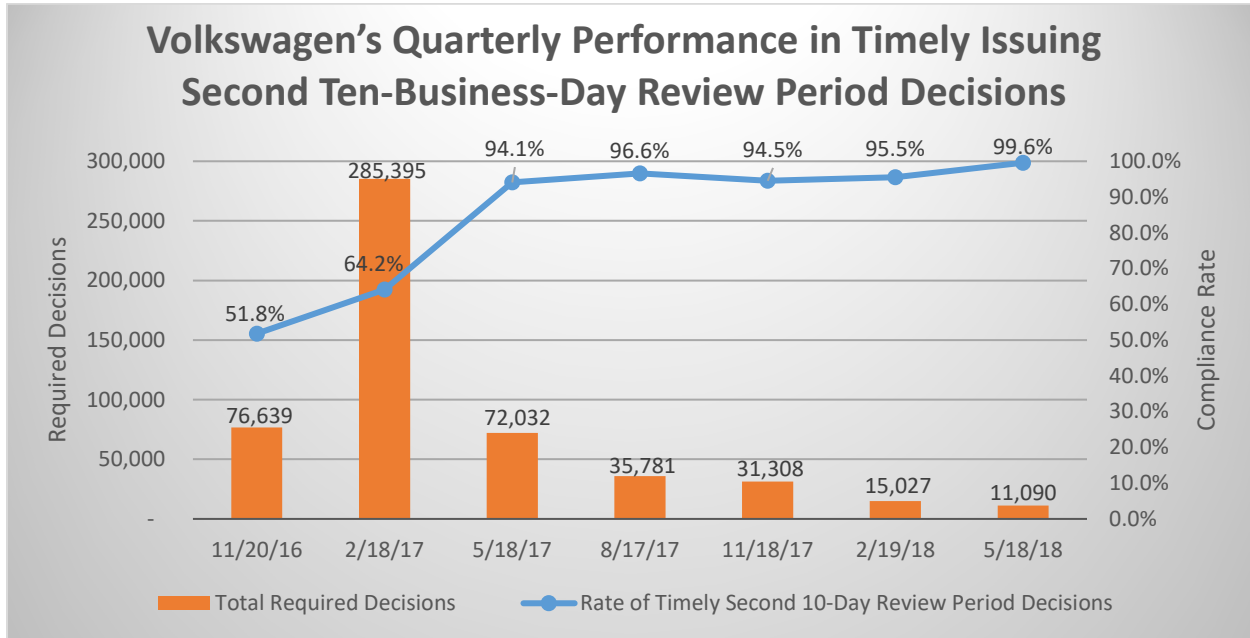
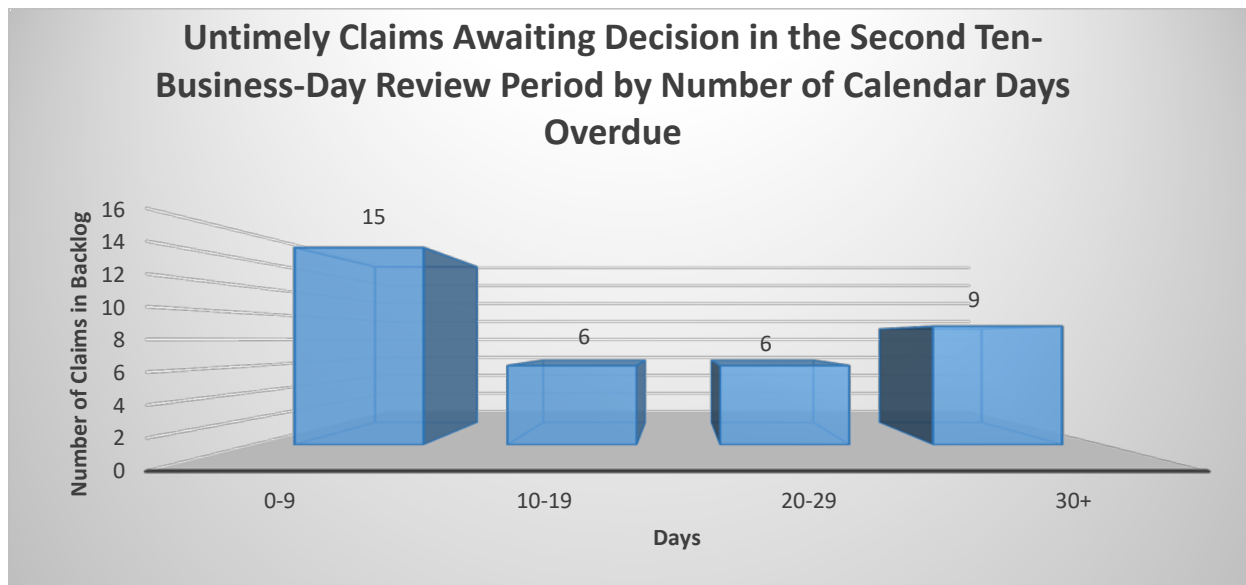


Chart 2-18 shows the thirty-six claims in Volkswagen’s backlog as of May 17, 2018 by the number of calendar days overdue.

<sup>20</sup> For the same reasons described in footnote 10 with respect to first ten-business-day review period decisions, the aggregated total of all claims in Chart 2-17 is 2,314 decisions (0.4%) greater than the aggregated total of 525,843 required second ten-business-day review period decisions through May 17, 2018.

**Chart 2-18**



Of the thirty-six claims in Volkswagen’s backlog, eighteen claims either were awaiting Volkswagen’s issuance of an offer letter or Volkswagen’s resolution of a deficiency associated with an issued offer letter. Another seventeen claims required action by Volkswagen to resolve a document deficiency, non-document deficiency, or eligibility concern associated with the claim. The remaining claim was associated with a totaled vehicle.

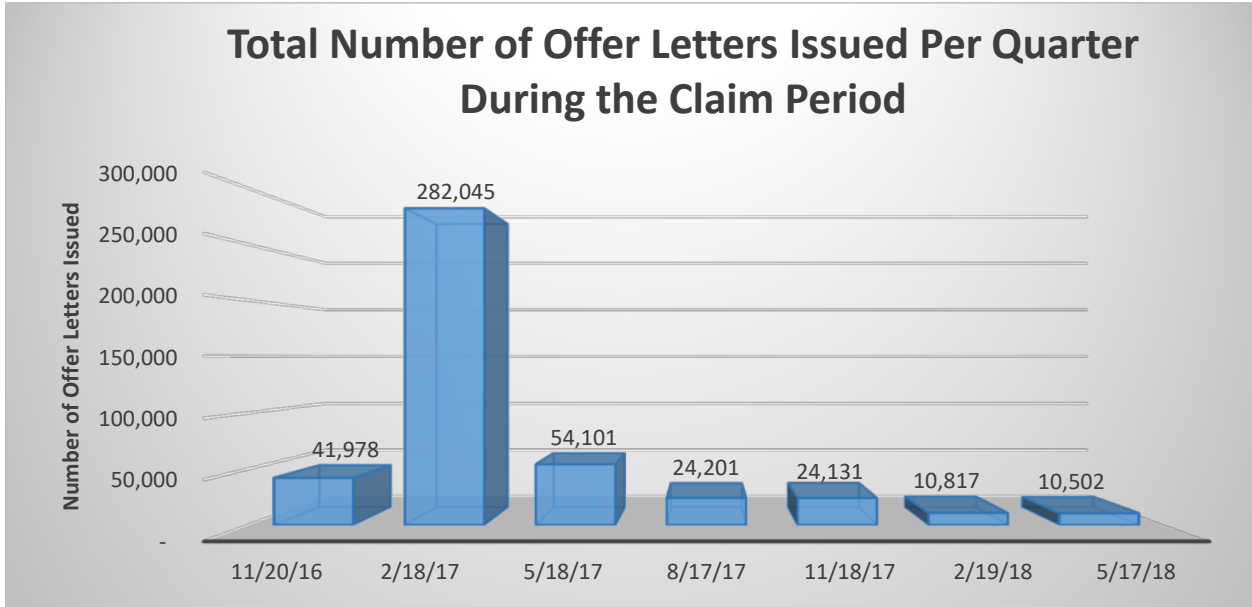
E. Offer Letters

Through May 17, 2018, Volkswagen had issued 447,775 offer letters, the aggregate value of which totaled \$8,117,748,434.10. Of these, 427,227 offer letters with an aggregate value of \$7,735,265,513.32 were issued to individuals. The remaining 20,548 offer letters were issued to businesses and were aggregately valued at \$382,482,920.78. During this quarter, Volkswagen issued 10,502 offer letters aggregately valued at \$175,654,074.85.

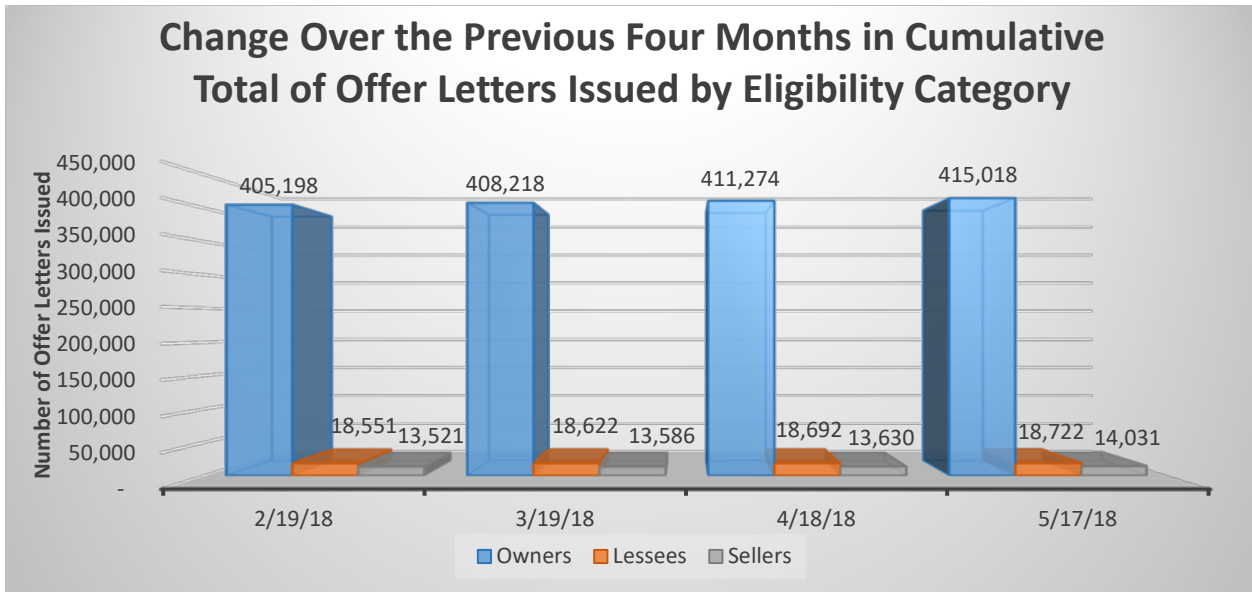
Chart 2-19 shows the total number of offer letters issued by Volkswagen to consumers during each quarter of the Claim Period, and Chart 2-20 shows the total number of offer letters issued by Volkswagen over the last four months by eligibility category.



**Chart 2-19**



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



<sup>21</sup> The four 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.

Chart 2-21 reflects offer letters issued during the Claim Period to Owners and Current Lessees by remedy selections.

**Chart 2-21**

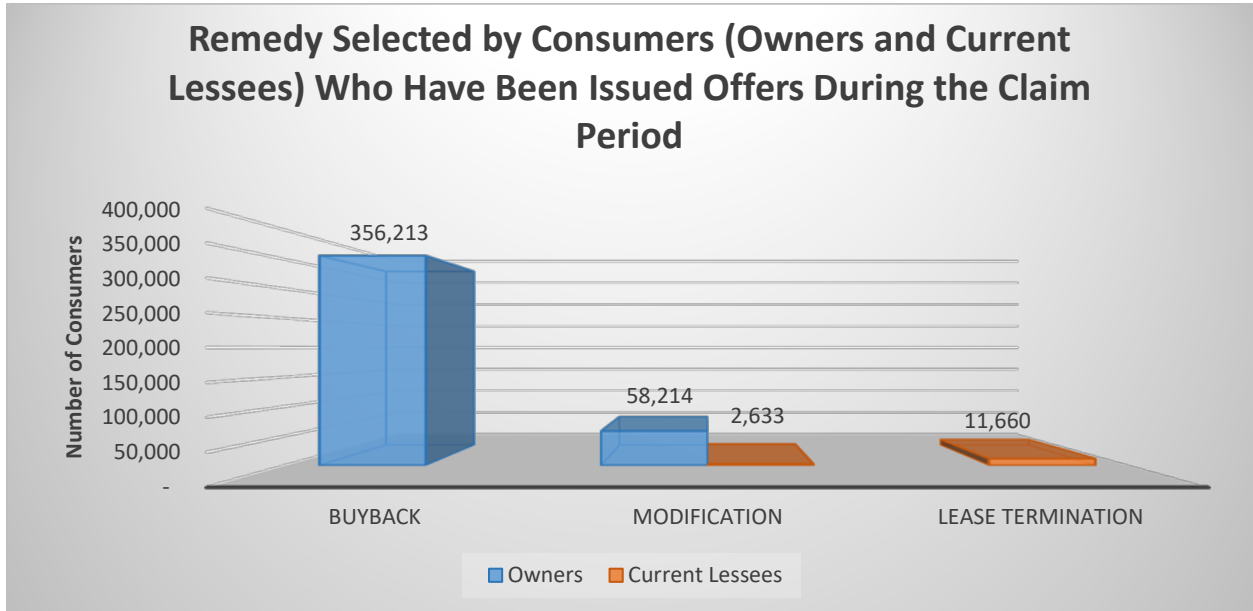


Chart 2-21 excludes 14,030 Sellers and 4,423 Former Lessees because the only remedy available to those consumers is Restitution. An additional 598 offers reflected an inconsistency between the consumer's eligibility category and the remedy selection, which overwhelmingly are Owner claims associated with totaled vehicles with an eligibility category that had not yet been changed by Volkswagen to align with the Restitution-only remedy available to these consumers. The remaining four offers were associated with claims subsequently deemed not eligible.

Chart 2-22 reflects, through May 17, 2018, the top ten states by vehicle registration of consumers who had received offer letters.

Chart 2-22



Through May 17, 2018, of the \$8.118 billion associated with offer letters extended by Volkswagen, Owners account for about \$8.006 billion. Of these, about \$4.132 billion related to Owners with loans, about \$3.871 billion related to Owners without loans, and about \$2.5 million related to Owners who purchased the vehicle off lease after September 18, 2015, but before June 28, 2016.<sup>22</sup> The remainder was split among Current Lessees (14,294 offer letters valued in the aggregate at about \$51.0 million); Sellers (14,031 offer letters valued in the aggregate at about \$45.9 million); and Former Lessees (4,428 offer letters valued in the aggregate at about \$14.9 million).

Chart 2-23 shows the average, minimum, and maximum awards issued to consumers based on eligibility category and offer selection through May 17, 2018.

<sup>22</sup> As of May 17, 2018, there were 169 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 balance 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 \$2,600. However, there were outliers that skewed the average, including eight claims with loan balances in excess of \$10,000. One hundred thirty-two of the 169 claims had loan balances of less than \$3,000. Thus, the median value of the loan balance across these 164 claims, approximately \$1,275, is perhaps a better representation of the composition of these claims.

**Chart 2-23**

<b>Eligibility Category and Offer Selection</b>	<b>Average Value</b>	<b>Minimum Value</b>	<b>Maximum Value</b>
Owner – Buyback	\$21,471.10	\$5,100.00	\$45,407.93
Owner – AEM	\$6,030.43	\$2,274.00	\$9,991.13
Current Lessee – AEM	\$3,555.22	\$2,506.50	\$4,899.30
Current Lessee – Early Lease Termination	\$3,565.54	\$2,609.00	\$4,954.80
Former Lessee Restitution	\$3,369.43	\$2,504.00	\$4,885.30
Seller Restitution	\$3,271.54	\$2,550.00	\$8,445.53 <sup>23</sup>

Finally, Chart 2-24 shows, through May 17, 2018, data related to two categories of non-standard claimants: (i) military personnel deployed overseas with their vehicles; and (ii) decedent estates.

**Chart 2-24**

	<b>Military Overseas</b>	<b>Decedent Estates</b>
Registrations	2,664	1,121
Deemed Complete and Eligible	2,570	936
Offer Letters Issued	2,547	900
Total Offer Amounts	\$49,565,230.11	\$17,278,292.97

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 May 17, 2018, Volkswagen had identified 718 claims where both the consumer and vehicle

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<sup>23</sup> 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.

were located overseas.<sup>24</sup> 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, closings can proceed in the United States in the normal course.

F. Appointments and Closings

As of May 17, 2018, a total of 436,883 consumers had accepted offer letters from Volkswagen, the aggregate value of which totaled \$7,959,305,501.40.<sup>25</sup> Of these, 416,844 offer letters were issued to individuals with an aggregate value of \$7,585,816,564.25, and the remaining 20,039 offer letters were issued to businesses with an aggregate value of \$373,488,937.15. During this quarter, 12,982 consumers accepted offer letters, the aggregate value of which totaled \$209,855,175.81.

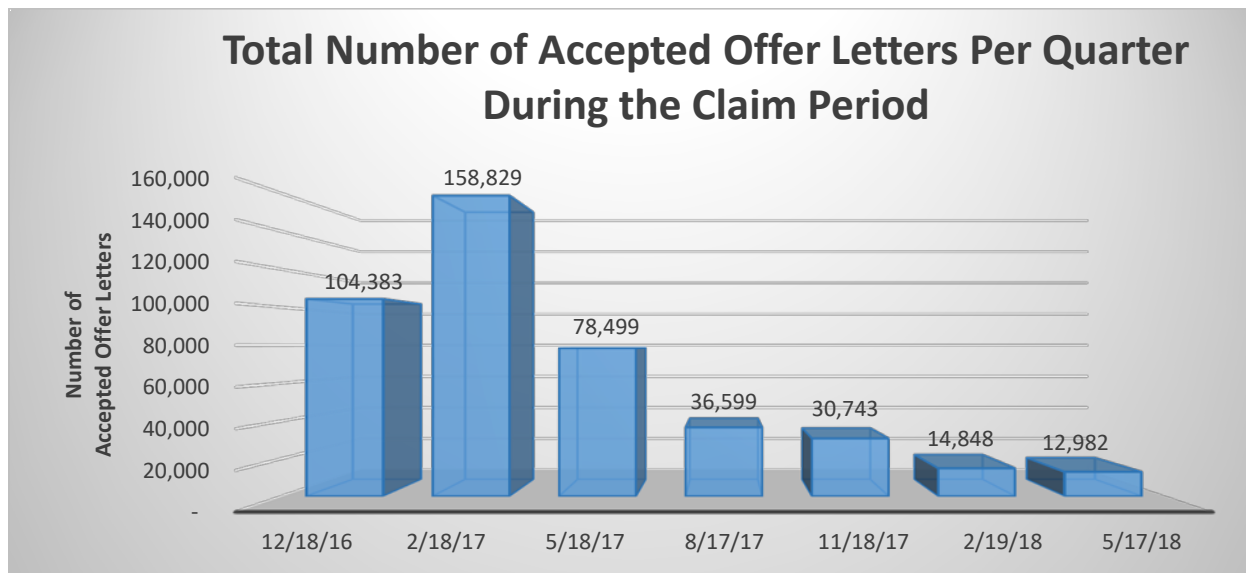
Chart 2-25 shows the number of accepted offer letters during each quarter of the Claim Period.

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<sup>24</sup> Volkswagen identified thirty-seven fewer of these claims at the end of this quarterly reporting period than it did at the end of the prior quarterly reporting period as a result of refinements to its methods for tracking such claims. For example, the refined process better accounts for military personnel who initiate claims while stationed overseas, but return to the United States before their claim is closed.

<sup>25</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.

Chart 2-25



As of May 17, 2018, a total of 358,521 consumers had scheduled closing appointments, including 9,784 consumers who had scheduled closing appointments during this quarter.<sup>26</sup>

Within this group: 353,267 consumers (98.5%) had appointments that resulted in the completion of a closing; 3,028 consumers (0.8%) had open, scheduled appointments that had yet to occur; and 2,226 consumers (0.6%) had an appointment that was cancelled and that they had yet to reschedule.

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.

<sup>26</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 whose claims are associated with totaled vehicles or who have scheduled AEMs because AEM appointments are coordinated directly with dealerships. Information through May 6, 2018 on completed AEMs is set forth below.

**Chart 2-26**

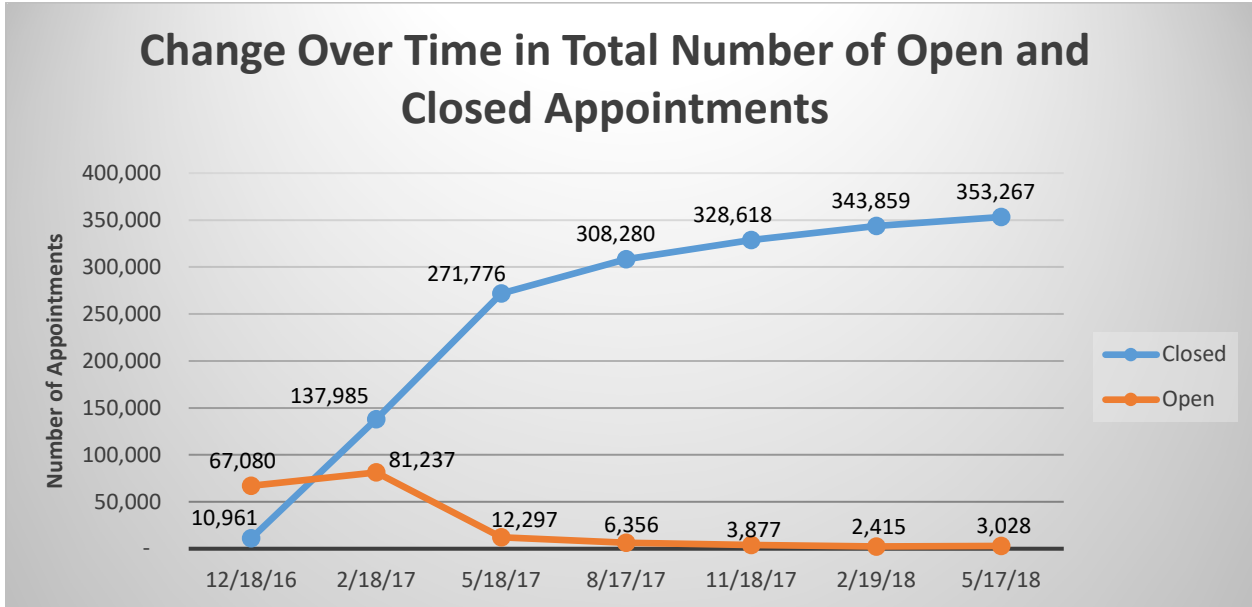
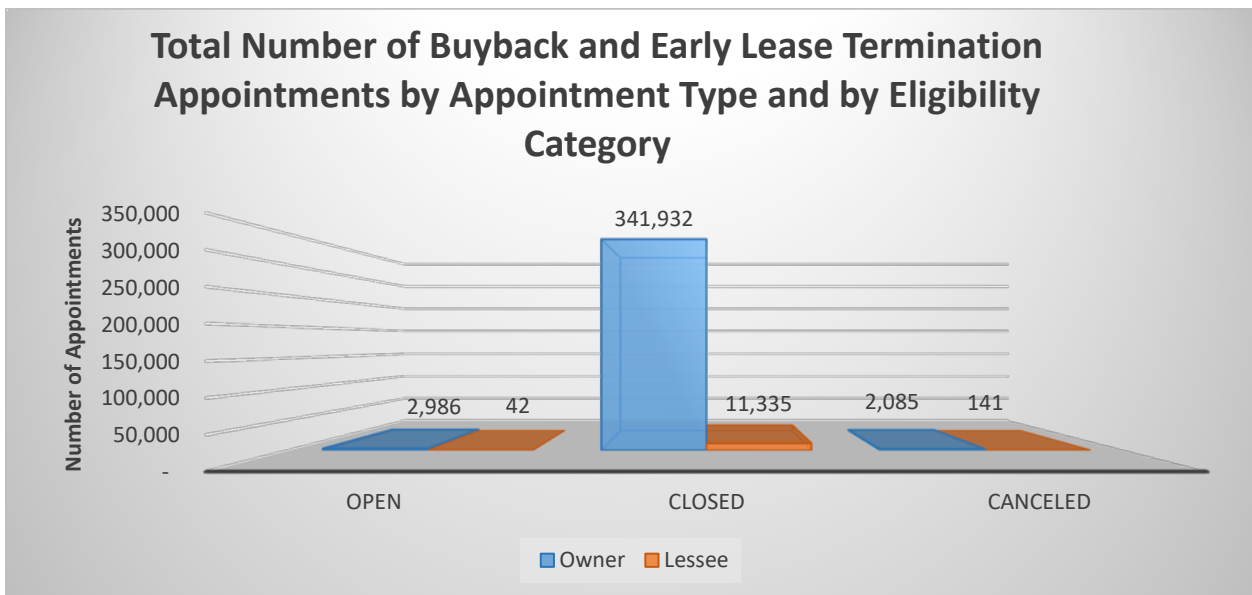


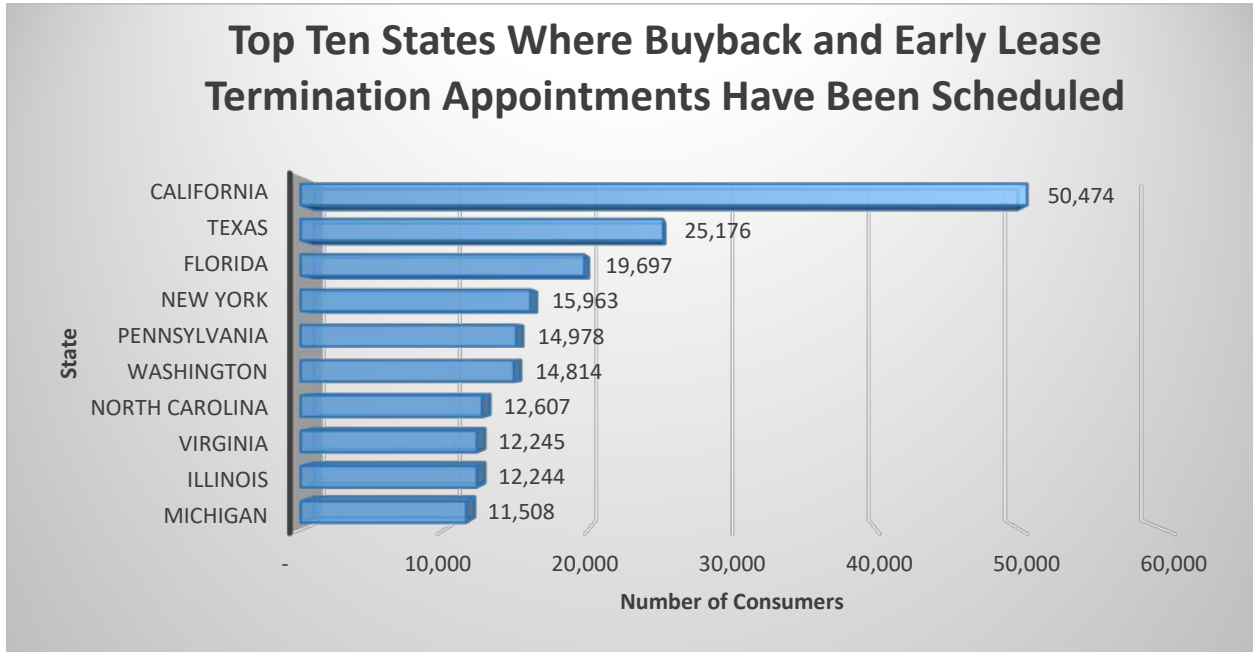
Chart 2-27 shows, for consumers who had scheduled appointments for Buybacks or Early Lease Terminations as of May 17, 2018, the total number of appointments by appointment type across the Owner and Current Lessee eligibility categories.

**Chart 2-27**

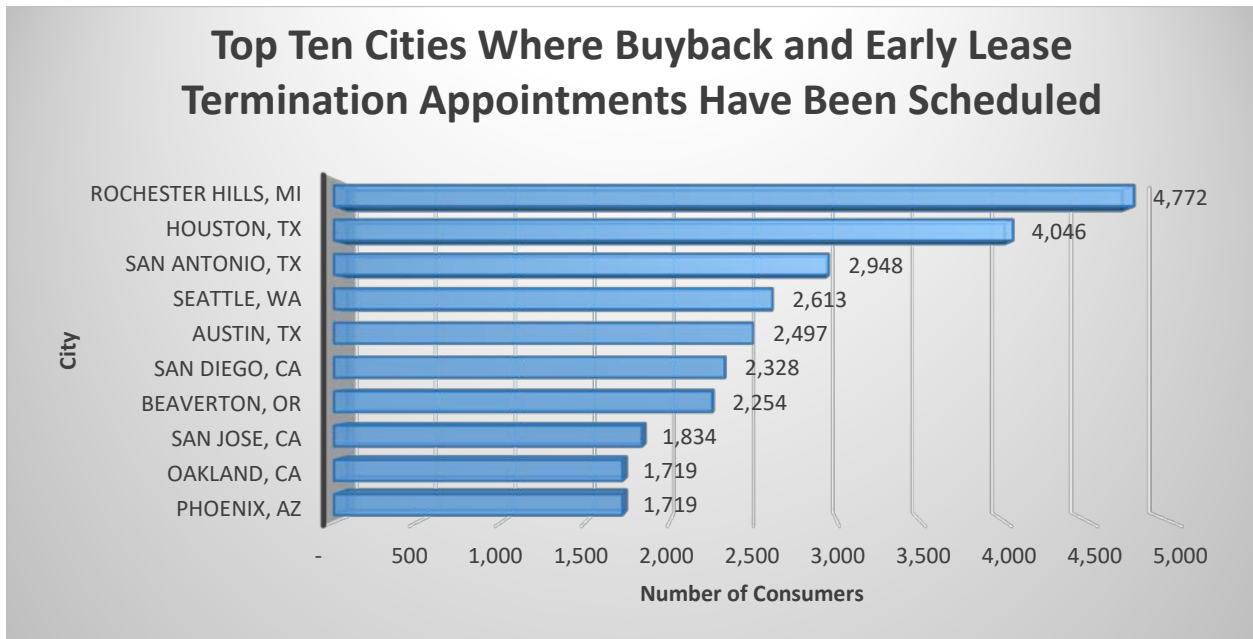


Through May 17, 2018, the most common locations where appointments were scheduled (states and cities) are set forth in Charts 2-28 and 2-29, respectively.

**Chart 2-28**



**Chart 2-29**





As of May 17, 2018, there had been a total of 79,457 instances where scheduled appointments had resulted in cancellation. Of these, 71,521 (90.0%) were cancelled at the consumer's request. Other reasons for cancellations included: (i) the consumer not showing up to the closing appointment (2,929 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 (1,385 claims);<sup>27</sup> (iii) the title not being brought to the closing (570 instances); (iv) the individual with power of attorney not being present at the closing (338 instances); and (v) the title holder not being present at the closing (312 instances).

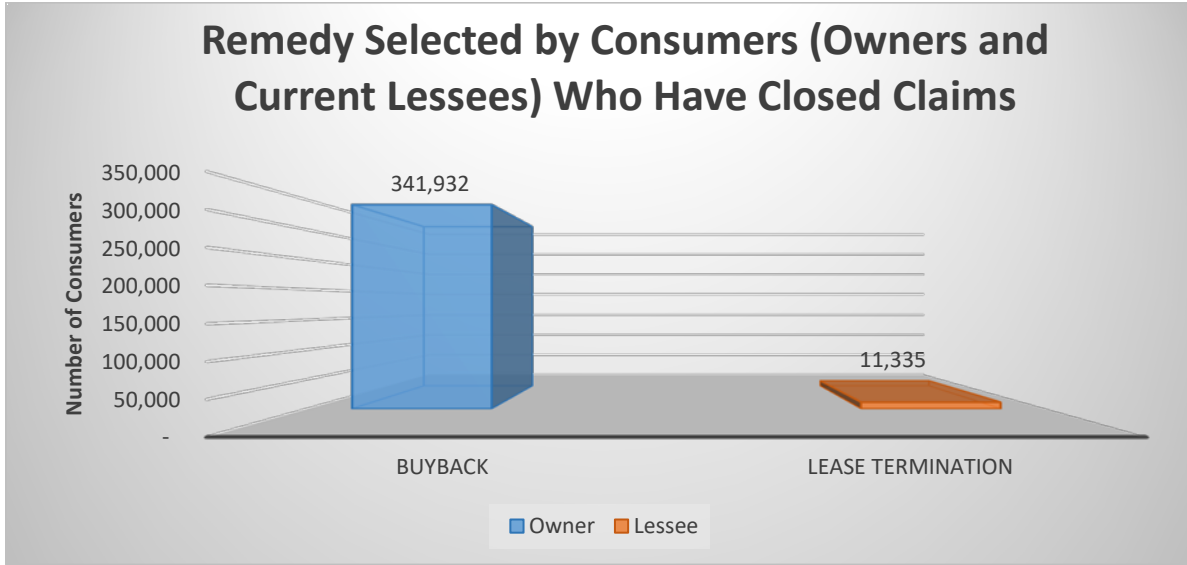
Across all 353,267 consumers who had proceeded through closing as of May 17, 2018 for a Buyback or Early Lease Termination, Volkswagen had issued payments to, or on behalf of, consumers totaling \$7,399,680,897.65. Chart 2-30 reflects the remedies that this population had selected.<sup>28</sup> Chart 2-31 shows the top ten states for consumers who proceeded through closing, based on the state in which their vehicle was registered.

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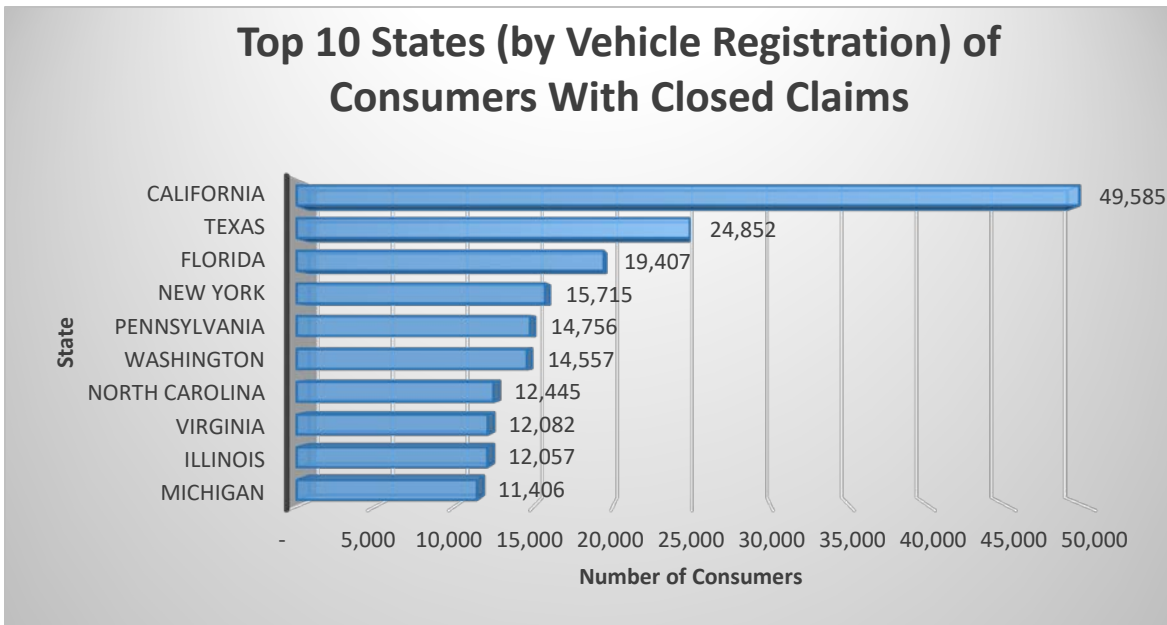
<sup>27</sup> These were all cancellations from much earlier in the Claim Period, as cancellations for being over-mileage should no longer occur based on previous process improvements implemented by Volkswagen.

<sup>28</sup> Consumers proceeding through the closing process have the choice to receive funds from Volkswagen by electronic funds transfer ("EFT") or by check. As of May 17, 2018, across closed appointments, approximately 76.3% of consumers have elected to be paid by EFT.

**Chart 2-30**



**Chart 2-31**



With respect to AEM remedy selections, as of May 6, 2018, a total of 33,460 consumers with Generation 1 Vehicles and 10,012 consumers with Generation 2 automatic transmission Passats had completed AEMs on their vehicles. Chart 2-32 shows the status of those consumers relative to whether they also have completed the claims process and received payment.

**Chart 2-32**

	<b>Completed AEM: Generation 1 Vehicles</b>	<b>Completed AEM: Generation 2 Automatic Transmission Passats</b>
Completed Claims Process	32,232	9,656
Registered Claims Pending Submission or Submitted Claims Pending Review	887	233
No Claim Registered or Claim Cancelled	341	123

Consumers with Generation 1 Vehicles and Generation 2 Passats equipped with automatic transmissions who complete the claims process are entitled to full payment of the offer amount once the AEM is completed. Volkswagen had issued payments totaling approximately \$181.5 million and \$60.7 million, respectively, to these consumers.<sup>29</sup> Consumers who have completed the AEM but have not registered a claim or cancelled their claim remain eligible for funding through the Claims Program provided that they timely register and substantiate their eligibility by submitting all required documentation, including a “repair order” evidencing proof of repair.<sup>30</sup>

The AEM for Generation 3 Vehicles is completed in two phases. The first phase -- removal of the defeat device software -- triggers a two-thirds payment to a vehicle owner who has submitted an eligible and approved claim. The second phase of the AEM, approved by EPA and CARB on April 18, 2018, involves implementing new emissions control mechanisms that further reduce emissions output and maintain emissions performance for the full useful life of the

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<sup>29</sup> Aggregated payment figures for AEM claims are derived from Volkswagen data provided each month.

<sup>30</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 on how to file a claim for Restitution.

vehicle. Completion of the second phase of the AEM triggers the remaining one-third payment to the vehicle owner who has submitted an eligible and approved claim. Notably, vehicle owners who complete both phase one and phase two of the AEM contemporaneously will receive their entire award once the AEM is completed.

As of May 6, 2018, a total of 11,833 consumers had completed the first phase of the AEM process on their Generation 3 Vehicles. Of these, 11,417 also had completed the claims process, triggering a payment under the terms of the Resolution Agreements to the consumer of two-thirds of the AEM Restitution amount. Volkswagen had issued payments totaling approximately \$50.7 million on these claims. Additionally, there were 240 claims associated with Generation 3 Vehicles where phase one of the 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. The first phase of the AEM had been completed on an additional 176 Generation 3 Vehicles where no consumer claim had yet been filed or a previously filed claim had been cancelled. These consumers likewise remain eligible for funding provided that they timely register and substantiate their eligibility through submission of all required documents.

Across the 11,833 consumers who had completed the first phase of the AEM for Generation 3 Vehicles, as of May 6, 2018, 405 consumers had also completed the second phase of the AEM. Volkswagen had paid out \$892,428.66 to consumers in connection with completion of the second phase of the AEM. Notably, with the mid-April approval by EPA and CARB of phase two of the AEM, and the timing of the subsequent notices to vehicle owners, completion of phase two AEMs began in late April. With the May 6, 2018 date of the AEM data provided by Volkswagen, the number of vehicles on which the phase two AEM was completed is only 405

because the data captures only the first few days during which phase two of the AEM was available.

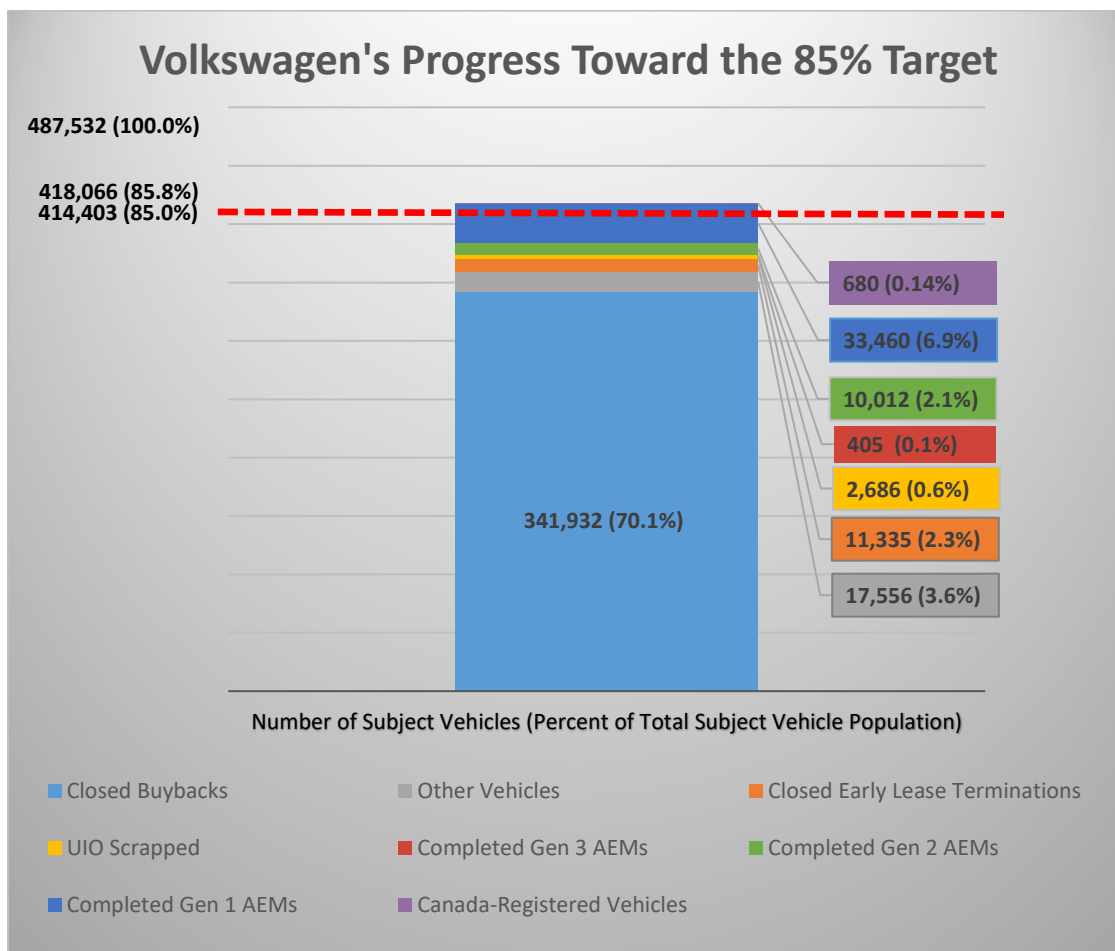
The closing figures above do not include the 13,441 Sellers and 4,230 Former Lessees who had been paid on claims as of May 17, 2018, because these consumers were not required to go through the closing process. Through May 17, 2018, Volkswagen had aggregately paid out to these consumers \$44,137,847.46 and \$14,240,814.93, respectively. Additionally, within the aforementioned population of 598 claims where the eligibility category did not align with the remedy selection -- overwhelmingly Owner claims associated with totaled vehicles -- Volkswagen had issued 590 payments to consumers totaling \$3,439,432.58.

Finally, as of May 24, 2018, a total of 3,900 consumers had effectively opted out of the Class Action Settlement. Despite initially opting out, 1,874 of those consumers subsequently reached a resolution with Volkswagen or revoked their election to opt out, while 2,026 consumers had done neither.

G. Progress Toward the 85% Requirement

The DOJ Consent Decree requires that Volkswagen 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).” As shown in Chart 2-33, Volkswagen had removed from commerce or modified approximately 85.8% of Subject Vehicles. The company therefore has met the overall 85% target set forth in the DOJ Consent Decree.

Chart 2-33<sup>31</sup>



The “Other Vehicles” category depicted in Charts 2-33 and 2-34 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>31</sup> Figures in Charts 2-33 and 2-34 relating to Polk Units in Operation (“UIO”) Scrapped and Other Vehicles are based on Volkswagen data as of March 31, 2018. Vehicles purchased in the United States but registered in Canada are also included in measuring Volkswagen’s progress toward the 85% requirement because these VINs are within the “total number of 2.0 Liter Subject Vehicles” set forth in the DOJ Consent Decree. The figures in Chart 2-33 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. Finally, the AEM figures in Charts 2-33 and 2-34 are based on data provided by Volkswagen as of May 6, 2018.

Chart 2-33 does not include 11,428 consumers with Generation 3 Subject Vehicles (2.3% of the “total number of 2.0 Liter Subject Vehicles”) who, as of May 6, 2018, only had completed the first phase of the AEM process. The Claims Supervisor will include these vehicles in the 85% target analysis once they receive the second phase of the AEM. Likewise, Chart 2-33 excludes 11,855 Generation 3 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. The Claims Supervisor will include these vehicles in the 85% target analysis if and when they receive the second phase of the AEM.

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 May 17, 2018, Volkswagen had removed from commerce or modified approximately 83.5% of Subject Vehicles registered in California. Chart 2-34 shows Volkswagen’s progress toward the California-specific 85% requirement.

Chart 2-34

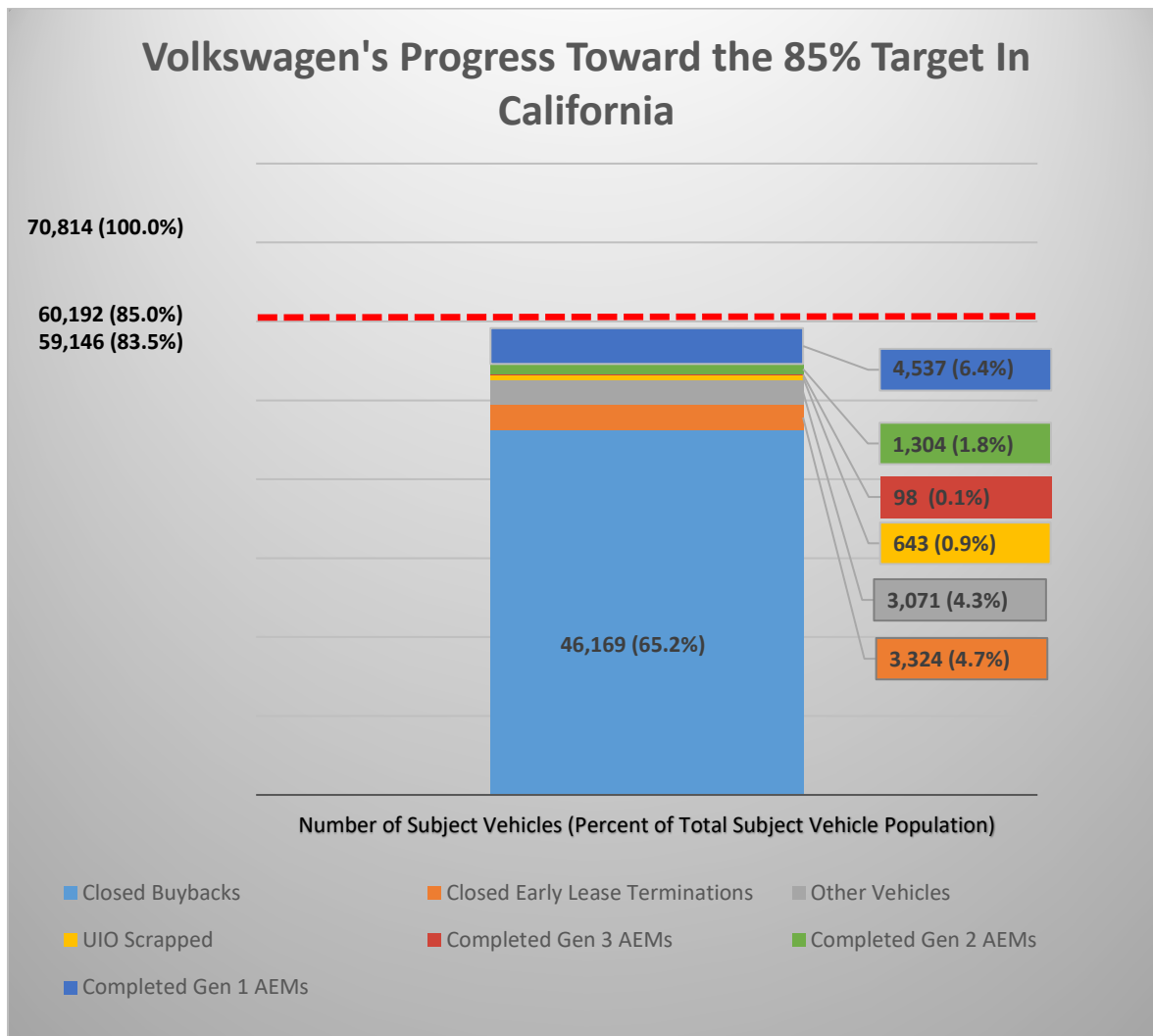


Chart 2-34 does not include 2,274 consumers with Generation 3 Vehicles from California who had completed only the first phase of the AEM process (3.2% of the “total number of all 2.0 Liter Subject Vehicles registered in California”). Chart 2-34 also does not include nine Subject Vehicles (0.01% of the “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. The Claims Supervisor will include these vehicles in the 85% target analysis if and when they complete phase two of the AEM.



### **III. Consumer Experience**

As indicated by the above performance metrics, during this quarterly reporting period, Volkswagen effectively processed claims for the vast majority of eligible consumers, resulting in the timely completion of Buybacks, Early Lease Terminations, and AEMs, and rendering of associated payments in accordance with the terms of the Resolution Agreements. This section provides updates regarding key aspects of the Claims Program and provides analyses of the company's performance in delivering customer support.

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

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

###### **a. Branded Title Claims**

As detailed in the February 2018 report, on February 26, 2018, Volkswagen implemented an agreed-upon general framework for the processing of certain branded title claims that had been on hold, in some cases for months, pending discussions between the Parties and the CRC regarding eligibility.<sup>32</sup> The Parties and CRC recognized that while the framework should address most claims associated with vehicles with titles branded after September 18, 2015, there may be certain claims that present unique factual circumstances and require further collaboration.

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<sup>32</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. In some states, a vehicle with a salvage title cannot be registered with the applicable 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.

Through May 17, 2018, Volkswagen had processed 2,428 claims previously placed on hold in accordance with the general framework.<sup>33</sup> A total of 1,238 claims were deemed eligible and resulted in the issuance of offer letters, and a total of 1,190 claims were deemed ineligible. The vast majority of eligible claims involved vehicles with rebuilt titles, and the vast majority of ineligible claims involved vehicles that had salvage titles as of February 26, 2018. Finally, a total of 661 claims required additional information from consumers before the company could render an eligibility and award determination. More common forms of documentation requested included: (i) copy of certificate of title (197); (ii) proof of vehicle acquisition (181); (iii) proof of government issued vehicle registration (170); (iv) proof of vehicle operability (149); and (v) government issued ID for the registered owner (121). Based on the above, Volkswagen had completed its review of the vast majority of claims previously placed on hold by the end of this quarterly reporting period.

There were still 306 claims on hold due, in large part, to the company's determination that further discussions between Volkswagen and the PSC regarding how the new protocols should be applied were required because of the unique factual circumstances associated with these claims. The company has advised that it will be engaging in further discussions with the PSC regarding the application of certain branded title protocols in the coming weeks. The Claims Supervisor will continue to closely monitor developments related to the processing of these claims and will provide updates in future reports.

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<sup>33</sup> Included in this total and the totals that follow in this section 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 PSC and the CRC, and analyzed the details surrounding these consumers' acquisitions of their vehicles.

b. Canadian Claims

Volkswagen made further progress completing closings for consumers who had purchased vehicles in the United States, but had registered them in Canada.<sup>34</sup> Volkswagen reported that, as of May 21, 2018, it had completed 781 Canadian claims (consisting of 688 Buybacks and 93 AEMs) out of a total of 1,212 received, including 383 completed claims (consisting of 348 Buybacks and 35 AEMs) during this quarterly reporting period.

c. Military Overseas Claims

Volkswagen continued to make progress processing claims submitted by military personnel deployed overseas with their vehicles. Volkswagen reported that as of May 21, 2018, it had completed Buybacks in connection with 619 of the 718 claims (86.2%) it received, including fifty-one Buybacks completed during this quarterly reporting period.<sup>35</sup> These Buybacks have occurred in twenty-four different countries.

As of May 21, 2018, there were fifty-nine AEM claims submitted by military personnel stationed overseas with their vehicles. Chart 3-1 provides a summary of those claims by the country in which the consumer is currently stationed with his or her vehicle.

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<sup>34</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.

<sup>35</sup> Volkswagen identified thirty-seven fewer Buyback claims submitted and five fewer Buybacks completed at the end of this quarterly reporting period than it did at the end of the prior quarterly reporting period as a result of refinements to its methods for tracking such claims. For example, the refined process better accounts for military personnel who initiate claims while stationed overseas, but return to the United States before their claim is closed.

**Chart 3-1**

<b>AEM Claims Submitted by Overseas Military Personnel</b>	
<b>Country</b>	<b># of Claims</b>
Germany	42
Italy	6
United Kingdom	3
Guam	2
To Be Determined <sup>36</sup>	2
Spain	1
Luxembourg	1
Finland	1
Belgium	1

Completing AEMs overseas poses various legal and logistical challenges, including: consideration of import/export laws; a lack of readily available United States vehicle parts in foreign countries; and the training of personnel at foreign dealerships on the Claims Program and the technical aspects of performing an AEM. Volkswagen developed a process to address those challenges and elected to begin offering overseas AEMs in Germany first due to the high concentration of AEM claims submitted by military personnel stationed there.

The process begins with consumers scheduling appointments with, and delivering their vehicles to, agreed-upon dealers in Germany. The dealers then transport the vehicles to a Technical Service Center (“TSC”) in Germany with trained personnel equipped to complete AEMs.<sup>37</sup> The consumers are provided loaner vehicles, free-of-charge, while the AEMs are completed. Upon successful completion of the AEMs, the repaired vehicles are returned to the same dealers to which they were originally delivered, at which point the consumers can retrieve them and return their loaner vehicle. The overseas AEM process (from vehicle drop-off to

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<sup>36</sup> Two consumers have not yet provided a current location to Volkswagen.

<sup>37</sup> Volkswagen has advised that it is asking military personnel for their preferred dealerships, and accommodating those selections when possible. The company anticipates that military personnel will have multiple dealerships throughout Germany from which to choose, so that their travel time to and from the dealership is minimized.

vehicle pick-up) will typically take one to two weeks per consumer depending, in part, on where the consumer is stationed relative to a dealership that can accept the vehicle for delivery, and how far that dealership is from the TSC.

To test the effectiveness of the process, Volkswagen scheduled AEM appointments during the week of April 9, 2018 for two military personnel stationed in Germany with their vehicles. The company reported that those AEMs were successfully completed and, as a result, the company contacted the remaining, eligible military personnel stationed in Germany to expand the offering of AEM appointments. As of May 23, 2018, the company reported that twenty-five military personnel stationed overseas had scheduled AEM appointments, and six AEM appointments had been completed. The company anticipates scheduling two to three AEM appointments per week in Germany in the coming weeks, and is considering options for completing AEMs for the fewer than twenty military personnel stationed outside of Germany who elected an AEM.

The Claims Supervisor will continue to monitor progress related to the scheduling and completion of AEMs overseas, and will provide updates in future reports.

d. Hawaiian Claims

The company reported completing closings for all seventy-one claims that it has received from consumers residing on Hawaiian Islands that do not have a Volkswagen dealership. Thirty-seven of the claims were completed through on-island appointments and thirty-four involved instances where the consumer shipped the vehicle to a designated location and was reimbursed by Volkswagen for expenses incurred.

2. Approval of the Second Phase of the Emissions Modification for Generation 3 Vehicles

As previously reported, on January 6, 2017, the EPA and CARB approved the first phase of an emissions modification for Generation 3 Vehicles involving removal of the defeat device software. At that time, Volkswagen advised consumers that a second phase of the AEM -- implementing new emissions control mechanisms that would further reduce emissions output and maintain emissions performance for the full useful life of the vehicle -- would be available beginning in early 2018.

On April 18, 2018, the EPA and CARB approved the second phase of the AEM. Volkswagen reported that it notified approximately 34,000 consumers by regular mail and approximately 18,000 consumers by email of the approval. The notification advised these consumers, among other things, that the second phase of the AEM: (i) will take approximately nine hours to complete and be available at no cost to the consumer;<sup>38</sup> (ii) is not expected to have any further impact on vehicle reliability, durability, fuel economy, engine sound, vehicle performance, or drivability; and (iii) will have no effect on the extended warranty provided as part of the first phase of the AEM.

The notification also advised consumers that, if they already had completed the first phase of the AEM, they are expected to complete the second phase of the AEM, and are no longer eligible to receive a Buyback or Early Lease Termination. Eligible consumers who complete the second phase of the AEM will receive the remaining one-third of the AEM Restitution payment. Consumers who have not completed the first phase of the AEM still have the option of selecting between a Buyback, Early Lease Termination, or the AEM (or modifying

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<sup>38</sup> A complimentary loaner vehicle will be provided for the duration of the AEM appointment.

a previously selected remedy), provided they meet the eligibility requirements and submit a timely claim. As of May 6, 2018, the company completed the newly-approved AEM on 405 vehicles.

### 3. Virtual Closing Process

As previously reported, Volkswagen instituted a virtual closing process conducted by closing support agents located in Michigan and program ambassadors located on-site at local dealerships. The program ambassadors utilize a mobile device application installed on tablets to establish an audio and video connection between the closing support agents and consumers. The closing support agents lead the virtual closing appointments, and the program ambassadors provide assistance by, among other things, operating the mobile devices, taking photographs of the vehicles and, if needed, helping consumers with the completion of documents.<sup>39</sup>

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, while consumers may schedule an AEM appointment at any dealership of their choosing. Although dealership participation in the virtual closing process is voluntary, as of May 15, 2018, 87.0% of Volkswagen dealerships and 94.7% of Audi dealerships had agreed to participate. Based on analysis, Volkswagen has determined that there is sufficient geographical dealership coverage throughout the country, even for consumers located in rural areas, and has reported that it will continue to monitor dealership enrollment to ensure that sufficient virtual closing coverage is maintained through the duration of the Claims Program.

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<sup>39</sup> As previously reported, one of the objectives of the virtual closing process is to memorialize the closing appointment for the benefit of both the company and consumer through the voluntary recording of audio and video. Although photographs of the vehicle and certain documents, including the consumer's identification, are mandatory as part of the closing process, consumers must expressly consent to audio and video recording of their closing appointment, and there is no audio or video recording of the appointment absent that consent.

During the quarterly reporting period, Volkswagen completed approximately 9,000 Buyback and Early Lease Termination appointments utilizing the virtual closing process. The company reported experiencing some limited technical challenges resulting in connectivity issues between closing support agents and consumers, as well as a few appointments not being recorded, but the causes of those issues were identified and rectified.

Over the course of the quarterly reporting period, the Claims Supervisor attended a number of virtual closing appointments, all of which were completed successfully and without issue. These observations, combined with the closing metrics in Section II, the relatively few consumer complaints received, and the limited issues identified by the company, indicate that the virtual closing process is operating effectively. The Claims Supervisor will continue to monitor 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 May 18, 2018, a total of 1,967 unique appeals (0.4% of all submitted claims) had been filed by consumers -- an increase of 435 unique appeals from the prior quarterly reporting period. The majority of appeals challenged Volkswagen's eligibility determinations or award calculations. The CRC had reached determinations with respect to 1,090 (55.4%) of all appeals, including 314 CRC determinations over the course of this quarterly reporting period. The outcome of these 314 determinations are summarized as follows:

- The CRC denied 220 appeals;
- For 52 consumers, the CRC advised that the issues that were the subject of the appeal had previously been resolved, thus mooting the appeal;



- In 38 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 2 instances;<sup>40</sup> and
- The CRC ruled partially in favor of the consumer in 2 instances.<sup>41</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 and will call upon the court-appointed neutral when necessary.

#### 5. Reminder Notice

Pursuant to the FTC Consent Order, at least 180 days prior to the December 30, 2018 end of the Claim Period (i.e., by July 3, 2018), Volkswagen is required to send every eligible consumer that has not elected a remedy or scheduled a closing appointment a notice by at least two different means reasonably calculated to reach the consumer such as mail and email, or email and phone (the “Reminder Notice”). The Reminder Notice is required to: (i) inform eligible consumers of the deadline to file a claim application and/or schedule a closing appointment in order to receive compensation; and (ii) direct them to the claims website. Volkswagen also is required to send a second Reminder Notice at least 150 days prior to December 30, 2018 (i.e., by August 2, 2018).

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<sup>40</sup> The CRC awarded one consumer compensation as a result of additional information he provided in support of his appeal, and the other was provided a Vehicle Value offer in accordance with the newly implemented protocols for the processing of branded title claims.

<sup>41</sup> The CRC awarded two consumers additional compensation for expenses they incurred as a result of delays in the receipt of payoff checks by the consumers’ respective lenders. However, the consumers’ requests for compensation not provided for in the Resolution Agreements, including time spent pursuing their appeals and reimbursement for vehicle repair costs and vehicle rental costs, were denied.

On April 30, 2018 and May 1, 2018, Volkswagen sent the first Reminder Notice by regular mail to approximately 153,700 consumers and by email to approximately 52,850 consumers. The company also posted the Reminder Notice on [www.VWCourtSettlement.com](http://www.VWCourtSettlement.com). The Reminder Notice advised recipients that, although they had not yet completed a claim, they may be eligible to receive a remedy, including compensation. The Reminder Notice further advised recipients, among other things, that: (i) they must submit a complete claim application (including all required documents) by September 1, 2018 either online through the Claims Portal (accessible via [www.VWCourtSettlement.com](http://www.VWCourtSettlement.com)) or using a paper claim form (also accessible at [www.VWCourtSettlement.com](http://www.VWCourtSettlement.com)), or they risk losing the opportunity to participate in the Claims Program; (ii) if their claim is approved, they must return a signed and notarized offer letter to the company to receive benefits; (iii) the signed and notarized offer letter should be submitted by December 1, 2018 because, if it is submitted after that date, there is significant risk that it will not be reviewed and approved in time to schedule and complete a Buyback of Early Lease Termination prior to the end of the Claims Program on December 30, 2018; and (iv) if the selected remedy is not completed by December 30, 2018, benefits under the Claims Program will not be provided.

#### 6. 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 environmental regulator reflects that, as of March 31, 2018, Volkswagen had reacquired 345,536 Eligible Vehicles through the Claims Program, resold 18,804 Eligible Vehicles, and destroyed 45,874 Eligible Vehicles. Accordingly, approximately 280,850 Eligible Vehicles reacquired through the Claims Program were in a Volkswagen storage facility or in transit to a storage facility as of March 31, 2018.<sup>42</sup>

B. Analysis of Consumer Outreach & Volkswagen's Response

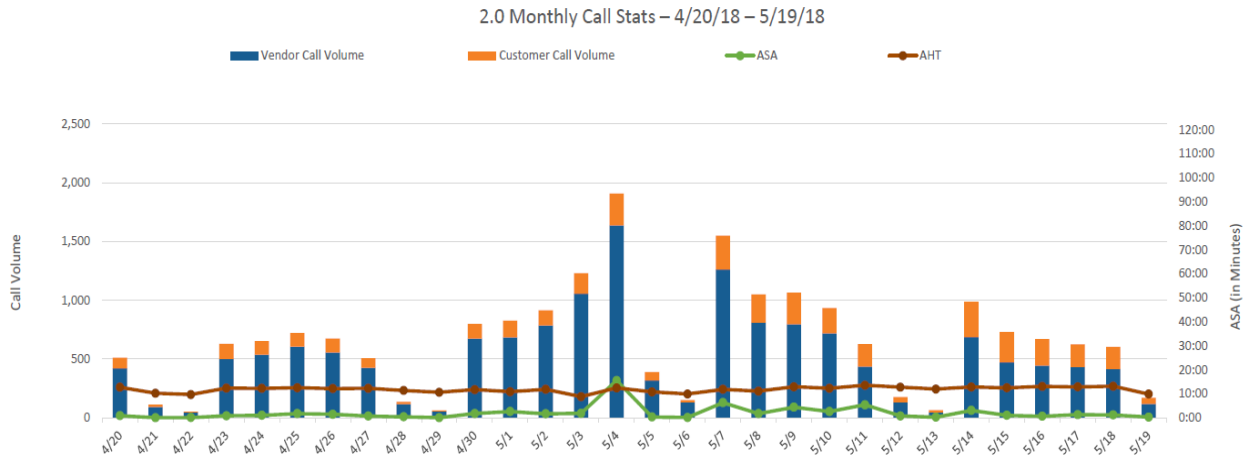
Consumer call and chat volume declined compared to the prior quarterly reporting period. Between February 20, 2018 and May 19, 2018, call volume averaged 796 calls per weekday, as compared to 916 calls per weekday during the prior quarterly reporting period. The average abandonment rate over the course of the quarter was 4.1% -- slightly higher than the 3.5% abandonment rate during the previous quarter. The average speed to answer remained less than one minute. During the last thirty days of the reporting period, however, there was an increase in the number of calls received, as well as the average wait time and number of abandoned calls. These increases coincide with the issuance of the Reminder Notice and notification pertaining to the approval of the second phase of the emissions modification for Generation 3 Vehicles. The following chart depicts the daily Hotline call volume and related data from April 20, 2018 to May 19, 2018.<sup>43</sup>

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<sup>42</sup> The company's progress toward satisfying its obligation under the DOJ Consent Decree that it remove from commerce or modify at least 85% of all Subject Vehicles is detailed in Section II above.

<sup>43</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.

Chart 3-2



Between February 20, 2018 and May 19, 2018, the company received an average of 382 chats per weekday, a decline from the prior quarterly reporting period when it received an average of 403 chats per weekday. The abandonment rate remained at 16.1%. Consistent with the call data, during the last thirty days of the reporting period, there was also an increase in the number of chats received and number of chats abandoned -- coinciding with the issuance of the Reminder Notice and notification pertaining to the approval of the second phase of the emissions modification for Generation 3 Vehicles.

The Claims Supervisor's analysis of a sample of 582 recorded calls and 1,044 chats that occurred during the quarterly reporting period revealed that Volkswagen's customer support agents generally provided effective assistance to consumers. The overall success rate for the sample of calls analyzed remained at 95.9% -- the same percentage as the prior quarterly reporting period. The overall success rate for the sample of chats analyzed was 97.3% -- a 1.1% 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 persisted over the quarterly reporting period -- or provided incorrect information to the consumer regarding the processing of claims.

The company reported that, during this reporting period, it implemented the following measures in connection with its vendor<sup>44</sup> to address the issue of agents failing to properly verify the identity of a caller: (i) the vendor's agents signed a written agreement indicating a commitment to adhering to the caller verification process; (ii) the vendor's agents were required to log email and other information provided by consumers to verify their identification and better ensure compliance with established verification protocols; (iii) the frequency of audits of the vendor's phone agents increased; (iv) caller identity verification protocol reminders were posted at each of the agents' work stations; and (v) individualized coaching has been provided to all agents as necessary.

Complaint volume continued to decline over the last quarterly reporting period. Of the limited complaints received by Volkswagen, the most common related to: (i) the Claims Process in general, including its length; (ii) perceived changes to vehicle performance following AEMs;<sup>45</sup> (iii) documentation requirements, including documents being rejected; (iv) payments to consumers (including the failure of consumers to receive the initiating EFT email from J.P. Morgan Chase); and (v) a lack of information regarding the status of claims.

Volkswagen's Resolution Team remained effective in providing assistance to consumers with more challenging issues over the course of the quarterly reporting period. From February 20, 2018 to May 19, 2018, the Resolution Team received 243 inquiries and resolved 245

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<sup>44</sup> As previously reported, Volkswagen has supplemented its agents with those provided by a third-party vendor.

<sup>45</sup> The Claims Supervisor is aware of twenty such complaints made during the quarterly reporting period. These complaints amount to less than 0.05% of completed AEMs on 2.0 Liter consumer vehicles, inclusive of completed phase one AEMs on Generation 3 Vehicles. Volkswagen has advised that specially trained customer care representatives assist consumers in determining whether perceived vehicle changes are attributable to an AEM.

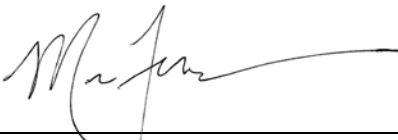
consumer inquiries, including those from prior reporting periods. Since the inception of the Claims Program, the Resolution Team has received 12,143 inquiries and resolved 11,505 (a 94.7% resolution rate). The most common consumer inquiries handled by the Resolution Team continued to involve payment issues, although the overall volume of such inquiries has substantially decreased since the last quarterly reporting period, 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.

**IV. Conclusion**

Over the course of this quarterly reporting period, Volkswagen generally continued to administer the Claims Program efficiently and effectively. As of May 17, 2018, in aggregate, the company had issued payments to, or on behalf of, consumers in the amount of \$7,755,326,507.07. Notably, Volkswagen also met the milestone set forth in the DOJ Consent Decree that it remove from commerce or perform an AEM on 85% of Subject Vehicles. Additionally, Volkswagen made significant progress processing non-standard claims, including certain branded title claims, claims submitted by consumers who purchased vehicles in the United States but registered them in Canada, and claims by military personnel stationed overseas with their vehicles. 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 Claims Program.

Sincerely,

**Ankura Consulting Group, LLC**



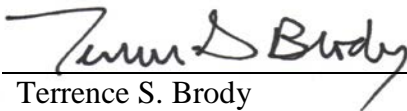
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Marc-Philip Ferzan  
Senior Managing Director



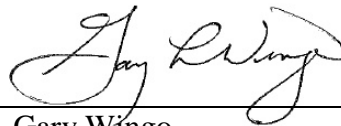
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Edward J. Bell  
Senior Managing Director



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Terrence S. Brody  
Senior Managing Director



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Gary Wingo  
Senior Managing Director

Submitted: May 25, 2018