

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

**FIRST REPORT OF INDEPENDENT CLAIMS SUPERVISOR ON
VOLKSWAGEN’S PROGRESS AND COMPLIANCE RELATED TO 3.0
LITER RESOLUTION AGREEMENTS ENTERED MAY 17, 2017:**

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

JUNE 13, 2017

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I. **EXECUTIVE SUMMARY**

This is the first report of the independent Claims Supervisor appointed by the Court to oversee compliance with the settlement of hundreds of consolidated lawsuits brought by consumers, as well as enforcement actions brought by government regulators, against Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Porsche Cars North America, Inc. (collectively, “Volkswagen”)¹ relating to certain 3.0 Liter diesel vehicles manufactured by Volkswagen.²

On May 17, 2017, the Court formally approved settlement of the claims related to Volkswagen’s 3.0 Liter diesel vehicles by execution of three related resolution agreements: (i) the 3.0 Liter Amended Consumer Class Action Settlement Agreement and Release (“3.0 Liter Class Action Settlement Agreement”) between Volkswagen and the class of affected current and former vehicle owners and lessees represented by the Plaintiffs’ Steering Committee (“PSC”); (ii) the Federal Trade Commission’s (“FTC”) Amended Second Partial Stipulated Order for Permanent Injunction and Monetary Judgement (“3.0 Liter FTC Consent Order”); and (iii) the U.S. Department of Justice (“DOJ”), the Environmental Protection Agency (“EPA”), the California Air Resources Board (“CARB”), and the California Attorney General’s Second Partial Consent Decree (“3.0 Liter DOJ Consent Decree”) (collectively, “3.0 Liter Resolution Agreements”).

¹ While the entities are defined collectively for the sake of simplicity, ultimately it is the language of the 3.0 Liter Resolution Agreements, and not the summary of certain requirements set forth herein, that defines the scope and nature of Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Porsche Cars North America, Inc.’s obligations.

² Allegations concerning 2.0 Liter diesel vehicles were previously resolved by the Parties in separate resolution agreements. The progress of the 2.0 Liter settlement and Volkswagen’s compliance with the requirements of those agreements has been addressed in separate reports submitted by the independent Claims Supervisor to the Court and the parties.

The lawsuits followed regulatory violation notices from the EPA and CARB alleging that “defeat devices” were installed in certain Volkswagen vehicles it marketed as clean diesel cars. The software device operated during emissions testing to conceal from regulators that the vehicles’ nitrogen oxide (“NO_x”) emissions exceeded established standards. Consumer lawsuits, as well as the regulatory enforcement actions, were consolidated before the U.S. District Court for the Northern District of California. Extensive negotiations between Volkswagen, the PSC, FTC, DOJ, EPA, CARB, and the California Attorney General (collectively, the “Parties”) resulted in the 3.0 Liter Resolution Agreements that address approximately 80,000 vehicles equipped with 3.0 Liter diesel engines.

The 3.0 Liter Resolution Agreements were designed to remediate harm to consumers and to the environment. Among other things, the 3.0 Liter Resolution Agreements require:

- Payment of up to \$4.039 billion to buy back eligible vehicles, terminate lease agreements, and/or provide restitution to eligible class members; and
- Contribution of \$225 million to the EPA’s mitigation fund to compensate for the environmental impacts of the subject vehicles.

Volkswagen is also pursuing regulatory approval for two types of emissions modifications (“Approved Emissions Modification”)³ related to the subject 3.0 Liter diesel vehicles. More particularly, Volkswagen is pursuing a Reduced Emissions Modification (“REM”) for Generation One vehicles, which would bring those vehicles into compliance with

³ Unless defined within this document, capitalized terms take on the meaning as defined in the 3.0 Liter Resolution Agreements.

less stringent emissions standards than those to which they were originally certified.⁴

Volkswagen is also pursuing an Emissions Compliant Repair for Generation Two vehicles, which would bring those cars into compliance with the emissions standards to which they were originally certified. Under the 3.0 Liter DOJ Consent Decree, Volkswagen is required either to remove from the road, or perform an Approved Emissions Modification on, 85% of the 3.0 Liter Subject Vehicles by May 31, 2020.⁵

The following statistics reflect Class Member response to the settlement and the progress of the Claims Program as of June 8, 2017:

- 39,694 registrations had been created through Volkswagen's Claims Portal;⁶
- 24,940 consumers had submitted claims for Volkswagen to review;
- 22,543 consumers had their claims deemed complete and preliminarily eligible by Volkswagen;
- 17,063 consumers had been issued offers, the aggregate value of which is \$332,055,301.38;
- 3,376 consumers had scheduled appointments to receive settlement benefits; and
- 36 Former Lessees and 4 Former Owners had been issued payments, the aggregate values of which totaled \$72,000 and \$15,382, respectively.

⁴ Generation One vehicles are defined as model year 2009 through 2012 Volkswagen Touaregs and Audi Q7s. All other Eligible Vehicles are categorized as Generation Two.

⁵ In addition, Volkswagen must remove from commerce and/or perform an Approved Emissions Modification on 85% of the Subject Vehicles registered in California.

⁶ Volkswagen's "Claims Portal" is the online mechanism for consumers to register and submit claims.

This first report of the Claims Supervisor will focus primarily on three areas: (i) Volkswagen's efforts in developing and implementing the Claims Program in advance of the Court's approval of the 3.0 Liter Resolution Agreements; (ii) Volkswagen's performance thus far in processing claims; and (iii) Volkswagen's engagement with consumers. Pursuant to the 3.0 Liter Resolution Agreements, additional reports will be submitted to the Court and the Parties every three months.

II. UNDERLYING ALLEGATIONS

On September 18, 2015, and November 2, 2015, the EPA issued Notice of Violation letters and CARB issued In-use Compliance letters to Volkswagen alleging that certain 2.0 Liter and 3.0 Liter Volkswagen diesel vehicles were equipped with defeat device software designed to reduce the effectiveness of the vehicles' emissions control systems. These letters were the culmination of months of investigation to understand the implications of the emissions defeat device software and its effects on the environment.⁷ As part of its regulatory oversight responsibilities the EPA is generally charged with issuing a certificate of conformity to approve a vehicle's sale in the United States, and CARB is similarly responsible for issuing an executive order to approve a vehicle's sale in the State of California.

Here, the diesel vehicles at issue had undisclosed auxiliary emissions control devices installed that were not reflected in Volkswagen's applications to the regulators. The EPA and CARB later discovered that the software installed in the vehicles could sense "whether the vehicle [wa]s being tested or not based on various inputs including the position of the steering wheel, vehicle speed, the duration of the engine's operation, and barometric pressure" and would

⁷ The defeat device was revealed in a May 2014 study published by West Virginia University. The study outlined irregularities in Volkswagen vehicles' diesel engine emissions under different driving conditions. This study prompted the EPA and CARB to initiate investigations into the diesel vehicles.

enable vehicles to pass emissions testing under those conditions.⁸ However, in ordinary driving conditions, the software would allow the vehicle to “underperform” in controlling emissions output.

Once the allegations came to light, the PSC and FTC conducted separate investigations primarily focused on the harms to consumers and regulatory violations. All of these investigations resulted in hundreds of lawsuits being filed by consumers, as well as enforcement actions being filed by the FTC, DOJ, EPA, CARB, and the California Attorney General, that collectively were consolidated before the Honorable Charles R. Breyer, Senior District Judge of the U.S. District Court for the Northern District of California.

III. THE 3.0 LITER RESOLUTION AGREEMENTS

After months of intensive negotiations aided by a Settlement Master, the Parties reached a global settlement to resolve claims related to the 3.0 Liter Subject Vehicles. The settlement is embodied in three separate, but interrelated resolution agreements, and seeks to both compensate consumers and address the environmental harm caused by the defeat device by removing from commerce and/or performing an Approved Emissions Modification on at least 85% of all Eligible Vehicles. After affording interested stakeholders an opportunity to be heard and considering objections, the Court granted final approval of the 3.0 Liter Resolution Agreements on May 17, 2017.

A. Parameters of the Claims Program

To facilitate the consumer remedies, Volkswagen was required to establish a Claims Program. The key provisions of that program, including eligibility requirements and available remedies, are discussed in detail below.

⁸ September 18, 2015, Notice of Violation Letter, at 3.

Pursuant to the 3.0 Liter Resolution Agreements, the Eligible Vehicles included in the settlement are reflected in Chart 3-1, below:

Chart 3-1

Volkswagen	
Model	Model Years
Touareg	2009-2016

Audi	
Model	Model Years
Q7	2009-2015
A6 quattro	2014-2016
A7 quattro	2014-2016
A8	2014-2016
A8L	2014-2016
Q5	2014-2016

Porsche	
Model	Model Years
Cayenne Diesel	2013-2016

These vehicles are further broken out into two different generations, as set forth in Chart 3-2, below:

Chart 3-2

Generation One	
Model	Model Years
VW Touareg	2009-2012
Audi Q7	2009-2012

Generation Two	
Model	Model Years
VW Touareg	2013-2016
Audi Q7	2013-2015
Audi A6	2014-2016
Audi A7	2014-2016
Audi A8, A8L	2014-2016
Audi Q5	2014-2016
Porsche Cayenne	2013-2016

The distinction between Generation One and Generation Two vehicles is relevant because the remedies available to eligible consumers differ depending on the generation of the vehicle, as described in greater detail below.

1. Eligibility Categories and Criteria

The 3.0 Liter Resolution Agreements contemplate four categories of Class Members:

Eligible Owners, Eligible Lessees, Eligible Former Owners, and Eligible Former Lessees.

Eligible Owners are defined in the 3.0 Liter Class Action Settlement Agreement as:

[T]he owner or owners of an Eligible Vehicle on September 18, 2015, or the owner or owners who acquire an Eligible Vehicle after September 18, 2015, but before the end of the Settlement Benefit Period, except that the owner of an Eligible Vehicle who had an active lease issued by VW Credit, Inc. (Generation One vehicles) or VW Credit, Inc. or Porsche Financial Services, Inc. (Generation Two vehicles) as of September 18, 2015, and/or November 2, 2015, and purchased that previously leased Eligible Vehicle off lease after January 31, 2017, shall be an Eligible Lessee. For avoidance of doubt, an Eligible Owner ceases to be an Eligible Owner if he transfers ownership of the Eligible Vehicle to a third party. A third party who acquires ownership of an Eligible Vehicle thereby becomes an Eligible Owner if that third party otherwise meets the definition of an Eligible Owner, unless the third party acquired the Eligible Vehicle from an Eligible Lessee, in which case that third party will be an Eligible Lessee. An owner of an Eligible Vehicle will not qualify as an Eligible Owner while the Eligible Vehicle is under lease to any third party, although any such owner, including any leasing company other than VW Credit, Inc. or Porsche Financial Services, Inc., who otherwise meets the definition of an Eligible Owner would become an Eligible Owner if such lease has been canceled or terminated and the owner has taken possession of the vehicle.

Eligible Lessees are defined in the 3.0 Liter Class Action Settlement Agreement as:

(1) the current lessee or lessees of an Eligible Vehicle with a lease issued by VW Credit, Inc. (Generation One vehicles) or VW Credit, Inc. or Porsche Financial Services, Inc. (Generation Two vehicles); (2) a former lessee or lessees of an Eligible vehicle who had an active lease issued by VW Credit, Inc. (Generation One vehicles) or VW Credit, Inc. or Porsche Financial Services, Inc. (Generation Two vehicles) as of September 18, 2015, and/or November 2, 2015, and who surrendered or surrenders the leased Eligible Vehicle under the terms of the lease after January 31, 2017, but before the Claim Submission Deadline; or (3) the owner of an Eligible Vehicle who had an active lease issued by VW Credit, Inc. (Generation One vehicles) or VW Credit, Inc. or Porsche Financial Services, Inc. (Generation Two vehicles) as of September 18, 2015, and/or

November 2, 2015, and acquired ownership of the previously leased Eligible vehicle at the conclusion of the lease after January 31, 2017. For avoidance of doubt, no person shall be considered an Eligible Lessee by virtue of holding a lease issued by a lessor other than VW Credit, Inc. or Porsche Financial Services, Inc.

Eligible Former Owners are defined in the 3.0 Liter Class Action Settlement Agreement as:

[A] person who purchased or otherwise acquired ownership of an Eligible vehicle on or before September 18, 2015, and sold or otherwise transferred ownership of such vehicle after September 18, 2015, but on or before January 31, 2017, or who acquired ownership of an Eligible Vehicle on or before November 2, 2015, and sold or otherwise transferred ownership of such vehicle after November 2, 2015, but on or before January 31, 2017. For avoidance of doubt, a sale or transfer of ownership under this definition includes the transfer of ownership of an Eligible Vehicle to an insurance company.

Eligible Former Lessees are defined in the 3.0 Liter Class Action Settlement Agreement as:

[A] lessee who leased an Eligible Vehicle from VW Credit, Inc., (Generation One vehicles) or VW Credit, Inc., or Porsche Financial Services, Inc. (Generation Two vehicles) as of September 18, 2015 and/or November 2, 2015, and who surrendered the Leased Eligible Vehicle on or before January 31, 2017.

2. Remedies

The remedies available to consumers under the 3.0 Liter Resolution Agreements differ based on vehicle generation (Generation One; Generation Two) and eligibility category (Owner; Lessee; Former Lessee; Former Owner).

a) Generation One Vehicles

As stated above, the Generation One vehicles are 2009-2012 Volkswagen Touaregs and Audi Q7s. Volkswagen does not anticipate developing an engine modification that will bring these vehicles into compliance with the emissions standards to which the vehicles were

originally certified. As a result, the parties negotiated a number of different remedies available to Owners and Lessees of Generation One vehicles.

An Eligible Owner can elect to participate in the Buyback program or Trade-In the vehicle to a participating Volkswagen, Audi, or Porsche Authorized Dealer (“Authorized Dealer”).⁹ The total award for consumers electing one of these remedies is the Buyback amount or Trade-In Credit plus an Owner Restitution payment. The Buyback amount and the Trade-In Credit are based on the Vehicle Clean Trade Value,¹⁰ which is calculated as follows:



Alternatively, an Eligible Owner can elect a Reduced Emissions Modification, if one is approved, along with an Extended Warranty. The Reduced Emissions Modification would lower emissions to a level acceptable to the EPA and CARB, but not to levels originally certified.

Regardless of whether an Eligible Owner of a Generation One vehicle elects a Buyback, Trade-In, or Reduced Emissions Modification remedy, he or she also is entitled to receive an Owner Restitution payment. Owner Restitution is calculated by adding a fixed component of \$5,155 to a variable component, determined by the following formula:

⁹ Consumers electing either remedy also are entitled to a refund of the unused portions of certain extended warranties and vehicle service plans. Volkswagen has partnered with a third-party vendor to value and administer these refunds.

¹⁰ All values are derived from the September 2015 National Automobile Dealers Association (“NADA”) Used Car Guide, except for certain model year 2015 vehicles and all model year 2016 vehicles, which were not valued in the September 2015 NADA Used Car Guide. For model year 2015 vehicles, the parties agreed upon specific clean retail and trade values for each vehicle model. For model year 2016 vehicles, the clean retail and trade values are calculated as a percentage of each vehicle’s actual manufacturer’s suggested retail price (“MSRP”). Notably, for consumers who elect the Trade-In Credit where the value of the credit exceeds the price of the newly acquired vehicle, the Eligible Owner is entitled to the difference between the value of the transaction price and the Trade-In credit. And for consumers electing a Buyback remedy, the Buyback amount must equal or exceed the Retail Replacement Value defined in Appendix A-1 of the 3.0 Liter DOJ Consent Decree.



Under the terms of the 3.0 Liter Resolution Agreements, if the total Restitution payment for an Eligible Owner as a result of adding the fixed and variable components is less than \$6,000, that consumer's total Restitution payment is increased to \$6,000. Additionally, there is also a potential adjustment to the Restitution calculation for Owners who acquired a used vehicle after September 18, 2015, to be applied in situations where one or more Eligible Former Owners or Eligible Former Lessees files a claim on that vehicle.¹¹ In these cases, the total Restitution payment is calculated by the same formula, but the Eligible Owner initially will receive only 50% of the Restitution payment. The remaining 50% of the Restitution payment should be split evenly among the other eligible claimants on that vehicle. If none of the additional claimants substantiate a valid claim, the remaining 50% of the Restitution payment will be made to the Eligible Owner.

For Owners with vehicles encumbered by loans who elect a Buyback or Trade-In remedy, a potential upward adjustment to the final award amount may apply if that amount does not exceed the outstanding balance of the loan. In those instances, Volkswagen is required to pay up to 130% of the calculated final award amount to satisfy the outstanding balance on the loan. For a Buyback, if there is still a balance on the loan even after increasing the final award amount, the consumer is required to provide Volkswagen with a check at closing to cover the remaining loan

¹¹ Based on the eligibility parameters for Former Owners, the 3.0 Liter Resolution Agreements contemplate that there may be as many as two Former Owners who can submit an eligible claim in connection with an Eligible Vehicle.

balance to consummate the Buyback. For a Trade-In, if a loan balance remains even after increasing the final award amount, the balance will be the subject of negotiation between the consumer and the Authorized Dealer.¹²

Finally, an Owner of a Generation One vehicle that was totaled and either transferred to an insurance company or otherwise permanently removed from commerce may still be eligible to receive benefits under the 3.0 Liter Resolution Agreements. If the vehicle was totaled after September 18, 2015, but on or before January 31, 2017, the consumer is eligible to receive benefits as a Former Owner. If the vehicle was totaled after January 31, 2017, the consumer is eligible for Owner Restitution.

Eligible Lessees are entitled either to an Early Lease Termination remedy, free of penalties such as early termination fees, or a Reduced Emissions Modification remedy, if one becomes available, with an Extended Warranty.¹³ A consumer who leased an Eligible Vehicle and then purchased it after January 31, 2017, during or at the conclusion of the lease term, will still be considered an Eligible Lessee under the 3.0 Liter Resolution Agreements. However, in this circumstance the consumer is only entitled to the Reduced Emissions Modification and Extended Warranty remedy.

Regardless of remedy selection, Eligible Lessees are entitled to receive a Lessee Restitution payment. The Lessee Restitution formula includes a fixed component of \$2,577.50, plus a variable component calculated as follows:

¹² Eligible Owners and Eligible Lessees also are entitled to a free AdBlue refill, a diesel exhaust fluid used to reduce exhaust emissions, and free oil change while waiting for their selected remedy.

¹³ Volkswagen is permitted to deduct from any final award to an Eligible Lessee who elects an Early Lease Termination any applicable fees for excess wear, use and/or excess mileage, as well as amounts due for delinquent lease payments, related late payment fees, or costs associated with unpaid tickets or tolls.



Under the terms of the 3.0 Liter Resolution Agreements, if the total Restitution payment for an Eligible Lessee as a result of adding the fixed and variable components is less than \$3,000, that consumer's total Restitution payment should be increased to \$3,000.

Eligible Former Lessees and Eligible Former Owners constitute the final two eligibility categories entitled to compensation for Generation One vehicles under the 3.0 Liter Resolution Agreements.¹⁴ The only remedy available to Eligible Former Lessees will be Lessee Restitution. The Restitution payment for Former Lessees is to be calculated the same way as the Lessee Restitution payment described above for Lessees. The Former Lessee Restitution will then be deducted from the total Restitution payment to be made to the Eligible Owner of the vehicle. The only remedy available for Eligible Former Owners is Former Owner Restitution, of which there can be up to two associated with an Eligible Vehicle. If one Eligible Former Owner submits a valid claim on an Eligible Vehicle, that consumer will be entitled to 50% of the total Owner Restitution award associated with the vehicle -- calculated by adding the fixed and variable components described above. If two Eligible Former Owners submit valid claims on an Eligible Vehicle, each Former Owner will be entitled to 25% of the total Owner Restitution award associated with the vehicle, with the remaining 50% to be paid to the Eligible Owner.

¹⁴ Under the terms of the 3.0 Liter Resolution Agreements, Eligible Former Owners must have submitted to Volkswagen the Eligible Former Owner Identification form on or before May 1, 2017. Both Eligible Former Owners and Former Lessees must submit a complete and valid claim on or before July 17, 2017, in order to participate in the Claims Program.

b) Generation Two Vehicles

Volkswagen has indicated that it is pursuing an engine modification, referred to as an Emissions Compliant Repair or ECR, that is expected to bring emissions from Generation Two vehicles into compliance with the emissions standards to which the vehicles were originally certified. Assuming an ECR is timely approved, Eligible Owners and Eligible Lessees of Generation Two vehicles will be entitled to the ECR, an Extended Warranty, and a Repair Payment.

For Eligible Owners, the Repair Payment will include a fixed component of \$3,596.74 and a variable component of 10% of the Vehicle Clean Retail Value. The first half of the Repair Payment can be made to Eligible Owners once they have substantiated a claim (“Repair Participation Payment”), with the remaining half of the payment to be made upon completion of the ECR.¹⁵ Generation Two Owners whose vehicles are totaled after January 31, 2017, will be eligible to receive an Owner Repair Payment.

As with Generation One vehicles, under the terms of the 3.0 Liter Resolution Agreements, the Repair Participation Payment for Eligible Owners who acquired a used vehicle after September 18, 2015, should be adjusted if there are valid Eligible Former Owner or Eligible Former Lessee claims associated with the vehicle. If there is a valid Eligible Former Owner claim (or claims) associated with the vehicle, the Eligible Owner’s Repair Payment will be reduced by half, with the remaining 50% of the payment to be split amongst the Eligible Former Owner claims of which there can be no more than two. If there is a valid Eligible Former Lessee claim associated with the vehicle, the Eligible Owner’s Repair Payment should be reduced by

¹⁵ If ownership of the vehicle is transferred subsequent to Volkswagen making the first half of the Repair Participation Payment, the second half of the payment will be made to the owner of the vehicle at the time the Emissions Compliant Repair takes place.

\$2,000, and that amount paid out to the Eligible Former Lessee. The Repair Payment for Eligible Lessees of Generation Two vehicles is also \$2,000.

The 3.0 Liter Resolution Agreements specify the following deadlines (“Decision Dates”) for Volkswagen to make an ECR available:

Chart 3-3

Sub-Generation	Decision Date for the ECR
2.1 Sports Utility Vehicle	November 8, 2017
2.2 Sports Utility Vehicle	October 23, 2017
2 Passenger Car	December 20, 2017

If the ECR has not been approved and made available by these Decision Dates, under the terms of the 3.0 Liter Resolution Agreements, Volkswagen can petition the Court for additional time to be granted upon good cause shown. Absent Court approval of an extension for good cause, Volkswagen is afforded the option to extend the applicable Decision Date, but only up to a maximum of ninety days from the date of the Court’s decision. In this case, Volkswagen is required to pay an Extension Payment of \$500 per Eligible Vehicle of that Sub-Generation currently owned or leased for each thirty-day period it extends the Decision Date. Notably, Volkswagen already has submitted to the EPA and CARB Emissions Modification Proposals for all Generation Two vehicle types.

In the event an ECR is not timely available, consumers with Generation Two vehicles would have remedy-selection options similar to Generation One vehicle owners. The most significant differences are that, for Generation Two vehicles, the fixed component of the Restitution payment formula would generally be higher as compared to Generation One vehicles and would vary by auto manufacturer (i.e., Volkswagen, Audi, and Porsche). Moreover, the applicable valuation formula also would account for certain factory options not valued by NADA.

3. Claims Process

Volkswagen began claims intake on May 18, 2017, the day after the Court approved the 3.0 Liter Resolution Agreements, though pursuant to the terms of the 3.0 Liter Resolution Agreements the period during which Volkswagen is obligated to review and process claims (“Claim Period”) did not officially begin until June 8, 2017. The first step in the claims process involves the consumer registering in Volkswagen’s Claims Portal by providing basic information including name, address, and Vehicle Identification Number (“VIN”).¹⁶ Once registered, consumers with a choice among available remedies must preliminarily select an available remedy and submit prescribed documents necessary to substantiate a claim. The consumer is not bound to the initial remedy selection and is entitled to change remedies while the claim is being processed.

Beginning the first business day after a consumer has provided all documents and information necessary to submit a claim, Volkswagen has ten business days to determine whether the claim is complete or deficient.¹⁷ A claim is generally considered complete if it contains all documentation and information required to determine eligibility. For a complete claim, Volkswagen also makes a preliminary determination whether the claim is eligible based on the specified eligibility requirements in the 3.0 Liter Resolution Agreements, within the ten-business-day review period. For deficient claims, Volkswagen must notify the consumer of the

¹⁶ Volkswagen also has a process for accepting paper claims by facsimile and mail.

¹⁷ The ten-business-day review periods did not begin until the Claim Period officially opened on June 8, 2017. For any claim submitted for review prior to June 8, 2017, the first ten-business-day review period is considered to have commenced on June 8, 2017. Additionally, if Volkswagen rendered a first ten-business-day review period determination prior to June 8th and determined that a claim was complete and preliminarily eligible or ineligible, the second ten-business-day review period for that claim, described below, will be deemed to have officially started on June 8, 2017.

deficiency, ending the ten-business day review period, and affording the consumer an opportunity to cure.

In most cases, beginning the first business day after a claim is deemed complete and preliminarily eligible, Volkswagen has ten business days to prepare and extend an offer letter to the consumer.¹⁸ The Claims Supervisor is required to verify Volkswagen's completeness, eligibility, and award amount determination before the company can issue an offer letter.¹⁹ For Owners whose vehicles are encumbered by third-party loans and who elect a Buyback or Trade-In remedy, however, the second ten-business-day review period "pauses" until the first business day after Volkswagen receives the necessary loan payoff information from the lienholder required to generate an offer letter.

For Owners and Current Lessees, signed acceptance of an offer letter initiates the scheduling and closing phase of the Claims Program.²⁰ For Generation One vehicles, Volkswagen must allow the consumer to schedule an appointment for a Buyback, Lease Termination, Trade-In, or REM, if one becomes available, within sixty days at a dealership of the consumer's choice.²¹ For Generation Two vehicles, closing cannot proceed until an ECR is approved or, if an ECR is not approved, until the remedy types available for Generation One vehicles are also made available for Generation Two vehicles. However, as these consumers can

¹⁸ The 3.0 Liter Class Action Settlement Agreement provides for a fifteen-business-day review period after eligibility is determined, whereas the 3.0 Liter FTC Consent Decree provides for a ten-business-day review period. Accordingly, the Claims Supervisor will be tracking and reporting compliance with the more stringent requirement.

¹⁹ Where Volkswagen determines a claim is complete, but ineligible, the ineligibility determination likewise must be verified by the Claims Supervisor and, if verified, communicated by Volkswagen to the consumer within ten business days starting on the first business day after Volkswagen deems the claim complete.

²⁰ Former Owners, Owners of Totaled Vehicles, and Former Lessees do not need to schedule a closing as they are no longer in possession of a vehicle. Rather, once their signed offer is accepted, payment will be processed and issued to them according to the terms of the 3.0 Liter Resolution Agreements.

²¹ Eligible Consumers may receive payment via electronic funds transfer or by check.

choose to receive half of their compensation in the form of a Repair Participation Payment prior to the availability of an ECR, Volkswagen must make appointments available for these consumers to receive such payments within thirty days of a consumer's submission of an acceptance form and execution of an Individual Release.²² Volkswagen has indicated that it anticipates that closings and Repair Participation Payment appointments will begin in July 2017.

While the claims process should be substantially similar for the vast majority of consumers, Volkswagen and the Parties have anticipated that there will be a variety of consumers who have special circumstances, termed "non-standard claimants." Pursuant to the 3.0 Liter DOJ Consent Decree, these can include individuals who have a mechanic's or attorney lien on their title, consumers filing on behalf of decedent's estates, and military personnel or government contractors located overseas. Individuals in these categories will be required to provide Volkswagen with additional documentation supporting their non-standard status, but will then have their claims processed in a more personalized manner to address their unique circumstances.

B. The Environmental Remedies

While the 3.0 Liter Consumer Class Action Settlement Agreement and 3.0 Liter FTC Consent Order primarily focus on remedies for consumers, the 3.0 Liter DOJ Consent Decree focuses more directly on addressing the harm to the environment caused by the subject vehicles. In addition to incorporating the consumer remedies set forth in the other 3.0 Liter Resolution Agreements, the 3.0 Liter DOJ Consent Decree also mandates that Volkswagen deposit \$225,000,000 in Mitigation Trust Payments into the Trust Account. The funds are to be used for

²² Consumers can schedule Repair Participation Payment appointments through the Claims Portal within five days of returning a signed offer letter.

Eligible Mitigation Actions to achieve reductions of NO_x emissions in accordance with the terms of the Trust Agreement.

C. Independent Claims Supervisor

Ankura Consulting Group, LLC serves as the Court-appointed independent Claims Supervisor. While the role of the Claims Supervisor is articulated differently among the three 3.0 Liter Resolution Agreements, collectively they generally contemplate three functions that will endure throughout the course of Volkswagen's administration of the Claims Program -- claims verification, compliance oversight, and reporting.

The Claims Supervisor's claims verification role is comprised of two key components: it must verify eligibility once Volkswagen has determined that a consumer's application is complete and also verify compensation calculations consistent with the express terms of the 3.0 Liter Resolution Agreements before an offer can be made.

As an independent agent of the Court, the Claims Supervisor's compliance oversight obligations and reporting role are inextricably intertwined. Pursuant to Section XVII of the 3.0 Liter FTC Consent Order, the Claims Supervisor has a responsibility to oversee Volkswagen's "compliance with the 3.0L Settlement Program."²³ More broadly, the Claims Supervisor has the responsibility to review the claims administration process and oversee Volkswagen's adherence to the 3.0 Liter Resolution Agreements, as well as to evaluate the company's efforts to "administer the claims administration process efficiently, expeditiously, and transparently."²⁴

²³ The 3.0 Liter Consumer Class Action Settlement Agreement contains similar language, providing that the "Claims Supervisor will oversee the implementation and administration of the Claims Process" (§ 8.3), and envisions that the Claims Supervisor will "prepare periodic reports on the progress and status of the Claims Program," containing "information sufficient to allow the Court and the Parties to assess the Claims Program's progress." (§ 8.5.)

²⁴ 3.0 Liter FTC Consent Order § XVI.C.

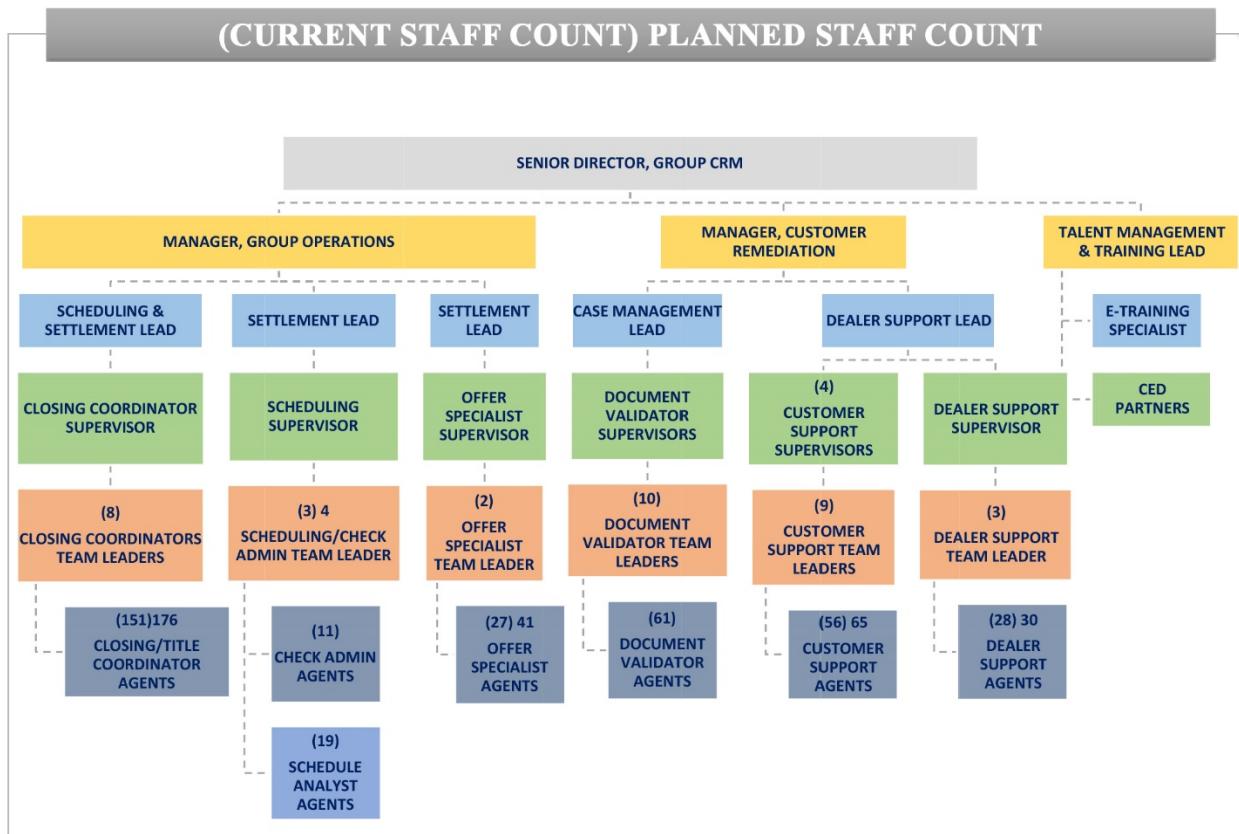
The Claims Supervisor likewise is required to periodically report to the Court, the Parties, and the public.

IV. VOLKSWAGEN'S EFFORTS TO DATE

A. Establishing a Claims Processing Operation

In order to implement the requirements of the 3.0 Liter Resolution Agreements, Volkswagen had to develop processes to handle, among other things: (i) claims intake; (ii) document validation, eligibility review, and offer determination; (iii) consumer communications; (iv) staff and dealership training; (v) appointment scheduling; (vi) logistics related to Buybacks, Trade-Ins, Early Lease Terminations, and other remedies; (vii) approval and implementation of Approved Emissions Modifications; and (viii) payment of settlement benefits. To do this, Volkswagen leveraged the processes developed for the 2.0 Liter Claims Program and modified them to account for the unique requirements of the 3.0 Liter Resolution Agreements.

The Claims Program is overseen by Volkswagen's U.S. Chief Operating Officer and includes numerous business units to address the various facets of the settlement. An organizational chart depicting these business units, with staff counts, is shown in Chart 4-1, below.

Chart 4-1

The staff within each of these business units handle different aspects of the claims process. The document validators are responsible for reviewing submitted claims to ensure that the consumer provided all required documentation necessary to determine eligibility. Notably, Volkswagen partnered with an outside vendor to augment its in-house team of document validators.²⁵ Offer specialists generate offer letters for eligible consumers. In addition, they obtain loan payoff information from third-party financial institutions when an Owner of a Generation One vehicle elects a Buyback or Trade-In remedy and the vehicle is subject to an outstanding loan obligation. Scheduling analysts facilitate the scheduling of closings. Closing

²⁵ The Claims Supervisor evaluated Volkswagen's vendor in connection with the 2.0 Liter settlement and reported its findings in the February 2017 Report filed with the Court.

coordinators prepare closing documents, request checks, and ensure necessary documentation and payments are sent to the dealership in advance of closings. Check administrators process check requests through Volkswagen's accounts payable department. Finally, settlement specialists administer the closing process at the dealership.²⁶

In an effort to ensure effective execution of the Claims Program, Volkswagen created a comprehensive and detailed training program for individuals hired to assist with claims processing. The majority of Volkswagen personnel working on the Claims Program have prior experience with the 2.0 Liter settlement; however, Volkswagen has added additional staff for claims processing and Claims Hotline operations to handle the increased volume expected from the 3.0 Liter settlement. Training commenced in February 2017, with new personnel receiving one to two full weeks of orientation, depending on their role. Training covered both information necessary to perform their individual job functions as well as information about the entire settlement process from end-to-end. Current personnel received several hours of targeted training on the new requirements of the 3.0 Liter Resolution Agreements. Additionally, Volkswagen plans to provide further training in the near future to settlement specialists to enable them to also handle 3.0 Liter closings.

Most of Volkswagen's personnel working on the Claims Program will handle both 2.0 Liter and 3.0 Liter claims, although there are some exceptions. For example, Claims Hotline agents will be solely dedicated to one settlement to minimize potential confusion with respect to the different requirements contained in both sets of Resolution Agreements. Additionally, dedicated agents will process multiple claims on a single VIN (i.e., claims by Owners and Former Owners) to better ensure uniformity of treatment.

²⁶ The customer and dealer support teams are discussed separately in Section VI.A.2 below.

B. Updating the IT Systems

To effectively and efficiently manage a mass claims processing operation, Volkswagen had to develop technology systems to: (i) allow consumers to register, upload documents, and submit applications to the Claims Program; (ii) facilitate completeness and eligibility determinations; (iii) calculate offer awards; and (v) issue offer letters. To accomplish this, Volkswagen leveraged the existing technology systems it had developed for the 2.0 Liter Claims Program, and updated business requirements to account for differing eligibility requirements, remedy options, and payment calculations, among other things. Having the framework for these systems already in place, with ongoing optimization occurring over the past seven months in connection with the administration of the 2.0 Liter Claims Program, significantly benefitted and accelerated the system development and integration processes needed to support the 3.0 Liter settlement operations.

In broad terms, the technology systems are comprised of: (i) a Claims Website, which contains information about the 3.0 Liter Resolution Agreements and the Claims Program; (ii) a Claims Portal, which is integrated with the Claims Website and allows consumers to electronically submit claims for settlement benefits and upload supporting documents; (iii) a back-office system where Volkswagen can process applications, determine eligibility, and issue offers; and (iv) a data warehouse, which serves as a central repository of data related to claims and facilitates Volkswagen's data analysis and reporting. To coordinate scheduling, Volkswagen utilizes the Setster application, an off-the-shelf commercial application that integrates with Volkswagen's Claims Portal, and allows consumers to book appointments through the Portal.²⁷

²⁷ Volkswagen also developed systems for administering the closing process. These systems will be addressed in greater detail in future reports as consumers reach these latter phases of the Claims Program.

Volkswagen provides the Claims Supervisor with data from its systems on a nightly basis through a process essentially identical to that which has been used in the 2.0 Liter Claims Program. The data is uploaded into the Claims Supervisor's proprietary Claims Verification System ("CVS"), which is used to independently verify Volkswagen's completeness, eligibility, and offer determinations. The data also enables analytics that support the Claims Supervisor's oversight and reporting functions.

V. VOLKSWAGEN'S PERFORMANCE METRICS

This section discusses the status of Volkswagen's 3.0 Liter Claims Program and the company's compliance with certain requirements mandated in the 3.0 Liter Resolution Agreements. All data is as of June 8, 2017, unless otherwise specified. Information relating to Generation One and Generation Two vehicles generally is reported separately because the 3.0 Liter Resolution Agreements afford different remedies to consumers depending on the generation of the Eligible Vehicle.

A. Consumer Registrations

As of June 8, 2017, there were 39,694 registrations in Volkswagen's system.²⁸ A registration occurs when a consumer provides Volkswagen with basic information including name, contact information, VIN and preferred dealership. Of these registrations, 13,469 were associated with Generation One vehicles (12,594 individuals and 875 businesses) and 26,225 were associated with Generation Two vehicles (24,253 individuals and 1,972 businesses).

Charts 5-1 and 5-2 show, across Generation One and Generation Two vehicles, all registrations created by consumers during the Claim Period by Eligibility Category. The "No

²⁸ This figure includes a number of duplicate entries by the same consumer, as duplicate entries are not identified until the claims are submitted and the review periods begin. Thus, the figure overstates the number of unique claims that have been registered.

Category Selected" population in Charts 5-1 and 5-2 are consumers who had created a registration as of June 8, 2017, but had not yet provided details identifying their Eligibility Category.

Chart 5-1

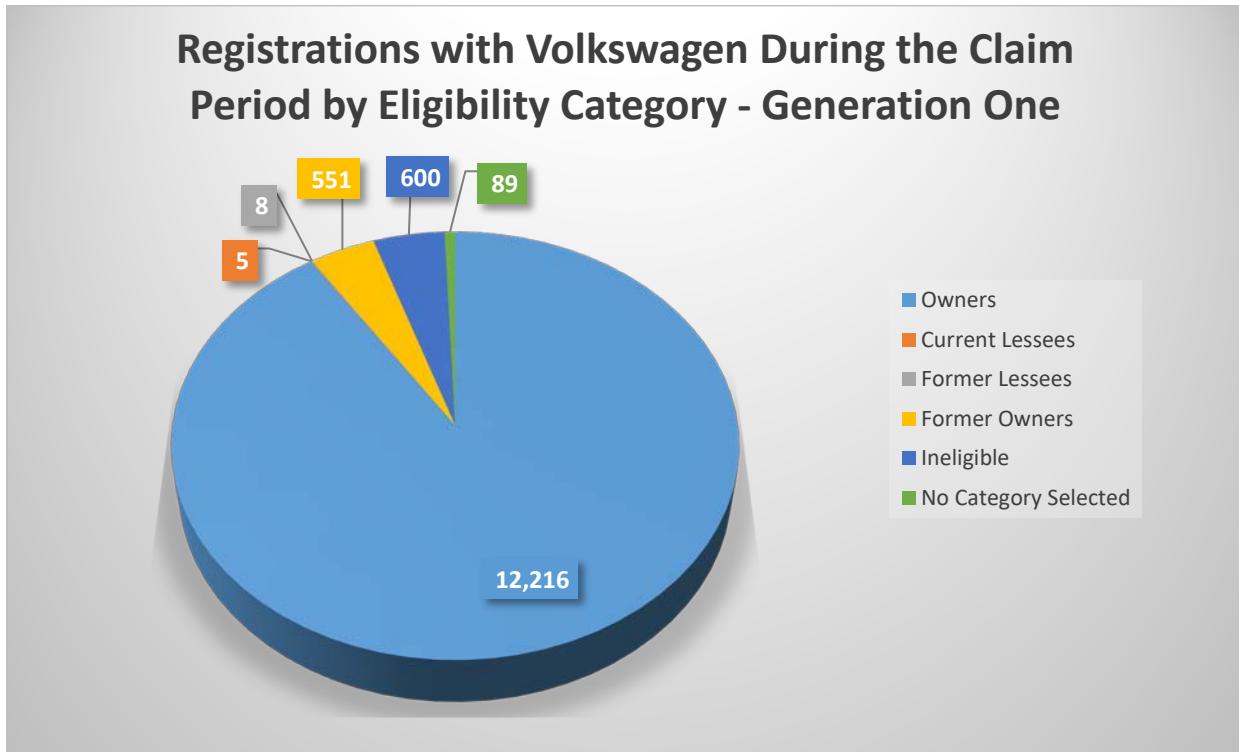


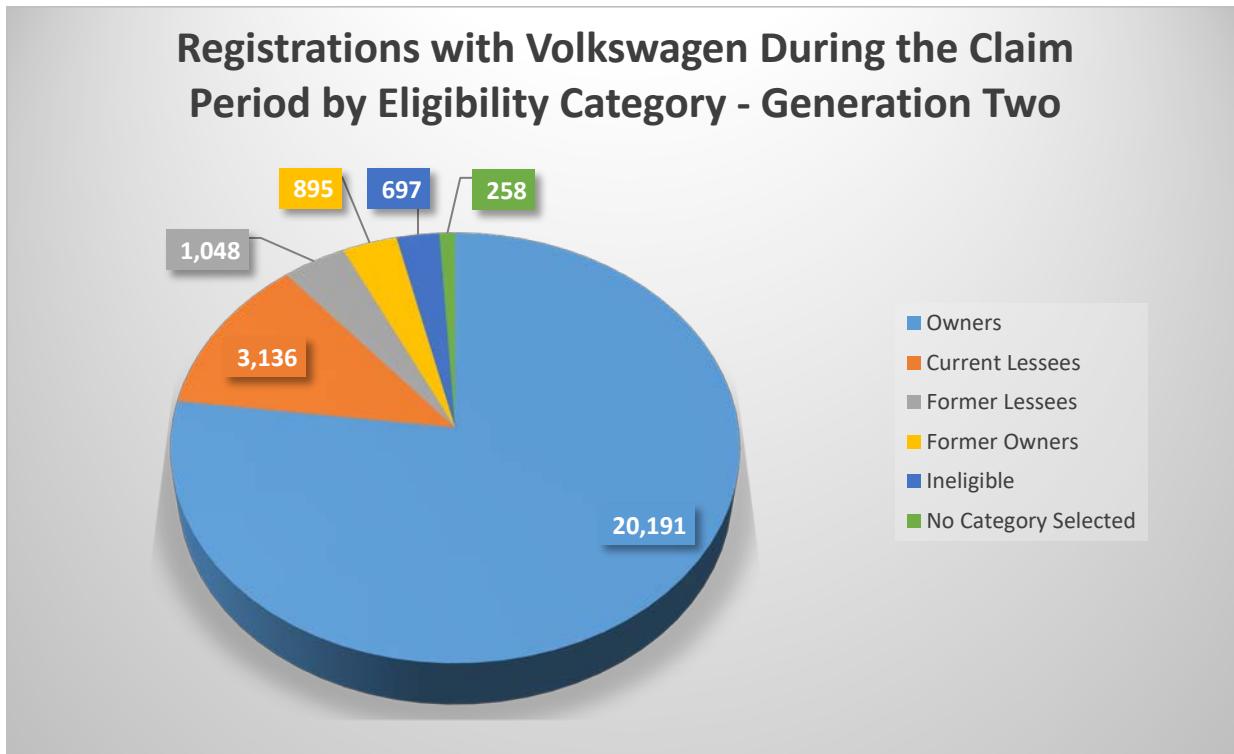
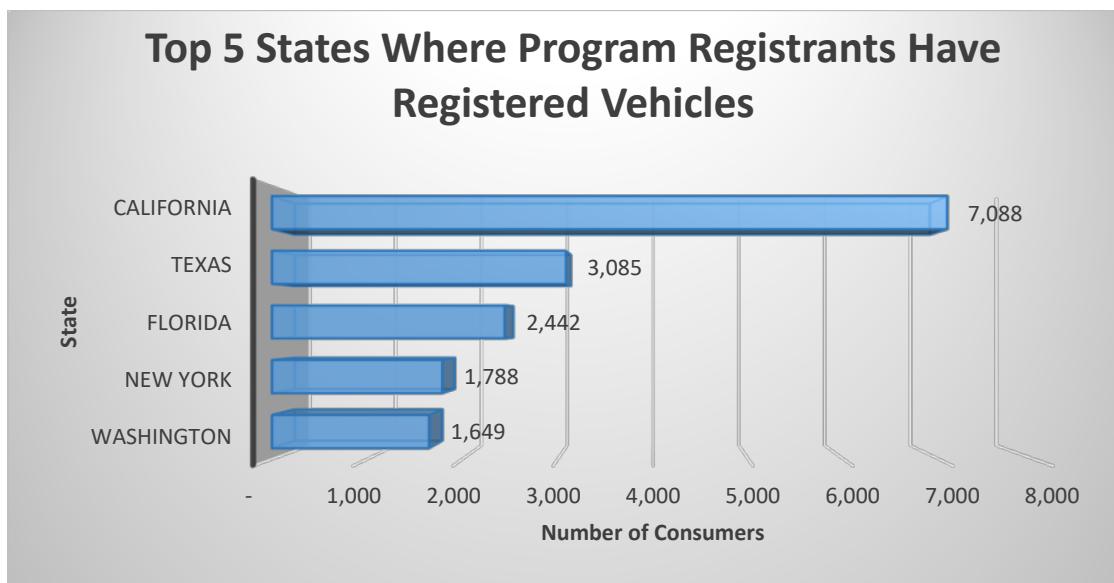
Chart 5-2

Chart 5-3 shows, among the entire population of vehicles associated with registered claims, the most common states where the vehicles are registered.

Chart 5-3

With respect to the population of 1,297 claims identified as ineligible in Charts 5-1 and 5-2, 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 3.0 Liter Resolution Agreements. For example, a consumer who attempts to submit a Former Owner claim and indicates the vehicle was sold after January 31, 2017, is ineligible under the "Eligible Former Owner" definition. In these instances, Volkswagen sends the consumer a letter explaining the basis for the ineligibility determination.

Through June 8, 2017, the most common reasons claims have been deemed systematically ineligible were: (i) the Former Owner input information indicating that the subject vehicle was sold on or before September 18, 2015; (ii) the Former Owner did not timely identify the claim on or before May 1, 2017; and (iii) the Former Owner input information indicating that the subject vehicle was sold after January 31, 2017. The Claims Supervisor is currently reviewing all 1,297 systematic ineligibility determinations to ensure that Volkswagen's ineligibility logic is operating in conformity with the eligibility criteria set forth in the 3.0 Liter Resolution Agreements.

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

As described in greater detail in Section III.A.3 above, following registration and preliminary remedy selection, the consumer's next steps in the process are to provide prescribed documents needed to substantiate the claim and submit the claim to Volkswagen for review.²⁹ As of June 8, 2017, consumers had submitted 24,940 unique claims for Volkswagen to review.³⁰

²⁹ Consumers with Generation Two vehicles (assuming an ECR is timely made available), and all Former Lessees, Former Owners, and Owners of Totaled vehicles, do not have a choice of remedies. Therefore, they are not prompted to select a preliminary remedy in the Claims Portal.

³⁰ "Unique claims" means unique VINs within unique Eligibility Categories. A claim by an Owner and a Former Owner regarding the same VIN is counted as two unique claims. Likewise, a claim by one Owner who owns five separate vehicles is counted as five unique claims.

Of these, 9,026 related to Generation One vehicles (8,578 individuals and 448 businesses), and 15,914 related to Generation Two vehicles (15,011 individuals and 903 businesses). Charts 5-4 and 5-5 show, across Generation One and Generation Two vehicles, the total population of consumers who had submitted claims by Eligibility Category.

Chart 5-4

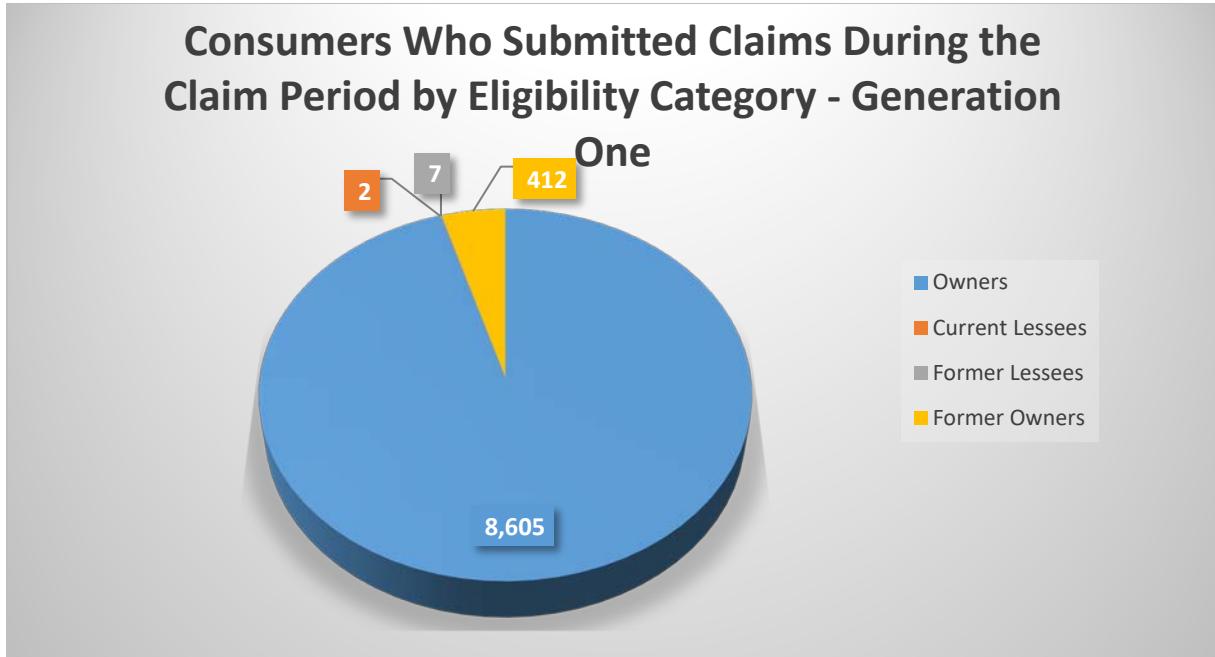


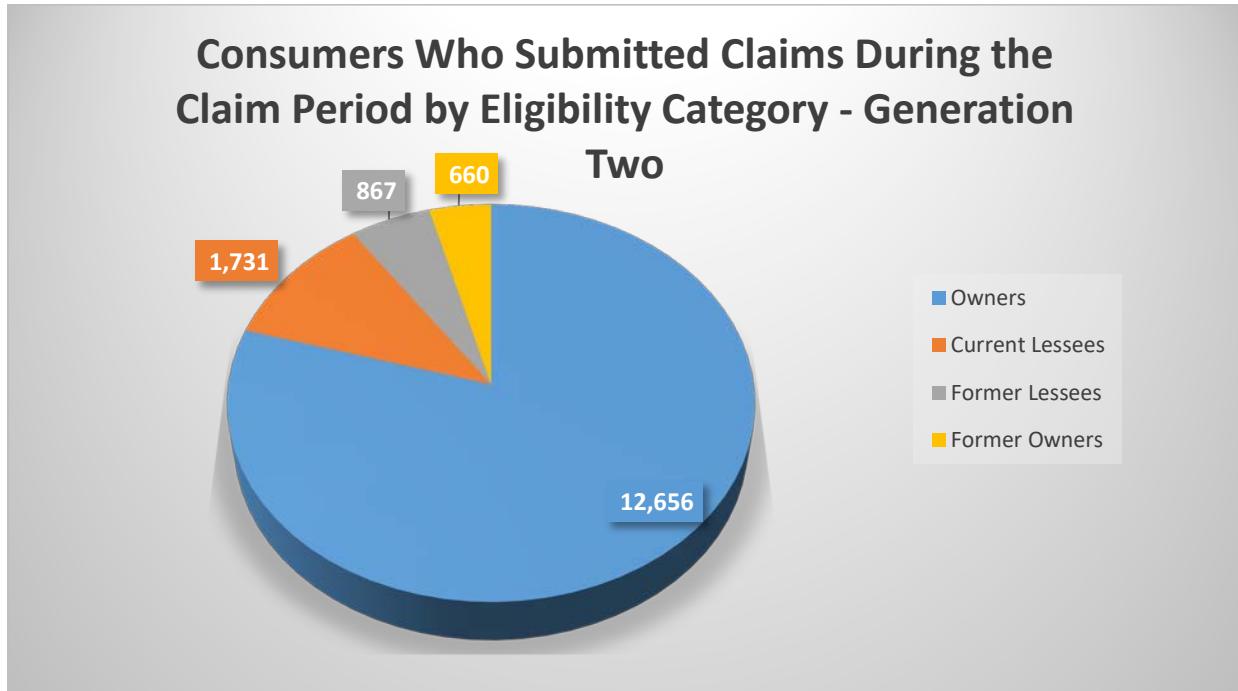
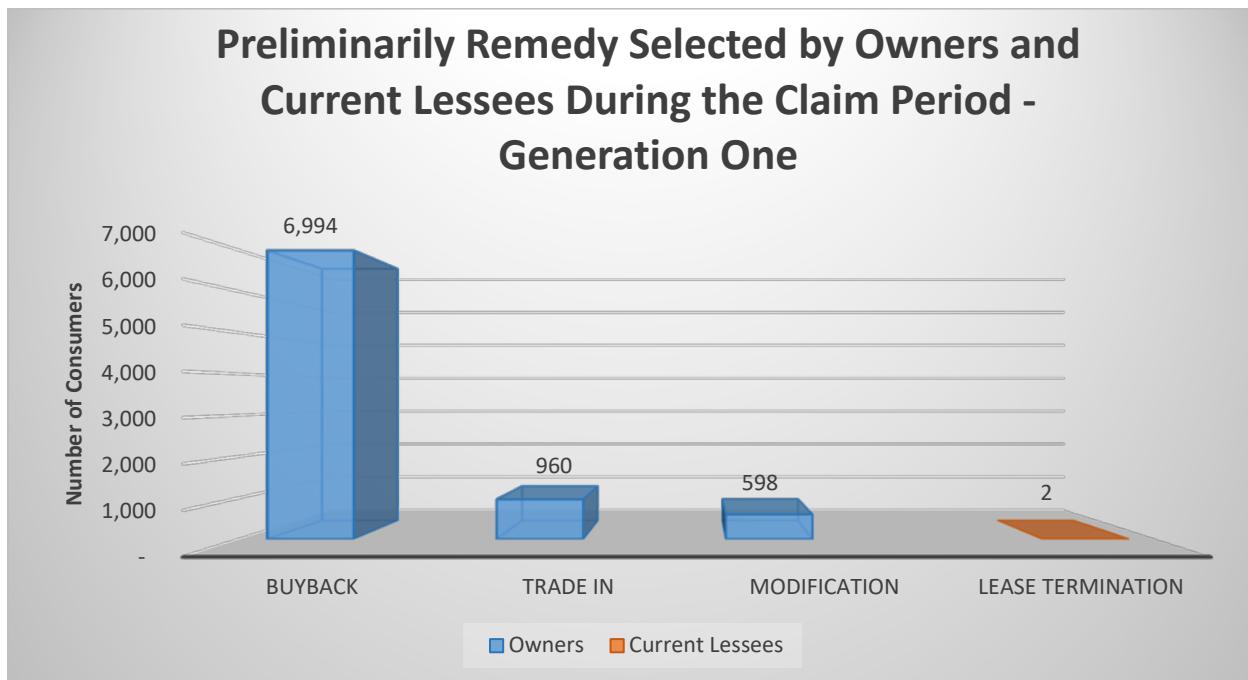
Chart 5-5

Chart 5-6 shows the preliminary remedy selections for Owners and Current Lessees of Generation One vehicles who had submitted claims through June 8, 2017. The chart does not include remedy selections for 410 Former Owners, 11 Owners with Totaled Vehicles, or 7 Former Lessees who have submitted claims associated with Generation One vehicles because the only remedy available to these consumers is Restitution; nor does it include 44 claims where consumers cancelled the claim they had initially filed.

Chart 5-6

Consumers with Generation Two vehicles currently only have one remedy available. As a result, all 12,614 Owners and 1,729 Current Lessees of Generation Two vehicles who had submitted claims through June 8, 2017 were for Emissions Compliant Repairs. Restitution is the only remedy available for the 865 Former Lessees, 660 Former Owners, and 11 Owners with Totaled Vehicles who have submitted claims associated with Generation Two vehicles. Thirty-five consumers with Generation Two vehicles cancelled the claim that they had initially filed.

As stated above, Volkswagen has ten business days beginning the first business day after a claim is submitted by a consumer to determine whether the claim is complete and, if complete, whether the claim is preliminarily eligible. The ten-business-day review period requirement commences at the start of the Claim Period. Because the Claim Period officially began on June 8, 2017, ten business days will not have passed as of the date of this report. Therefore, the timeliness of Volkswagen first ten-business-day review period decisions are not yet ripe for evaluation.

That said, through June 8, 2017, Volkswagen had rendered 30,862 first ten-business-day review period determinations (11,850 related to Generation One vehicles and 19,012 related to Generation Two vehicles). All of these determinations necessarily were timely. There were an additional 806 submitted claims pending review by Volkswagen that were still within the ten-business-day review period.

C. Preliminary Eligibility Determinations and Deficiencies

Through June 8, 2017, of the 24,940 unique claims that had been submitted by consumers for Volkswagen to review, 22,543 claims (90.4%) had been determined by Volkswagen to be complete and preliminarily eligible. Of these, 8,298 claims were related to Generation One vehicles (7,937 individuals and 361 businesses) and 14,245 claims were related to Generation Two vehicles (13,600 individuals and 645 businesses).

Charts 5-7 and 5-8 show, across Generation One and Generation Two vehicles, the number of claims Volkswagen determined to be complete and preliminarily eligible by Eligibility Category.

Chart 5-7

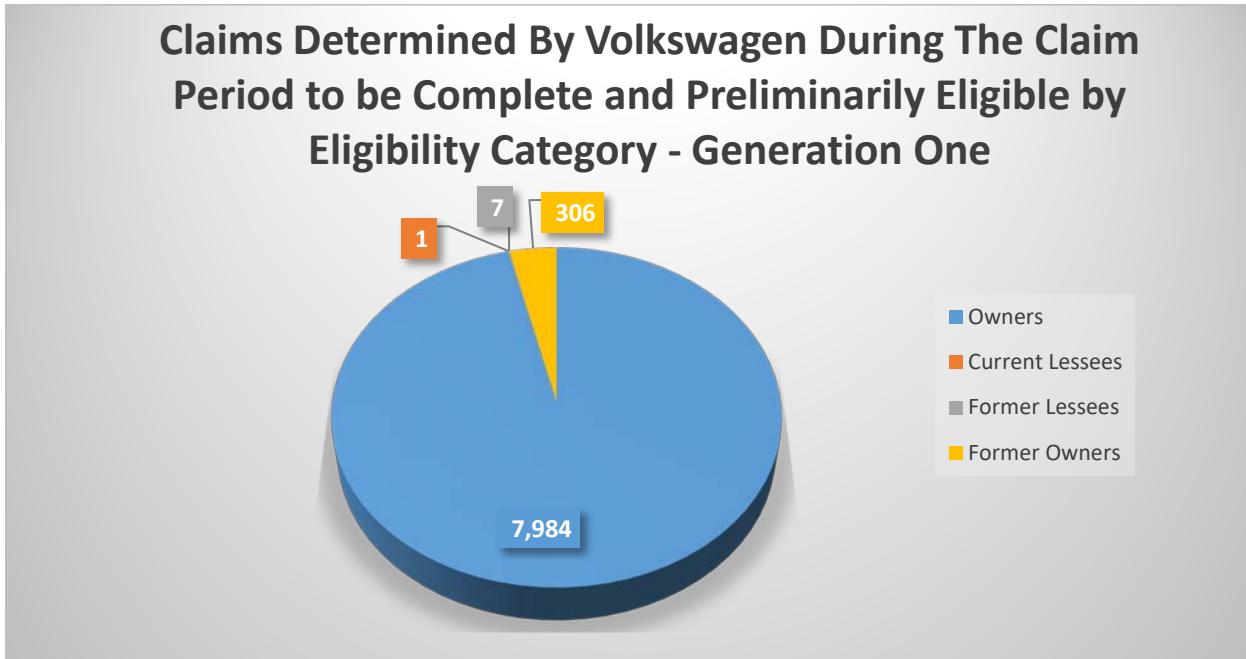
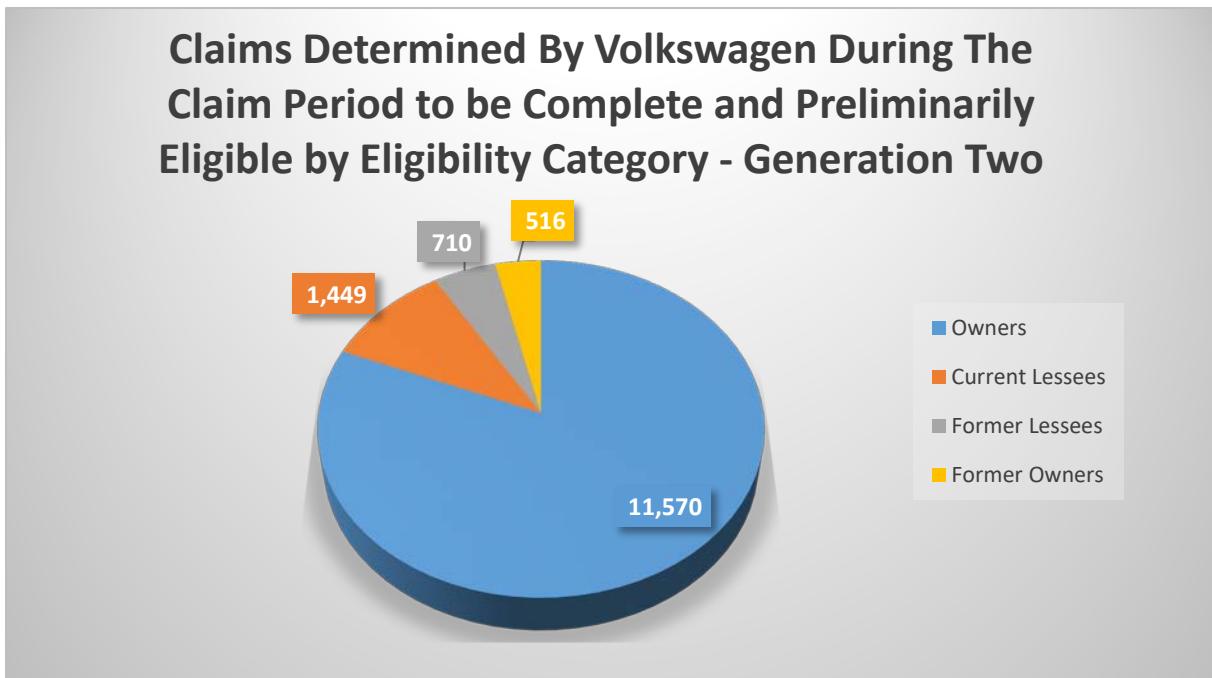


Chart 5-8



Charts 5-9 shows the most common states in which Eligible Vehicles associated with preliminarily eligible claims are registered.

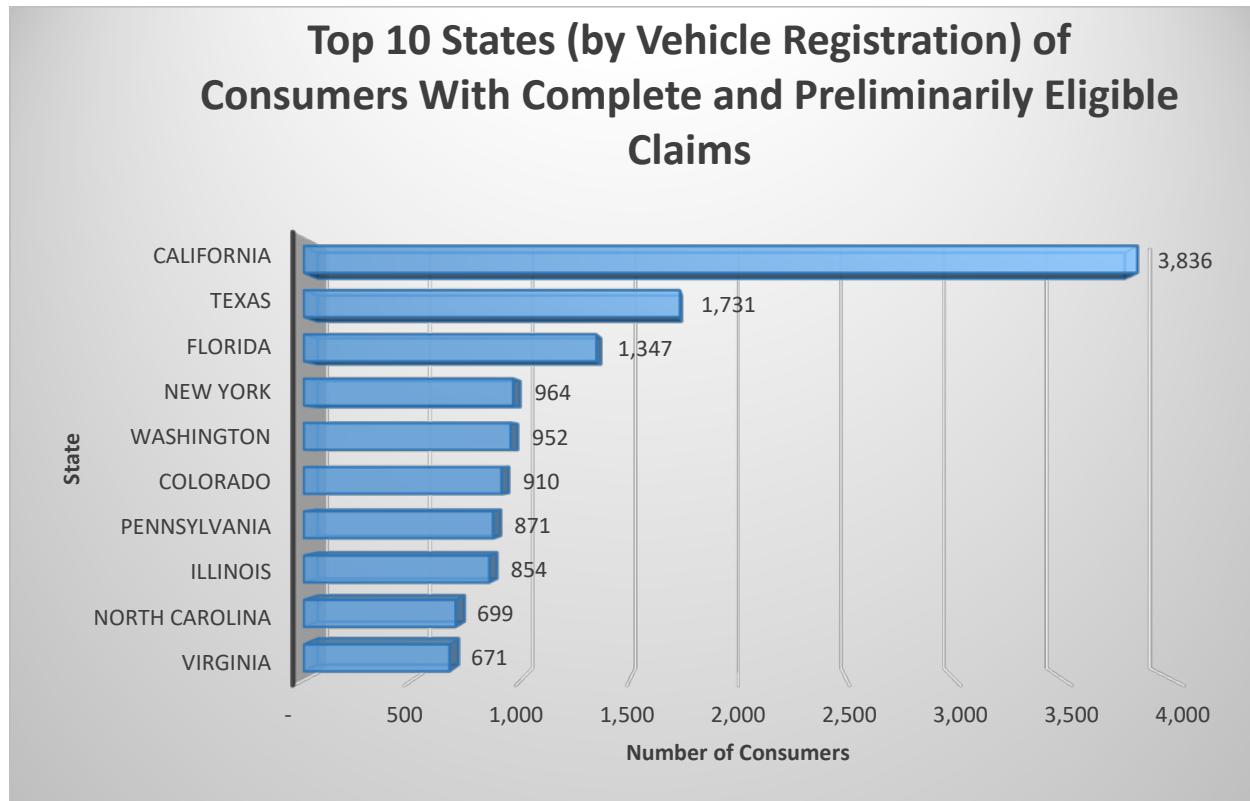
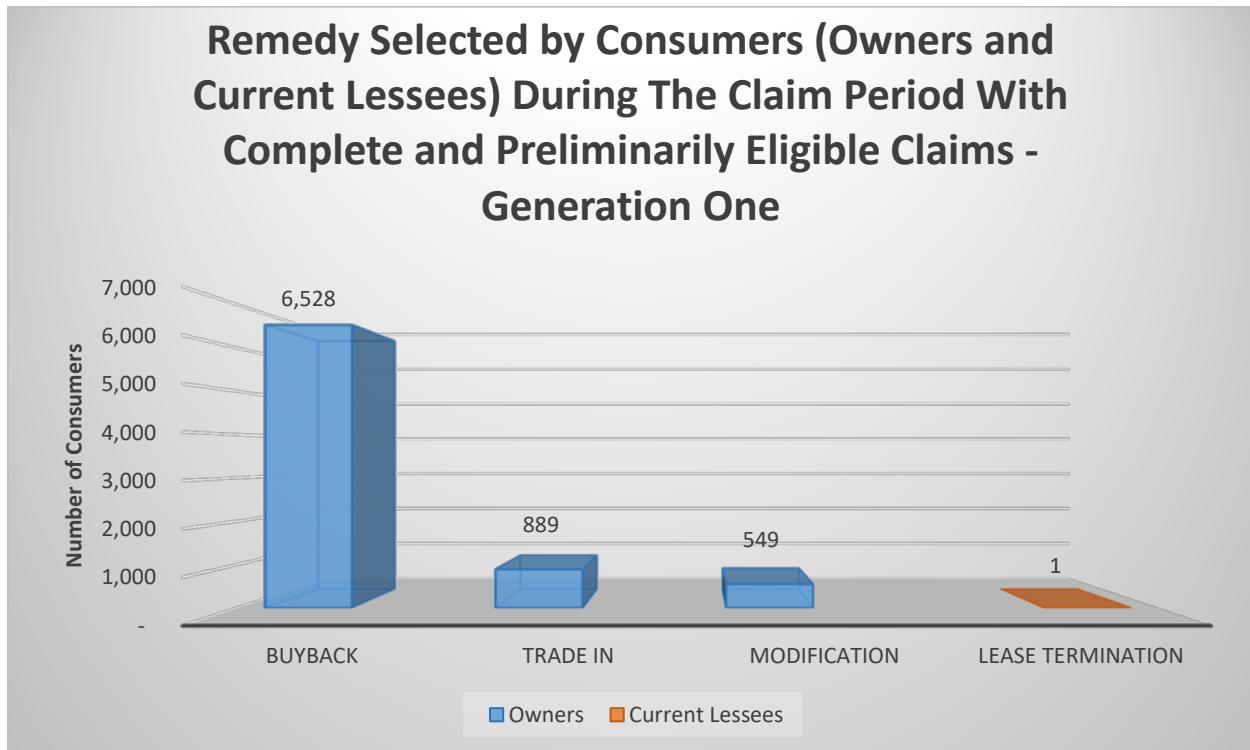
Chart 5-9

Chart 5-10 shows for Generation One vehicles the remedy selected by Owners and Current Lessees whose claims Volkswagen had deemed complete and preliminarily eligible as of June 8, 2017. The chart does not include the 305 Former Owners, 7 Former Lessees, or 2 Owners with Totaled Vehicles because the only remedy available to those claimants is Restitution, and it also excludes 17 claims where the initial offer selection was cancelled.

Chart 5-10

As stated above, for Generation Two vehicles there currently is only one remedy option available to consumers. As a result, all of the 11,567 Owners and 1,448 Current Lessees of Generation Two vehicles who had submitted claims through June 8, 2017, and had been deemed complete and preliminarily eligible by Volkswagen, were associated with Emissions Compliant Repairs. Restitution is the only remedy available for the 710 Former Lessees, 516 Former Owners, and 1 Owner with a Totaled Vehicle who had submitted claims associated with Generation Two vehicles that, through June 8, 2017, had been deemed complete and preliminarily eligible by Volkswagen. Three other consumers with Generation Two vehicles cancelled the claims that they had initially filed.

Additionally, through June 8, 2017, there were 7,752 instances where Volkswagen had deemed a claim deficient during its first ten-business-day review period. As the same claim may be resubmitted to Volkswagen after initially being deemed deficient, the 7,752 instances of

deficiency determinations were spread across 6,188 unique claims. More than 10,400 deficiency codes had been applied by Volkswagen as of that date, as multiple deficiencies may be associated with an individual claim submission. The most common deficiency codes have been: (i) an incorrect document was uploaded (3,503 claims); (ii) a document was illegible (2,418 claims); (iii) a document was incomplete or the document image was cut off (1,851 claims); (iv) a document was expired (513 claims); and (v) a name on the documents did not match the name in the Claims Portal (495 claims).

Of the 6,188 consumers found to have submitted a deficient claim as of June 8, 2017, 5,418 consumers (87.6%) had made at least one attempt to cure the deficiency, while 770 consumers (12.4%) had not yet attempted to cure. Among those consumers who had attempted to cure: (i) 4,472 consumers (82.5%) successfully cured the deficiency; (ii) 129 consumers (2.4%) resubmitted claims that were pending a completeness determination by Volkswagen as of June 8th,³¹ and (iii) 817 consumers (15.1%) had not resubmitted claims after their initial attempt to cure the deficiency was unsuccessful.

Through June 8, 2017, there were 1,552 consumer claims with active deficiencies. The most common deficiency codes among active deficient claims were: (i) an incorrect document was uploaded (668 claims); (ii) a document was illegible (503 claims); (iii) a document was incomplete or the document image was cut off (253 claims); (iv) a name on the documents did not match the name in the Claims Portal (141 claims); and (v) a document was expired (91 claims).

Finally, the Claims Supervisor reviewed a sample of 238 claims deemed deficient by Volkswagen to assess whether Volkswagen reviewers were properly applying deficiency codes to claims they deemed deficient during the first ten-business-day review period. The Claims

³¹ These primarily are claims that were submitted by the consumer, and reviewed and deemed deficient by Volkswagen, in advance of the official June 8, 2017, start of the Claim Period.

Supervisor agreed with Volkswagen reviewers' deficiency coding in 213 instances (89.5%) and disagreed in 25 instances (10.5%). The majority of the disagreements related to complex documents (e.g. corporate documents, proof of sale and proof of vehicle purchase), proof of ownership, and financial consent forms. On the whole, the audit did not reveal any indications of significant systemic issues with Volkswagen reviewers' application of deficiency codes. The Claims Supervisor will continue over time to audit Volkswagen reviewers' application of deficiency codes during the first ten-business-day review period.

D. The Second Ten-Business-Day Review Period

As discussed in Section III.A.3, Volkswagen generally has ten business days from the date it concludes that a consumer's claim is complete and preliminarily eligible to issue an offer letter.³² Within that time the Claims Supervisor also must independently verify Volkswagen's completeness, eligibility, and award determinations before an offer letter can issue.³³ As of June 8, 2017, 22,549 consumers had reached the second ten-business-day review period having been deemed preliminarily eligible by Volkswagen.³⁴ Of these, 8,300 claims related to Generation One vehicles (7,939 individuals and 361 businesses) and 14,249 claims related to Generation

³² For claims by Owners of Generation One vehicles who elect a Buyback or Trade-In remedy and whose vehicles are encumbered by a third-party loan, the second ten-business-day review period does not begin until Volkswagen receives from the lienholder the loan payoff amount information necessary to calculate the award and generate the offer letter.

³³ 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 June 8, 2017, there had been 48 instances where a claim had been deemed ineligible upon review by Volkswagen. The majority of these determinations were actively being verified as part of the second ten-business-day review period.

³⁴ As described above, there were 22,543 consumers whose claims were deemed complete and preliminarily eligible by Volkswagen, but 22,549 preliminarily eligible claims reached the second ten-business-day review period. The difference of six claims are instances where files reached a status beginning the second ten-business-day review period before the first ten-business-day review period had been completed or reached the second ten-business-day review period having skipped the status that ends the first ten-business-day review period. The difference would not substantively affect consumer claims; it only causes the discrepancy when data is queried to generate aggregated figures for reporting purposes.

Two vehicles (13,603 individuals and 646 businesses). Across this population, 17,063 consumers (75.7%) had been issued offer letters.

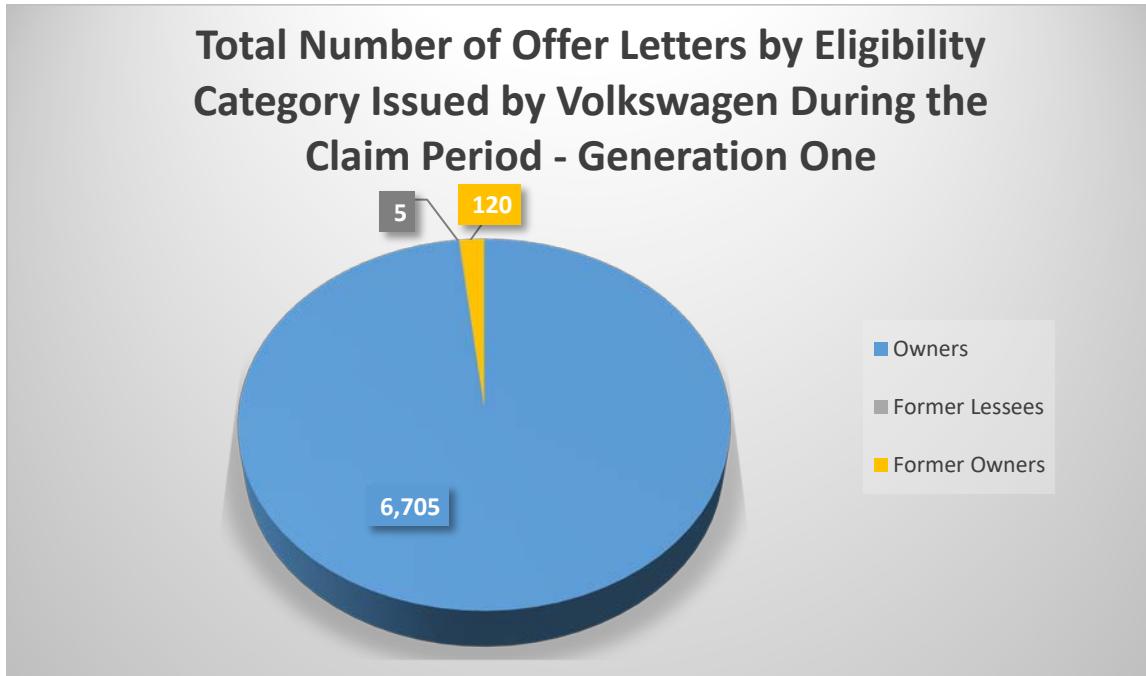
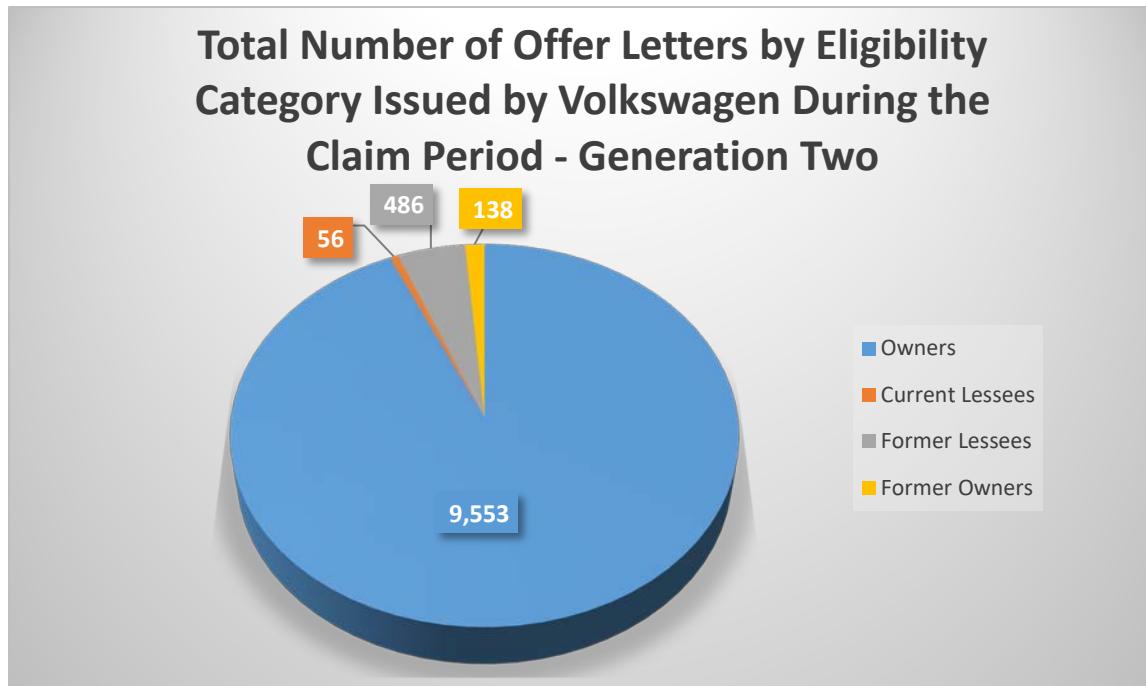
In terms of timeliness, because the Claim Period officially opened on June 8, 2017, and the ten-business-day requirement did not begin until the start of the Claim Period, ten business days will not have passed by the date of this report. Therefore, the timeliness of Volkswagen's second ten-business-day review period decisions are not yet ripe for evaluation.

That said, through June 8, 2017, Volkswagen had rendered 17,608 second ten-business-day review period determinations (7,156 related to Generation One vehicles and 10,452 related to Generation Two vehicles). All of these determinations necessarily were timely. As of that same date, there were 5,379 submitted claims pending review by Volkswagen still within the second ten-business-day review period.

E. Offer Letters

Through June 8, 2017, Volkswagen had issued 17,063 offer letters, the aggregate value of which totaled \$332,055,301.38. Of these, 6,830 offer letters with an aggregate value of \$257,389,529.26 related to Generation One vehicles (6,576 offers to individuals with an aggregate value of \$247,848,933.61, and 254 offers to businesses with an aggregate value of \$9,540,595.65). The remaining 10,233 offer letters with an aggregate value of \$74,665,772.12 related to Generation Two vehicles (9,896 offers to individuals with an aggregate value of \$72,197,337.96, and 337 offers to businesses with an aggregate value of \$2,468,434.16).

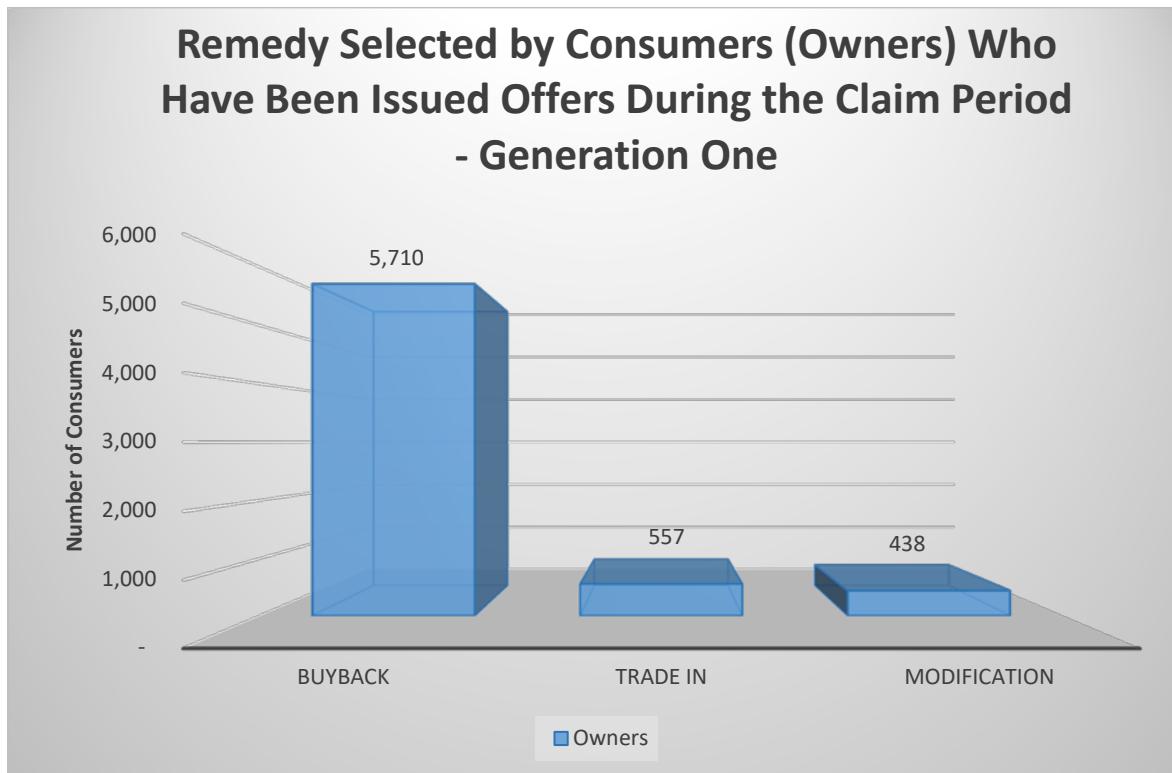
Charts 5-11 and 5-12 show, across Generation One and Generation Two vehicles, the total number of offer letters issued by Volkswagen by Eligibility Category.

Chart 5-11³⁵**Chart 5-12**

³⁵ Through June 8, 2017, no offers had yet been extended to Generation One Current Lessees. As stated above, only two such claims had been submitted as of that date for Volkswagen to review, and one of those claims is actively pending review in the second ten-business-day review period.

Chart 5-13 shows offer letters related to Generation One vehicles issued to Owners by remedy selections. The chart excludes the 120 Former Owners and 5 Former Lessees who had received offer letters because the only remedy available to those consumers is Restitution.

Chart 5-13



As to Generation Two vehicles, 9,553 Owners and 56 Current Lessees have received offer letters for an Emissions Compliant Repair, and 486 Former Lessees and 138 Former Owners have received offer letters associated with Restitution awards.

Chart 5-14 shows the top ten states by vehicle registration of consumers who had received offer letters through June 8, 2017.

Chart 5-14

Through June 8, 2017, of the approximately \$257.39 million associated with the offer letters issued by Volkswagen related to Generation One vehicles, Owners account for about \$256.77 million. Of these, about \$175.66 million related to Owners without loans and \$81.11 million related to Owners with loans.³⁶ The remainder was split among Former Owners (120 offer letters valued in the aggregate at \$588,590.14) and Former Lessees (5 offer letters valued in the aggregate at \$28,338.21).

The Claims Supervisor conducted an audit to assess the accuracy of the loan payoff amounts associated with consumer files input by Volkswagen reviewers where the consumer had elected a Buyback or Trade-In of a Generation One vehicle. The sample included approximately 1% of claims with loans held by VCI/AFS, and approximately 10% of claims where the loan is held by a third-party lender. The audit revealed that in more than 97% of instances, Volkswagen reviewers input the correct loan payoff amounts. However, loans with certain unique characteristics, or “non-standard”

³⁶ Through June 8, 2017, there had been no instances where the loan amount on a Generation One vehicle that was the subject of an Owner claim where the selected remedy was either a Buyback or a Trade-In had exceeded 130% of the award amount.

loans -- those loans with comparatively large payoff amounts or payoff amounts significantly higher or lower than the consumer's preliminary offer amount -- had a higher error rate of 5.23%. These types of loans are less common (approximately 170 claims), and due to the comparatively higher error rate, the Claims Supervisor has generally sought to verify all loan payoff amounts with one of these characteristics to further assess accuracy.

Chart 5-15 shows the minimum, maximum and average awards issued to consumers with Generation One vehicles based on Eligibility Category and offer selection through June 8, 2017.

Chart 5-15

Eligibility Category and Offer Selection	Average Value	Min Value	Max Value
Owner - Buyback	\$40,159.47	\$17,722.73	\$63,517.24
Owner - Buyback with Trade In	\$41,505.69	\$18,261.75	\$57,528.55
Owner - AEM	\$9,916.40	\$4,127.50	\$12,825.26
Former Lessee - Restitution	\$5,667.64	\$5,336.00	\$6,344.12
Former Owner - Restitution	\$4,904.92	\$2,032.50	\$6,339.78

Through June 8, 2017, of the approximately \$74.67 million associated with the offer letters made by Volkswagen related to Generation Two vehicles, Owners account for about \$73.03 million. The remainder was split among Former Lessees (486 offer letters valued in the aggregate at \$972,000); Former Owners (138 offer letters valued in the aggregate at \$549,275.46); and Current Lessees (56 offer letters valued in aggregate at \$112,000).

Chart 5-16 shows the minimum, maximum and average awards issued to consumers with Generation Two vehicles based on Eligibility Category and offer selection through June 8, 2017.

Chart 5-16

Eligibility Category and Offer Selection	Average Value	Min Value	Max Value
Owner - ECR	\$7,644.98	\$1,830.44	\$12,147.14
Current Lessee - ECR	\$2,000.00	\$2,000.00	\$2,000.00
Former Lessee - Restitution	\$2,000.00	\$2,000.00	\$2,000.00
Former Lessee Turn in Post Filing - Restitution	\$2,000.00	\$2,000.00	\$2,000.00
Former Owner - Restitution	\$3,980.26	\$1,830.44	\$5,389.62

Finally, through June 8, 2017, a total of 31 decedent estates had registered with Volkswagen. Of those, 15 had submitted claims for Volkswagen to review. Ten claims were deemed complete and preliminarily eligible by Volkswagen, and seven offer letters had been issued. The aggregate value of the offer letters was \$253,774.09. Through June 8, 2017, no consumer that had registered a claim through Volkswagen's Claims Portal had identified as a member of the military serving overseas.

F. Appointments and Closings

As of June 8, 2017, 4,692 consumers had accepted offer letters from Volkswagen, the aggregate values of which totaled \$107,332,910.10.³⁷ Of these, there were 3,376 consumers who had scheduled closing appointments (1,967 Generation One vehicles and 1,409 Generation Two vehicles). Of the Generation One vehicles for which closing appointments were scheduled, all related to Owner claims, and 1,905 Owners elected a Buyback remedy while 62 Owners elected the Trade-In remedy. The remaining 1,409 appointments were for Generation Two Owners who had elected to receive half of their Repair Payment in the form of a Repair Participation Payment prior to the availability of the Emissions Compliant Repair.

³⁷ In addition to Owners and Current Lessees, this figure includes Former Lessees and Former Owners who do not need to proceed through the closing phase because they do not have possession of an Eligible Vehicle. Information on payments made to Former Lessees and Former Owners is set forth below. The figure does not yet include Owners with claims associated with totaled vehicles because through June 8, 2017, no such offers had been issued.

Through June 8, 2017, the most common locations where appointments were scheduled (states and cities) are set forth in Charts 5-17 and 5-18, respectively.³⁸

Chart 5-17

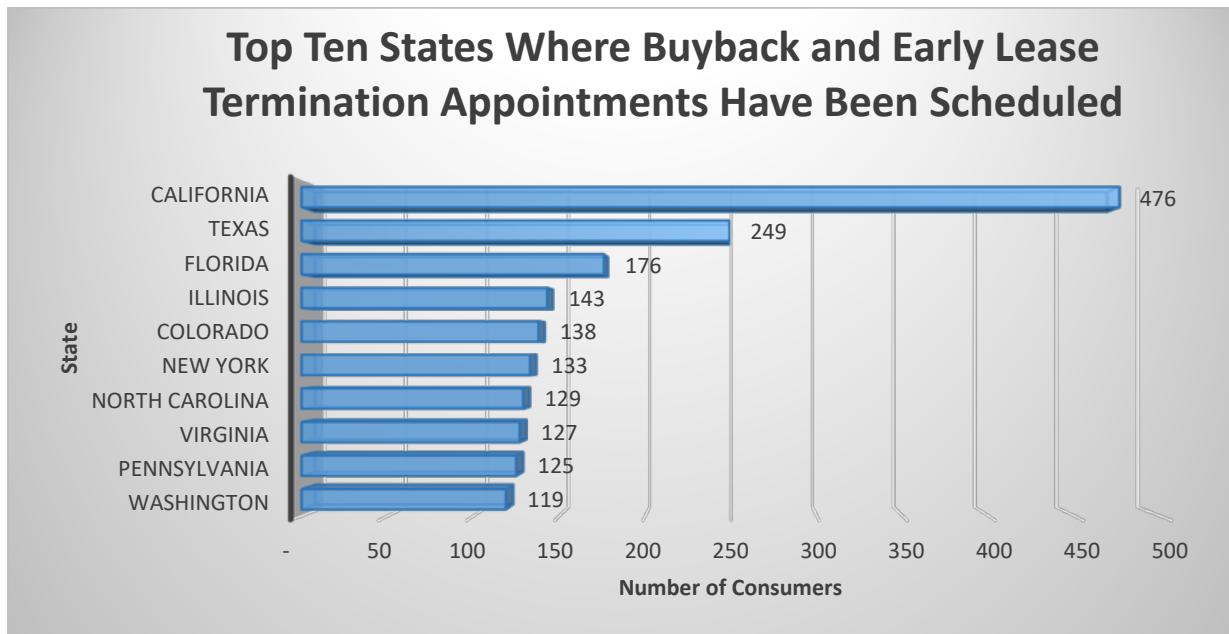
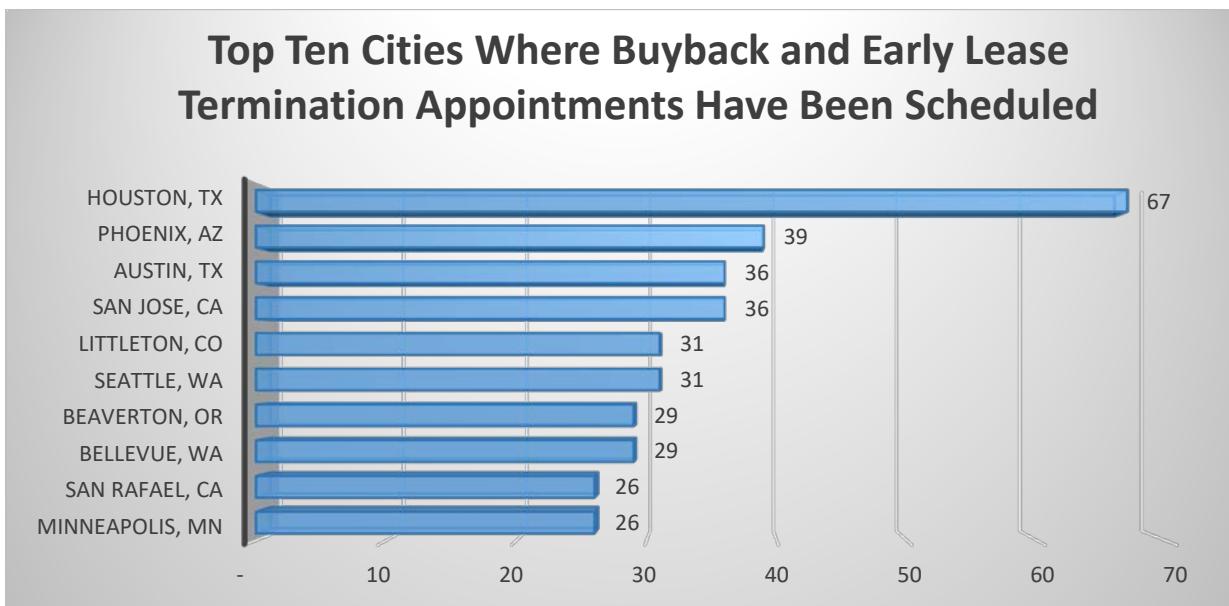


Chart 5-18



³⁸ Through June 8, 2017, of the consumers who had an scheduled appointment, more than 92% selected an appointment at the dealership they identified during the registration process as their preferred dealership.

As of June 8, 2017, there had been 333 instances where scheduled appointments had resulted in cancellation. All of these instances were cancelled at the consumer's request.

Closings are expected to begin in July 2017. As such, the Claims Supervisor will address the closing process and Volkswagen's progress towards satisfying the 85% targets in the 3.0 Liter Resolution Agreements in future reports.

Finally, as of June 8, 2017, 36 Former Lessees and 4 Former Owners had received payment on their claims totaling \$72,000 and \$15,382 respectively. Unlike Owners and Current Lessees, Former Lessees and Former Owners do not need to go through the closing process because they do not have possession of the Eligible Vehicle.

VI. OTHER AREAS EVALUATED

This section addresses other key areas relating to Volkswagen's efforts in meeting its obligations under the 3.0 Liter Resolution Agreements.

A. Volkswagen's Interactions with Consumers and the Class Notice Program

In any class action settlement, it is critical to ensure that class members are notified of their rights and legal remedies. Here, notice was achieved through a Claims Website, Claims Hotline, and Class Notice Process, which collectively provided Class Members with the information necessary to decide whether they wanted to opt out of the settlement or object to the 3.0 Liter Resolution Agreements. Each of these components is discussed in turn below.

1. Volkswagen's Claims Website

On December 21, 2016, Volkswagen added content related to the proposed 3.0 Liter settlement to the Claims Website www.vwcourtsettlement.com.³⁹ The Claims Supervisor evaluated the Claims Website and found, among other things, that the information provided on

³⁹ Audicourtsettlement.com redirects consumers to the primary Claims Website.

the site complied with the requirements of Section XVI of the 3.0 Liter FTC Consent Order. The information reflected was generally clear, and included copies of the 3.0 Liter Resolution Agreements, answers to frequently asked questions, and infographics designed to provide an easy to understand overview of the Claims Program for consumers with Generation One and Generation Two vehicles. The Claims Website also includes an “En Español” link that routes viewers to a Spanish version of the site. Moreover, the Claims Website enabled Eligible Former Owners to identify by the May 1, 2017 deadline, a prerequisite to participating in the Claims Program for that class of consumers. At the time the Claims Program launched, the Claims Website did not contain any restricted promotional materials or other information prohibited by the 3.0 Liter FTC Consent Order.

Following the Court’s approval of the 3.0 Liter Resolution Agreements, Volkswagen activated the Claims Portal on May 18, 2017, to enable consumers to register, upload required documentation, and submit a claim through the Claims Website. Consumers who have registered through the Claims Portal are placed on a distribution list to receive updates on the progress of the Claims Program via email. Volkswagen continues to add material to the website to enhance the consumer experience, including video tutorials of the claims process and more responses to frequently asked questions.

The functionality of the Claims Portal was evaluated using a sample set of test VINs provided by Volkswagen. All aspects of the Claims Portal, from registration to document upload, appeared to work as intended. However, one aspect of the Claims Portal that caused some claims to be delayed in the 2.0 Liter settlement does not appear to have been addressed. Specifically, if a consumer elects to mail or fax required documentation, a pop-up box appears prompting consumers to mail documents to a specified address. Consumers must then scroll

down to the bottom of the page and re-click the submit button before Volkswagen can upload documents received by mail or facsimile. However, the language indicating that this step is necessary to move forward with the claims process, is also at the bottom of the page where most consumers are unlikely to see it. Volkswagen is aware of the issue and is working to address it.

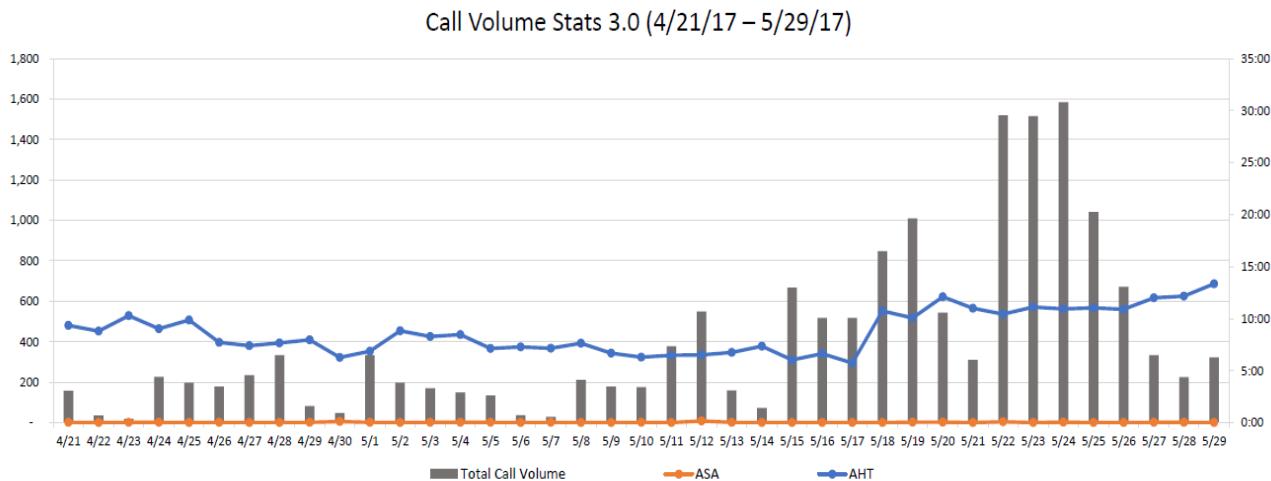
Usage data suggests that the Claims Website was frequently visited by consumers to learn about the Settlement Program and the process. Through June 7, 2017, the website received a total of over 507,000 unique visits. The daily visits peaked in mid-February when the 3.0 Liter Resolution Agreements were first granted preliminary approval and then again in mid-May after final approval.

2. Volkswagen's Claims Hotline

On February 14, 2017, Volkswagen added a prompt to its toll-free Claims Hotline, previously established to assist consumers with the 2.0 Liter settlement, to direct interested consumers seeking information related to the 3.0 Liter Resolution Agreements and Claims Program to agents specifically trained on the terms of the 3.0 Liter settlement. The Claims Hotline operates seven days a week, from 7 a.m. to 11 p.m. eastern time. Claims Hotline employees received training on all aspects of the Claims Program, learned active listening skills in order to allow them to better respond to consumer needs, and received technical training to handle Volkswagen's phone systems. Volkswagen is also affording consumers the ability to access Chat agents through the Claims Portal after registering a claim. Finally, Volkswagen has a dealer support line that is a dedicated resource for dealers with questions regarding the Claims Program.

Between the period of February 14, 2017, and June 7, 2017, the Claims Hotline received just under 40,000 phone calls, and over the last month has seen an average daily call volume of just under 1,000 calls. Chart 6-1 below depicts the daily call volume.⁴⁰

Chart 6-1



Volkswagen staffed the 3.0 Liter Claims Hotline with over 100 dedicated phone agents. As demonstrated by the average speed of answer, this staffing level has proven adequate to address the daily call volume. The majority of 3.0 Liter calls are handled by the same third-party vendor used to supplement Claims Hotline staffing for the 2.0 Liter Claims Program; however, agents at Volkswagen's Auburn Hills location are also available to handle some of the call volume.⁴¹ As discussed in Section IV.A above, agents in both locations are assigned exclusively to either 2.0 Liter or 3.0 Liter telephone calls to decrease the chance for confusion.⁴²

Regardless of whether a call is routed to Auburn Hills or the third-party vendor, the consumer has the ability to receive a call back from a supervisor in the event the agent is unable

⁴⁰ ASA is the abbreviation for average speed of answer and AHT represents average handle time.

⁴¹ The Claims Supervisor previously evaluated the vendor in connection with its handling of 2.0 Liter calls and will continue oversight and reporting on its handling of 3.0 Liter calls.

⁴² Unlike Claims Hotline agents, Chat agents handle both 2.0 Liter and 3.0 Liter chats.

to answer the particular inquiry. If the inquiry relates to something that neither an agent nor a supervisor are equipped to handle, it can be escalated to Volkswagen's Resolution Team. The Resolution Team is staffed to field more challenging inquiries and provide consumers with solutions to those inquiries.

Claims Hotline agents are trained to log complaints received from consumers. Volkswagen then uses this information to identify key "call drivers" to develop solutions to recurring challenges. Volkswagen also uses this information to develop and refine content for its Knowledge Management Tool ("KM Tool"). The KM Tool allows agents to perform Google-like searches for information related to the Claims Program to provide consumers with answers to their questions. A review of the complaint log produced by Volkswagen revealed some consumer dissatisfaction with the terms of the 3.0 Liter Resolution Agreements, but no trends thus far with respect to Volkswagen's performance of its obligations under the 3.0 Liter Resolution Agreements. The Claims Supervisor will continue to review Volkswagen's complaint log and will report on any trends that are identified as well as Volkswagen's efforts to address them.

To evaluate the efficacy of the Claims Hotline and Chat agents, a sample of 143 telephone calls and 560 chats were reviewed. Overall, both Hotline and Chat agents performed well, answering consumer questions in a professional manner and escalating to supervisors when appropriate. As much of the sample was from before the launch of the Claims Program, the Claims Supervisor will continue to review a sample of Hotline calls and Chats to assess the efficacy of these customer service channels.

3. Class Notice Program

On January 31, 2017, the PSC filed a Motion for Preliminary Approval of the 3.0 Liter Class Action Settlement Agreement with the Court, which included a description of the proposed Notice Program and a supporting Declaration that outlined a plan for broad and multifaceted outreach to affected Volkswagen consumers. On February 16, 2017, Kinsella Media, LLC (“Kinsella Media”), an established advertising and legal notification firm in Washington, D.C., was appointed by the Court as the Notice Administrator. The Court directed that notice be provided according to the Class Notice Program by April 14, 2017.

The Notice Program began on February 15, 2017, and was completed on April 14, 2017. The Notice Program consisted of notification to consumers through the “Long Form Notice,” “Short Form Notice,” and Claims Website, as well as other forms of notice designed to notify as many potential class members as reasonably practicable.

The Long Form Notice included a series of questions and answers designed to explain the Settlement by providing an overview of the litigation, an explanation of the benefits, and detailed instructions on how to opt-out of the Settlement, if so desired. Beginning on or about February 24, 2017, color Postcard Notices were sent via First Class Mail to all Class Members identifiable through Volkswagen’s records or registration data. The Postcard Notices contained an overview of the Settlement and directed consumers to the Claims Website or the Claims Hotline for more information.

A total of 262,351 Postcard Notices were sent out to identifiable Class Members and Non-Volkswagen/Non-Audi/Non-Porsche New and Used Car Dealers. From these Postcard Notices, 10,894 mailings were returned as undeliverable. Each Postcard Notice returned as undeliverable was traced and re-mailed as appropriate to any new address on file with the United

States Postal Service. Two hundred notices have been re-mailed to forwarding addresses. As to those mailings for which a forwarding address was not available, a Lexis-Nexis search was performed to identify the correct mailing address, and that resulted in 2,443 additional mailings with updated addresses. When the Notice Administrator provided the Court with a report on the status of the Notice Program on April 27, 2017, 8,251, or 3.15% of the mailings, had not had new addresses identified.

In addition to the Postcard Notices, three sets of email distributions were sent to individuals who provided an email address when registering for the Volkswagen and Audi Goodwill Program, as well as other potential Class Members for whom an email address was available.⁴³ The first two emails were sent to 105,996 email addresses in total, and the third email was sent to 97,419 email addresses. Each email provided individuals with information about the Settlement as well as either a means to access the Long Form Notice or a copy of the Long Form Notice itself.

The direct mail notice was supplemented with a paid media program that included print and digital advertisements as well as an earned media program. The print portion of the paid media program included publication of the Publication Notice in national and local newspapers, consumer and trade magazines, and digital media. The Publication Notice was designed to direct readers to the Claims Website or Claims Hotline in order to allow individuals to receive the more detailed information in the Long Form Notice. For print media, a two-color advertisement consisting of the Short Form Notice was run in a total of thirty-nine newspapers between February 2, 2017 and March 4, 2017. The publications consisted of national and local

⁴³ In the first half of 2016, Volkswagen and Audi offered a Goodwill Package that provided consumers with a \$500 Visa pre-paid gift card, a \$500 Volkswagen Dealership card, and 24-hour roadside assistance.

newspapers, as well as Spanish-language newspapers and African American newspapers. The Publication Notice was translated into Spanish for publication in the Spanish-language newspapers.

Targeted internet advertising consisted of banner advertisements containing the information from the Publication Notice on websites that provide detailed vehicle information, such as pricing and reviews. Banner advertisements were also placed on websites targeted to fleet owners. The banner advertisements ran between February 15, 2017, and March 31, 2017, and generated a total of 130,814 clicks to the Website. Finally, the Publication Notice was also advertised on Facebook, Instagram, LinkedIn and Twitter, as well as through the Google Display Network. Sponsored keywords and phrases were implemented with all major search engines, including: Google AdWords, Bing Microsoft Advertising, and their search partners.

While the official Class Notice Program is complete, the Notice Administrator will provide a supplemental direct mailing upon the determination of each of Volkswagen's Emissions Modification Proposals. In addition, 180 days before the end of the Claims Program, additional notices will be sent to Class Members who have not yet submitted a claim.

In the Court's Order granting final approval of the 3.0 Liter Class Action Settlement Agreement, it concluded "that the Notice Program was reasonably calculated to notify Class Members of the proposed Settlement."⁴⁴

4. Opt-Outs

Upon preliminary approval of the 3.0 Liter Consumer Class Action Settlement Agreement, consumers were afforded the opportunity to "opt-out", meaning they could elect to

⁴⁴ Volkswagen spent over \$3.7 million dollars on print and media advertisements to provide notice to potential Class Members.

refuse any benefits to which they otherwise would be entitled under the proposed agreement and reserve the right to independently take legal action against Volkswagen. Consumers who chose to exclude themselves from the 3.0 Liter Consumer Class Action Settlement Agreement were required to opt out within a prescribed timeframe.⁴⁵

In accordance with Section 9 of the 3.0 Liter Consumer Class Action Settlement Agreement, the Claims Supervisor established a post office box (Opt Out VW Settlement, P.O. Box 57424, Washington, D.C. 20037)⁴⁶ to receive and log opt-out submissions from consumers and to provide copies of the opt-outs to the Parties. In total, the Claims Supervisor received 593 timely opt-outs, which included information required by the 3.0 Liter Consumer Class Action Settlement Agreement. Additional information regarding the opt-out process and its results can be found in Plaintiffs' Reply Memorandum filed on April 28, 2017.

A number of consumers submitted opt-out requests that did not fully comply with Section 9 of the 3.0 Liter Consumer Class Action Settlement Agreement. The Parties determined that opt-outs were compliant if they met the following criteria: (i) the opt-out was postmarked or was received on or before April 14, 2017; (ii) it contained at least one form of contact information together with the class member's name; (iii) it contained an eligible VIN and identified the consumers' eligibility classification (Eligible Owner, Eligible Former Owner, Eligible Lessee, or Eligible Former Lessee); (iv) it contained an indication of a consumer's desire to opt-out of the settlement; and (v) it contained the consumer's signature. Eligible Former Owners and Eligible

⁴⁵ The Opt-Out Deadline for most consumers was April 14, 2017. However, certain individuals may opt out of the class at a later date if no Approved Emissions Modification becomes available for the consumer's vehicle.

⁴⁶ This address was provided to consumers in the Long Form Notice and will continue to be monitored for the duration of the Claims Program.

Former Lessees were also required to identify the date of the sale or transfer of their vehicle or termination of their lease, and evidence thereof.

5. Objections

Section 10 of the 3.0 Liter Consumer Class Action Settlement Agreement prescribes the way consumers could present written objections prior to the Fairness Hearing explaining why the settlement should not be approved by the Court as fair, reasonable, and adequate. A total of thirty-two objections were received. A significant number of objectors did not include all the information required by Section 10 of the 3.0 Liter Consumer Class Action Settlement Agreement. The Parties determined, however, that to further the goal of reaching a fair settlement, objections not meeting the technical requirements of the 3.0 Liter Consumer Class Action Settlement Agreement should still be considered prior to final Court approval. In addition to receiving written objections, the Court entertained oral objections from several individuals at the Fairness Hearing on May 11, 2017.

Section 9.4 of the 3.0 Liter Consumer Class Action Settlement Agreement prohibits a consumer from both objecting to the settlement and opting out. One consumer elected to both object and opt out. The Parties determined that the decision to opt out would control.

B. Volkswagen's Payout Calculation

As discussed in greater detail in Section III.A of this report, the calculation of consumer compensation under the 3.0 Liter Resolution Agreements is an objective process. In an effort to evaluate the accuracy of Volkswagen's settlement benefit calculations for consumers, the Claims Supervisor took steps to audit a statistically relevant sample of 5,003 VINs previously valued by Volkswagen. The VINs represented a cross-section of various vehicle models and trims.⁴⁷ The

⁴⁷ As discussed above, the September 2015 NADA Used Car Guide does not include values for certain model year 2015 vehicles or any model year 2016 vehicle. Because these vehicle values already have been stipulated to, the

audit sought to validate whether Volkswagen applied the correct NADA valuations and performed calculations in accordance with the terms of the 3.0 Liter Resolution Agreements.

The audit identified only a few discrepancies related to Estimated Mileage calculations that are to be used when a Former Owner qualifies for settlement benefits. Specifically, when calculating an Eligible Former Owner Restitution Payment, Volkswagen's estimates the vehicle's mileage as of September 2015 based on an analysis of warranty and Goodwill Program records. The discrepancies that were identified as part of the audit resulted in a potential undervaluation ranging from \$350 to \$6,525 for eight vehicles from the sample set for which a Former Owner had timely identified. Volkswagen has agreed to amend the Estimated Mileage for these eight VINs and adjust the valuation in the consumer's favor. The Claims Supervisor also undertook an analysis of all remaining VINs outside of the initial sample and did not identify any instance where an Eligible Former Owner claim would be undervalued as a result of the Estimated Mileage calculation. No other material issues were identified in connection with the audit.

Now that the Claims Program has launched, the Claims Supervisor will verify Volkswagen's payment calculations for each claim prior to issuance of an offer letter. In any instance where the calculations do not reconcile, the Claims Supervisor will work with Volkswagen to resolve the variance. Once resolved, an offer letter can be generated and issued to the consumer.⁴⁸

Claims Supervisor did not include them in its sample. The Claims Supervisor will, however, ensure that Volkswagen properly applies these agreed-upon values for all claims submitted on these vehicles.

⁴⁸ In the event a consumer disagrees with the payout calculation or other determination made in the review process, her or she has the option to appeal the decision to the Claims Review Committee.

C. System Integrity Measures

1. Curbing Fraud and Abuse

There are certain measures Volkswagen built into the Claims Program to mitigate potential fraud and abuse. For example, to validate documents supporting a claim, Volkswagen has built a database of exemplars of drivers' licenses, registrations, titles, and other relevant documents from each jurisdiction in order to cross-check and confirm the authenticity of documents submitted and reduce the risk of fraud. Additionally, Owners and Current Lessees must attend a face-to-face meeting with a settlement specialist, and the Eligible Vehicle must be present before receiving payment. This significantly reduces the risk of fraud on these types of claims. By definition, Former Owners and Former Lessees no longer have possession of the vehicle and any payment to these claimant types will automatically reduce the award to the Current Owner of the vehicle. Accordingly, Volkswagen has taken extra measures to verify the authenticity of Former Owner and Former Lessee claims before processing payment.⁴⁹

2. Personally Identifiable Information

Pursuant to Section XVI.C.10 of the 3.0 Liter FTC Consent Order, Volkswagen's system must protect personally identifiable information ("PII") of consumers and include other system integrity measures. To satisfy this provision, Volkswagen has a defined classification process that assigns a status for all data uploaded into the system based on the nature of the data. That status in turn defines the necessary levels of protections that must be built into the system to protect the data and any PII. For example, consumer-entry data (e.g., name; address; phone number) is categorized as Confidential, which carries certain encryption requirements. The

⁴⁹ To protect the efficacy of these and other measures Volkswagen has developed to mitigate the risk of fraud, they will not be detailed in this Report.

status definition determination is based on Volkswagen protocols, and both business and IT personnel ultimately must agree on the classification of the type of data being received.

In addition, Volkswagen has put in place several layers of firewall and other cyber-security measures to safeguard consumer data.⁵⁰ Volkswagen also employs data usage agreements with third parties to further ensure safeguards on data and documents being collected and maintained when it is necessary to share data with those third parties.

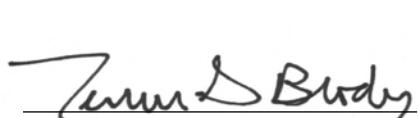
⁵⁰ To protect the efficacy of those measures, they will not be detailed further in this report.

VII. **CONCLUSION**

Though in its early stages, Volkswagen's 3.0 Liter Claims Program thus far has operated efficiently and effectively. This, in large part, is the result of the company's efforts in the lead up to the launch of the Claims Program, the ability to leverage the processes and technology platforms developed for the 2.0 Liter claims program, and the comparatively smaller volume of 3.0 Liter claims. Consumer complaints have been relatively infrequent, and Volkswagen had already issued more than 17,000 offer letters as of the date the Claim Period officially opened. Consistent with the 3.0 Liter Resolution Agreements, the Claims Supervisor will continue to evaluate and report on Volkswagen's progress with and adherence to the terms of the 3.0 Liter Resolution Agreements as the Claims Program progresses.

Sincerely,

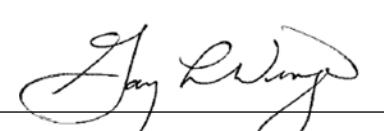
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Submitted: June 13, 2017