

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of )  
Banking and Insurance, State of New Jersey, ) CONSENT  
with respect to State Farm Indemnity Co., ) ORDER  
NAIC No. 43796 and State Farm Guaranty )  
Insurance Co., NAIC No. 12251 )

TO: State Farm Insurance Companies  
One State Farm Plaza (A-3)  
Bloomington, IL 61710

This matter, having been opened to the Commissioner of Banking and Insurance (“Commissioner”), of the Department of Banking and Insurance (“Department”) State of New Jersey, upon information that State Farm Indemnity Company and State Farm Guaranty Insurance Company (“State Farm”), insurance companies incorporated under the laws of the State of Illinois and admitted to transact property and casualty insurance in New Jersey pursuant to N.J.S.A. 17:17-1 et seq., may have violated provisions of New Jersey insurance law; and

WHEREAS the Department filed a Market Conduct Examination Report (“the Report”) containing the results of the 2012 examination of private passenger automobile and motorcycle insurance claims and complaint handling of State Farm performed pursuant to the authority provided at N.J.S.A. 17:23-20 et seq.; and

WHEREAS the market conduct examination revealed certain instances where State Farm's practices did not accord fully with various provisions of New Jersey insurance statutes or regulations. These instances, as fully set forth in the Report, are incorporated herein by reference; and

IT APPEARING that in certain instances, the findings of the 2012 Report were similar to findings issued in the final market conduct examination of State Farm issued January 3, 2003; and

IT APPEARING that, as a result of the Department's examination, State Farm has taken or will take corrective measures pursuant to the recommendations of the Report to address the instances of nonconformance set forth in the Report; and

IT FURTHER APPEARING that State Farm has waived its right to a hearing on the afore mentioned violations and has consented to an administrative sanction in the amount of \$40,000 in order to resolve the matter; and

IT FURTHER APPEARING that this matter may be resolved upon the consent of the parties to these proceedings without resort to formal hearing.

NOW, THEREFORE, IT IS on this 4<sup>th</sup> day of APRIL, 2013


ORDERED AND AGREED that the attached Market Conduct Examination Report of State Farm will be adopted and filed as an official record of the Department; and

IT IS FURTHER ORDERED AND AGREED that upon execution of this Consent Order, State Farm shall remit to the Department a payment in the amount of \$40,000 in settlement of this matter. The payment shall be made to the New Jersey Department of Banking and Insurance, 20 West State Street P.O. Box 329 Trenton, N.J. 08625, attention Anne Marie


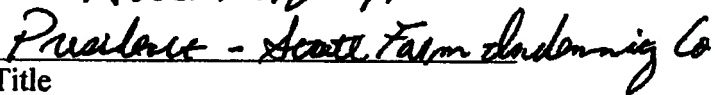
Narcini, Chief of Market Regulation by wire transfer or company check payable to the State of New Jersey, General Treasury; and

IT IS FURTHER ORDERED AND AGREED that State Farm will continue to monitor claim operations in order to identify and cure practices which may result in instances of nonconformance with New Jersey insurance statutes and regulations and the recommendations contained in the Report; and

IT IS FURTHER ORDERED AND AGREED that Company shall comply with New Jersey insurance statutes and regulations and the recommendations contained in the attached Report.

  
\_\_\_\_\_  
Peter Hart  
Acting Director of Insurance

Consented to as to form, content and entry

  
\_\_\_\_\_  
Name Robert H. Yi  
  
\_\_\_\_\_  
Title President - State Farm Indemnity Co  
Date: 4/1/13

**MARKET CONDUCT EXAMINATION**

**of the**

**STATE FARM INDEMNITY COMPANY and STATE FARM GUARANTY  
INSURANCE COMPANY**

**located in**

**PARSIPPANY, NEW JERSEY**

**as of**

**July 3, 2012**

**BY EXAMINERS**

**of the**

**STATE OF NEW JERSEY**

**DEPARTMENT OF BANKING AND INSURANCE**

**OFFICE OF CONSUMER PROTECTION SERVICES**

**MARKET CONDUCT EXAMINATIONS and ANTI-FRAUD COMPLIANCE  
SECTIONS**

**REPORT ADOPTED:**

**April 15, 2013**

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## **I. INTRODUCTION**

This is a report of the Market Conduct activities of the State Farm Indemnity Company and State Farm Guaranty Insurance Company (hereinafter referred to as "State Farm" or "the Companies"). In this report, examiners of the New Jersey Department of Banking and Insurance (NJDOBI) present their findings, conclusions and recommendations as a result of their examination.

### **A. SCOPE OF EXAMINATION**

The scope of the examination included private passenger automobile and motorcycle insurance sold by the Company in New Jersey. The examiners evaluated the Company's compliance with statutes and regulations applicable to first and third party automobile and motorcycle claims, as well as State Farm's compliance with complaint record maintenance requirements. Unless otherwise indicated, the review period for the examination was March 1, 2011 to February 29, 2012.

The examiners conducted their fieldwork at State Farm's office in Parsippany, New Jersey, between April 17, 2012 and May 11, 2012. On various dates following the fieldwork, the examiners completed additional review work and report writing in Trenton, N.J. The Market Conduct Examiners were Examiner-in-Charge Monica Koch, Robert Greenfield, Ralph Boeckman and Richard Segin.

The examiners randomly selected files and records from computer listings and documents provided by the Company. The random selection process is in accordance with the National Association of Insurance Commissioner's (NAIC) Market Regulation Handbook. The examiners used the NAIC Market Regulation Handbook, Chapters Sixteen (General Examination Standards) and Seventeen (Conducting the Property and Casualty Examination) as a guide to examine the Company and write this report.

### **B. ERROR RATIOS**

Error ratios are the percentage of files reviewed which an insurer handles in error. A file is counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. If a file contains multiple errors, the examiners will count the file only once in calculating error ratios. However, any file that contains more than one error will be cited more than once in the report. In the event that the insurer corrects an error as a result of a consumer complaint or due to the examiners' findings, the error will be included in the error ratio. If the insurer corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios.

There may be errors cited in this report that define practices as specific acts that an insurer commits so frequently that it constitutes an improper general business practice. Whenever the examiners find that the errors cited constitute an improper general business practice, they have stated this in the report.

The examiners sometimes find improper general business practices or errors of an insurer that may be technical in nature or which did not have an impact on a consumer. Even though such errors or practices would not be in compliance with law, the examiners do not count each of these files as an error in determining error ratios. Whenever such business practices or errors do have an impact on the consumer, each of the files in error will be counted in the error ratio. The examiners indicate in the report whenever they did not count particular files in the error ratio.

The examiners submitted written inquiries to Company representatives on the errors cited in this report. These inquiries provided State Farm the opportunity to respond to the examiners' findings and to provide exceptions to the statutory and/or regulatory errors or mishandling of files reported. In response to these inquiries, State Farm agreed with some of the errors cited in this report. On those errors with which the Company disagreed, the examiners evaluated the individual merits of each response and gave due consideration to all comments. In some instances, the examiners did not cite the files due to the Company's explanatory responses. In others, the errors remained as cited in the examiners' inquiries. For the most part, this is a report by exception.

## **C. COMPANY PROFILE**

### **State Farm Indemnity Company**

State Farm Indemnity Company (SF Indemnity) was incorporated in Illinois in 1991 and licensed to write in Illinois in that same year. It is a wholly owned subsidiary of State Farm Mutual Automobile Insurance Company. In 1992, State Farm Indemnity was licensed to write Automobile Liability (Bodily Injury and Property Damage) and Automobile Physical Damage in New Jersey.

In 1992, State Farm Indemnity began writing automobile business in New Jersey. The goal was to create greater underwriting and rating flexibility for this new company. All New Jersey automobile insurance business that had been written by State Farm Mutual Automobile Insurance Company was transferred to State Farm Indemnity by April 1, 1994. State Farm Indemnity has written business exclusively in New Jersey throughout its history.

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## **State Farm Guaranty Insurance Company**

State Farm Guaranty Insurance Company (SF Guaranty) was incorporated in Illinois in 2004 and licensed to write insurance in Illinois in early 2005. It is a wholly owned subsidiary of State Farm Indemnity Company. In mid-2005, State Farm Guaranty was licensed to write Automobile Liability (Bodily Injury and Property Damage) and Automobile Physical Damage in New Jersey.

In 2006, State Farm Guaranty began writing automobile business in New Jersey alongside State Farm Indemnity. The goal was to create greater underwriting and rating flexibility for the two companies. State Farm Guaranty has written business exclusively in New Jersey throughout its history.



## II. COMPLAINT REVIEW

### A. INTRODUCTION

During the period of January 1, 2010 through February 29, 2012, State Farm's complaint register indicated that consumers filed a total of 842 complaints. Of these, 317 consumers filed complaints with the New Jersey Department of Banking and Insurance and 525 complaints were filed directly against the Company. The examiners reviewed the Companies' complaint register for compliance with N.J.S.A. 17:29B-4(10). The examiners used Chapters Sixteen (General Examination Standards) and Seventeen (Conducting the Property and Casualty Examination) of the Market Regulation Handbook, as a guide to conduct this review.

### B. EXAMINERS FINDINGS

#### 1. Failure to Maintain Complete Record of All Complaints

Pursuant to N.J.S.A. 17:29B-4(10), insurers are required to maintain a record of all complaints received. These records shall include the total number of complaints, their classification by line of insurance, the nature and disposition of each complaint and the time it took to process each complaint. This statute defines a complaint as any written communication primarily expressing a grievance.

The examiners tested the accuracy of this record by comparing State Farm's complaint register with DOBI complaint records. Contrary to the above referenced statute, the examiners found that the company failed to record ten DOBI complaints in its complaint register. State Farm agreed with these errors.

**Please See Appendix A for Complaints in Error**

### III. CLAIMS REVIEW

#### A. INTRODUCTION

This review covers paid and denied collision, comprehensive and property damage claims submitted under private passenger automobile and motorcycle insurance. Any such New Jersey claim closed between March 1, 2011 and February 29, 2012 was subject to review. During the review period, the Companies closed a total of 67,062 claims as follows: 9,068 comprehensive claims (of which 9,007 were automobile and 61 motorcycle), 33,980 collision claims (33,822 automobile and 158 motorcycle) and 24,014 property damage claims (23,987 automobile and 27 motorcycle). Of these, the examiners randomly selected and reviewed 134 paid and 35 denied first and third party partial loss automobile claims, 50 first and third party total loss claims (from a population of 7,284 total losses), and 30 motorcycle paid claims for an overall random sample review of 249 claims.

In reviewing each claim, the examiners checked for compliance with all applicable statutes and regulations that govern timeliness requirements in settling first and third party claims. The examiners conducted specific reviews placing particular emphasis on N.J.S.A. 17:29B-4(9) and N.J.A.C. 11:2-17 (Unfair Claims Settlement Practices), N.J.A.C. 11:3-10 (Auto Physical Damage Claims), N.J.A.C. 11:16-2.4(a)2 (reporting to NICB) . These requirements relate to Chapter Sixteen (General Exam Standards) and Chapter Seventeen (Property and Casualty Insurance Examinations) as outlined in the NAIC Market Regulation Handbook.

#### B. ERROR RATIOS

The examiners calculated the following error ratios by applying the procedure outlined in the introduction of this report. Error ratios are itemized separately based on the review samples as indicated in the following chart.

#### ERROR RATIO CHART

##### Auto Claims

	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
<b>Paid Claims</b>			
Collision	59	15	25%
Comprehensive	35	4	11%
Property Damage	<u>40</u>	<u>8</u>	20%
Subtotal	134	27	20%
<b>Denied Claims</b>			
Collision	15	0	0%

Comprehensive	10	0	0%
Property Damage	<u>10</u>	<u>1</u>	10%
Subtotal	35	1	3%
Total Loss Review	50	26	52%
<b>Auto Claim Totals</b>	<b>219</b>	<b>54</b>	<b>25%</b>

Motorcycle Claims

<u>Type of Claim</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Paid Collision	15	6	40%
Paid Comprehensive	10	5	50%
Paid Property Damage	<u>5</u>	<u>1</u>	20%
<b>Motorcycle Claim Totals</b>	<b>30</b>	<b>12</b>	<b>40%</b>
<b>Overall Totals</b>	<b>249</b>	<b>66</b>	<b>27%</b>

**C. PRIVATE PASSENGER AUTOMOBILE AND MOTORCYCLE CLAIMS REVIEW**

**1. Undocumented Settlement Delays and Failure to Issue Delay Notices – 33 Auto Files in Error and 6 Motorcycle Claims in Error (Improper General Business Practice)**

N.J.A.C. 11:3-10.5(a) and N.J.A.C. 11:2-17.7(c) state that unless clear justification exists, the maximum payment period for physical damage claims shall be 30 calendar days and 45 calendar days for property damage claims. N.J.A.C. 11:3-10.5(a) states that a payment period for physical damage claims is the period between the date of receipt of notice of loss by the insurer, and either the date the settlement check is mailed, the date on which the damaged vehicle is returned to use in cases where the insurer elects to have repairs made to the insured vehicle, or the date on which the damaged vehicle is replaced by the insurer. N.J.A.C. 11:3-10.5(b) and N.J.A.C. 11:2-17.7(e) state that, if the insurer is unable to settle the claim within the time periods specified, the insurer must send the claimant written notice by the end of the payment periods. This notice must specify the reason for the delay. N.J.A.C. 11:3-10.5(b) and N.J.A.C. 11:2-17.7(e) also require an insurer to send an updated written notice of delay thereafter, every 30 and 45 days, respectively, until all elements of the claim are paid or denied.

a. Settlement Delay Errors (19 Files in Error)

The examiners reviewed 214 paid (134 automobile claims, 50 total loss automobile claims, and 17 partial motorcycle and 13 total loss motorcycle claims) and 35 denied first and third party private passenger auto claims. On those claims where the insured or claimant was not the cause of delay, the

examiners found that the Company failed to settle four auto property damage claims (three paid and one denied) within 45 days; 10 auto collision and five auto comprehensive claims within 30 days. The Company also failed to settle three motorcycle collision and three motorcycle comprehensive claims within 30 days.

In response to the examiners' inquiries, State Farm disagreed with this error on 13 claims where repairs were made by a Service First repair facility (or preferred shop). The Company stated that, under a preferred shop arrangement, the 30-day settlement period begins on the date that State Farm receives notice of loss and ends on the date that a claimant signs an authorization that permits the Select Service repair facility to begin repairs to the vehicle. The examiners disagree, and note that in situations where the insurer exercises its option to repair the insured vehicle, **N.J.A.C. 11:3-10.5(a)** specifically defines the maximum payment period as the difference between the date of notice and the date the vehicle is returned to the claimant's use. Accordingly, this regulation does not include a claimant's repair authorization date as an acceptable conclusion to the maximum payment period.

**Please See Appendix B1-a for a list of Auto Files in Error**  
**Please See Appendix B1-b for a list of Motorcycle Files in Error**

It is noted that on January 3, 2003 this Department issued a final market conduct examination report on State Farm Indemnity Company. That report cited a similar Service First delay error. As with the current exam, State Farm rebutted that error by stating that final settlement occurs once a customer signs an authorization. The 2003 report rebutted the Company's position, indicating that "**N.J.A.C. 11:3-10.5(a)** states that the claim is not resolved until the vehicle is repaired and returned to the insured. The Company's policy is therefore not in accord with this requirement."

b. Written Notice of Delay Errors (33 Claims in Error) - Improper General Business Practice

As indicated above, **N.J.A.C. 11:3-10.5(b)** and **N.J.A.C. 11:2-17.7(e)** require an insurer to issue a delay letter to the insured or third party claimant if the insurer is unable to settle the claim within the specified maximum settlement time periods. As an improper general business practice, State Farm did not send delay notices on any of the claims settled beyond the maximum payment periods, including those files handled under the Service First program. The Company confirmed this error in response to the examiners' inquiries. This error also occurred in the 2003 examination. State Farm's failure to correct this error violated its January 16, 2004 Consent Agreement with this Department, signed as a result of the findings in the 2003 examination report.

## **2. Unfair Settlement Practices on Third Party Loss of Use Claims**

**N.J.A.C. 11:2-17.10(a)8** states that, “When an insurer acknowledges receipt of an automobile property damage liability claim, or sooner if the claimant inquires, it shall inform the claimant whether and to what extent he or she will be entitled, if the insurer's liability later becomes reasonably clear, to payment for the rental of an automobile or other substitute transportation. Such payment will ordinarily be for the rental of a vehicle comparable to the type of the damaged vehicle (for example, sedan, minivan, sport utility vehicle, etc.) at a reasonable price until the damaged vehicle is repaired or, in the event of a total loss, until the claim is settled.

While conducting the claim review, the examiners discovered various instances in which State Farm failed to comply with the above regulations. These include failure to approve rental of a comparable vehicle, underpayment of claimed rental benefits, failure to notify claimants of rental rights, and termination of rental benefits prior to claim settlement. These errors are addressed below.

### **a. Failure to Inform Claimant of Option to Rent a Comparable Vehicle in Loss of Use Notification Letter - 1 File in Error**

As indicated above, **N.J.A.C. 11:2-17.10(a)8** requires an insurer to make available to the consumer a vehicle that is comparable to the type of vehicle that is damaged in a loss. On third party claim number 30-0B84-101, the claimant requested a vehicle comparable to a sport utility vehicle (SUV). Contrary to **N.J.A.C. 11:2-17.10(a)8**, State Farm denied this request via phone on April 25, 2011 by approving an incomparable mid-sized vehicle that was not an SUV. The claimant called State Farm again on April 26, 2011 to request approval of an SUV. Once again, State Farm denied this request. Only after the claimant called later that day did State Farm approve an SUV rental.

Based on this error, the examiners reviewed the Company's formal written communication that describes terms and conditions governing rental benefits. The letter is silent with respect to the availability of a comparable vehicle and refers to availability of a rental “... automobile at a competitive rate.” Failure to advise of the availability of a comparable vehicle is inconsistent with **N.J.A.C. 11:2-17.10(a)8** and may dissuade claimants from seeking comparable vehicles during the claim settlement period. In response to the examiners' inquiries, State Farm offered to modify the referenced language.

The examiners also note that State Farm's telephone denial of the consumer's claim for a comparable vehicle is inconsistent with **N.J.A.C. 11:2-17.8(b)**. This regulation specifies that any claim denials or compromises

must be "...confirmed in writing and shall be kept in the appropriate claim file."

**Please See Appendix B2-a for Auto File in Error**

b. Unfair Termination of Rental Benefits Prior to Final Settlement (3 Files in Error)

Pursuant to N.J.A.C. 11:2-17.10(a)8, a claimant is entitled to the rental of an automobile or other substitute transportation until the damaged vehicle is repaired or, in the event of a total loss, the claim is settled. N.J.A.C. 11:3-17.3 defines claims settlement as those activities "... which result in a claim payment or acceptance, compromise or rejection." Contrary to N.J.A.C. 11:2-17.10(a)8, the examiners found one partial and two property damage total loss claims in which State Farm terminated rental benefits prior to settlement. The following example on claim number 30-0C66-171 illustrates this error.

On June 30, 2011, State Farm offered the claimant a settlement value by telephone and further advised that rental would terminate the following day, on July 1, 2011. Inconsistent with N.J.A.C. 11:3-17.3 and N.J.A.C. 11:2-17.10(a)8, State Farm terminated rental benefits 19 days before settlement, which did not occur until the payment date of July 20, 2011. The examiners note that a telephone settlement offer does not constitute a settlement that results in a payment.

**Please See Appendix B2-b for Auto File in Error**

c. Failure to Notify Third Party Claimants of Loss of Use Rights (2 Files in Error)

Pursuant to N.J.A.C. 11:2-17.10(a)8, an insurer is required to inform third party claimants of the availability of loss of use benefits "[w]hen an insurer acknowledges receipt of an automobile property damage liability claim, or sooner if the claimant inquires..." The examiners found two property damage claims in which the State Farm insured appeared to be liable upon first report. Contrary to N.J.A.C. 11:2-17.10(a)8, State Farm did not notify either third party claimant of rental rights at any time during the claim settlement process. The Company agreed with the examiners findings.

**Please See Appendix B2-c for Auto Files in Error**

d. Unfair Denial of Third Party Rental Expenses (1 File in Error)

On property damage claim 300-B031-110, the third party claimant submitted a rental bill for \$630.40 for the period March 7, 2011 to March 18, 2011. State Farm denied that bill by telephone on March 28, 2011 because the

name of the claimant's mother-in-law appeared on the rental contract. In response, the claimant explained that the rental agency would not provide a vehicle because the claimant did not have a credit card; the mother-in-law therefore rented the vehicle on the claimant's behalf and for the claimant's use. State Farm maintained its denial. The claimant called to complain again on March 29, 2011, April 1, 2011 and April 5, 2011. State Farm maintained its denial throughout this period. Ultimately, a rental vehicle was obtained in the claimant's name for the period March 18, 2011 through March 26, 2011 in the amount of \$396.88. State Farm paid that bill in full but maintained its denial of the prior claim for \$630.

Pursuant to N.J.S.A. 17:29B-4(f), an insurer is required to settle a claim fairly and equitably. Contrary to this statute, State Farm failed to consider a legitimate reason as to why the claimant's name would not appear on the rental contract. State Farm's denial presumed that someone other than the claimant operated the rental vehicle, such as the mother-in-law. However, the claim record reveals no activity to support this supposition, e.g., written or telephonic statements, requests for information on who was listed as approved drivers on the rental contract, or other activity. State Farm's denial was therefore unsupported and inherently unfair to the consumer. Lastly, State Farm's telephonic denial of rental reimbursement is prohibited by N.J.A.C. 11:2-17.8(b), which specifies that "Any denial ... shall be confirmed in writing and (maintained) in the appropriate claim file."

**Please See Appendix B2-d for Auto File in Error**

**3. Failure to Notify the Claimant of Rights if Unable to Sell Salvaged Vehicle - 21 Files in Error (Improper General Business Practice)**

Pursuant to N.J.A.C. 11:3-10.4(j)1-3, an insurer must provide written notice to the claimant stating that, if the claimant cannot sell the salvaged vehicle for the amount of the salvage deduction, the insurer shall pay additional proceeds up to the amount that the claimant can actually sell the vehicle or provide the claimant with the information on where he or she can obtain that value for salvage. Contrary to this regulation and as an improper general business practice, State Farm failed to provide this notification on 21 total loss claims. The Company agreed with the examiners' findings.

**Please See Appendix B3-a for a list of Auto Files in Error**  
**Please See Appendix B3-b for a list of Motorcycle Files in Error**

**4. Failure to Provide Three Days Advance Notice of Storage Charge Termination - 16 Files in Error (Improper General Business Practice)**

N.J.A.C. 11:2-17.10(a)9 requires an insurer to provide notice to a claimant three working days prior to the termination of payment for storage charges

and place a copy of such notice in the claim file. On five auto collision, two motorcycle collision, two auto comprehensive, one motorcycle comprehensive and six auto property damage claims, the examiners found that State Farm did send the required letter advising that storage charges were being terminated; however, the Company did not provide the required three working days' notice prior to termination. Whereas some of letters were dated three days prior to the cutoff of storage charges, State Farm failed to consider mailing time and therefore did not provide the required three days' notice. In one instance, the letter was dated July 30 (Saturday) with a storage cutoff date of August 3. However, the claimant advised the Company the letter was postmarked August 5 and was not received until August 8.

**Please See Appendix B4-a for a list of Auto Files in Error**  
**Please See Appendix B4-b for a list of Motorcycle Files in Error**

**5. Failure to Properly Report Salvage Disposition to National Insurance Crime Bureau**

N.J.A.C. 11:16-2.4(a)2 requires an insurance company to report all vehicle salvage losses to the National Insurance Crime Bureau (NICB) or its member companies within five working days after the salvage sale; or, if the insured is permitted to retain salvage, within five working days after the loss payment date. The examiners found that State Farm either failed to report salvage disposition altogether, or failed to report salvage disposition within the five working day period specified by N.J.A.C. 11:16-2.4(a)2. These errors are discussed below.

a. Failure to Report Salvage Disposition to the National Insurance Crime Bureau – 3 Files in Error

Contrary to the above regulation, the examiners found one automobile comprehensive and two automobile property damage claims where State Farm failed altogether to report the sale of salvage to the NICB as required by N.J.A.C. 11:16-2.4(a)2. The Company agreed with the examiners' findings.

**Please See Appendix B5-a for a list of Auto and Motorcycle Files in Error**

b. Failure to Report Salvage Disposition to NICB within Five Working Days – 7 Files in Error

Contrary to the aforementioned regulation, the examiners found one automobile collision, two automobile property damage, two motorcycle collision and two motorcycle comprehensive claims where State Farm failed to report the sale of salvage to the NICB within 5 working days. Delays beyond five working days ranged from 17 to 91 working days.



**Please See Appendix B5-b for a list of Auto and Motorcycle Files in Error**

c. **Failure to Document Timely Report of Salvage Disposition to NICB – 2 Files in Error**

Pursuant to N.J.A.C. 11:2-17.12(b) and (c), insurers are required to document all claim activity in a manner that permits the examiners to reconstruct the claim settlement. Contrary to this requirement on two collision motorcycle total losses, State Farm could not document the date that it reported salvage disposition to the NICB. In response to the examiners' inquiries, the Company contacted the NICB for such documentation. State Farm then provided the examiners with an ad hoc NICB printout that lists claim number and date of salvage. This document does not, however, include the date that State Farm reported salvage to the NICB. Consequently, the examiners were unable to confirm timely reporting to the NICB.

**Please See Appendix B5-c for a List of Motorcycle Files in Error**

6. **Failure to Report Theft of Motor Vehicle to the National Insurance Crime Bureau (NICB) within Two Days - 3 Files in Error**

N.J.A.C. 11:16-2.4(a)1 requires all insurers to report to the National Insurance Crime Bureau (NICB) all thefts of motor vehicles within two working days from receipt of notification by the insured. The examiners found three motorcycle comprehensive claims where State Farm failed to timely report the theft of an automobile to the NICB within the required time frame. Reporting delays ranged from two to forty-nine days.

**Please See Appendix B6 for a list of Files in Error**

7. **Failure to Provide Notice of Right of Recourse - 1 File in Error**

N.J.A.C. 11:3-10.4(c) requires insurers to provide claimants with a written notice of the rights of recourse at the time a total loss settlement draft is issued, and to retain a copy of the notice in the claim file. Contrary to this regulation, the examiners found that State Farm failed to provide the required written right of recourse notice on one motorcycle collision claim. State Farm agreed with this error in response to the examiners' inquiries.

**This File in Error is Listed in Appendix B7**

## **IV. RECOMMENDATIONS**

State Farm should inform all responsible personnel and third party entities who handle the files and records cited as errors in this report of the examiners' recommendations and remedial measures that follow in the report sections indicated. The examiners also recommend that State Farm establish procedures to monitor compliance with these measures.

Throughout this report, the examiners cite and/or discuss all errors found. If the report cites a single error, the examiners often include a "reminder" recommendation because if a single error is found, additional errors may have occurred.

Non-compliant activity was identified in this report which may extend to other jurisdictions. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to New Jersey law and regulations. When applicable, corrective action for other jurisdictions should be addressed.

The examiners acknowledge that during the examination State Farm agreed and already complied with, either in whole or in part, some of the recommendations. For the purpose of obtaining proof of compliance and for the Company to provide its personnel with a document they can use for future reference, the examiners have listed all recommendations below.

### **A. GENERAL INSTRUCTIONS**

All items requested for the Commissioner and copies of all written instructions, procedures, recommended forms, etc., should be sent to the Commissioner, c/o Clifton J. Day, Manager of the Market Conduct Examinations and Anti-Fraud Compliance Unit, Mary Roebling Building, 20 West State Street, PO Box 329, Trenton, N.J. 08625, within thirty (30) days of the date of the adopted report.

On all policies from Section III to be reopened with additional claim payments, State Farm should provide the insured with a cover letter that contains the following first paragraph:

"During a review of your claim by Market Conduct Examiners of the New Jersey Department of Banking and Insurance, they found that we (failed to pay the full rental amount on your auto claim). Enclosed is our payment in the amount of (insert amount) to correct our error."

## B. COMPLAINTS

1. In order to comply with N.J.S.A. 17-29B-4(10), State Farm must issue written instructions to all appropriate personnel stating that all complaints received by the Companies either through the NJDOBI or directly from consumers must be logged into the complaint register.

## C. CLAIMS

### PRIVATE PASSENGER and MOTORCYCLE CLAIMS

2. State Farm must issue written instructions to all appropriate claims personnel stating that:
  - a) N.J.A.C. 11:3-10.5(a) and N.J.A.C. 11:2-17.7(c) state that unless clear justification exists, the maximum payment period for physical damage claims shall be 30 calendar days and 45 calendar days for property damage claims. N.J.A.C. 11:3-10.5(a) states that a payment period for physical damage claims is the period between the date of receipt of notice of loss by the insurer, and either the date the settlement check is mailed; the date on which the damaged vehicle is returned to use in cases where the insurer elects to have repairs made to the insured vehicle, or the date on which the damaged vehicle is replaced by the insurer.
  - b) Pursuant to N.J.A.C. 11:3-10.5(b) and N.J.A.C. 11:2-17.7(e), an insurer must send the insured/claimant a written notice by the end of the payment periods, if the insurer is unable to settle the claim within the time periods specified above. This notice must specify the reason for the delay. If an insured is using a select service repair facility, State farm must issue a written notice if the damaged vehicle has not been returned to use within the required timeframes.
  - c) N.J.A.C. 11:3-10.5(b) and N.J.A.C. 11:2-17.7(e) also require an insurer to send an updated, written notice of delay every 30 and 45 days, respectively, until all elements of the claim are paid or denied.
3. Pursuant to N.J.A.C. 11:2-17.10(a)8, the Company should remind all appropriate claims personnel that when rental is approved for third party claims, a comparable vehicle may be rented while the claimant's vehicle is un-drivable or under repair. The Company should revise its loss of use notification letter to inform the claimant that a comparable vehicle may be rented while the claimant's vehicle is un-drivable or under repair. A copy of the letter should be forwarded to the Commissioner to verify compliance with the recommendation.

4. Pursuant to **N.J.A.C. 11:3-10.4(j)2 & 3**, State Farm should issue written instructions to all appropriate claim personnel stating that the notification of salvage rights should be sent on all owner retained total loss claims and a copy of the letter should be retained in the claim file. State Farm must forward a sample copy of the notification of salvage rights letter to the Commissioner for review.
5. State Farm must issue written instructions to all appropriate claims personnel stating that:
  - a) Pursuant to **N.J.A.C. 11:16-2.4(a)2**, the Company must report all vehicle salvage loss sales to the National Insurance Crime Bureau within five working days of the salvage sale or loss payment date if the salvage is retained by the owner.
  - b) **N.J.A.C. 11:2-17.10(a)9** requires an insurer to provide notice to a claimant three working days prior to the termination of payment for automobile storage charges and to place a copy if such notice in the claim file.
  - c) Pursuant to **N.J.A.C. 11:16-2.4(a)1**, all thefts of motor vehicles must be reported to the National Insurance Crime Bureau within two working days from receipt of notification from the insured.
  - d) Pursuant to **N.J.A.C. 11:2-17.12(b) and (c)**, State Farm must be able to document when it issues a salvage report to the National Insurance Crime Bureau to enable claim file reconstruction.
6. State Farm must issue written instructions to all appropriate claims personnel stating that, pursuant to **N.J.A.C. 11:2-17.10(a)8**:
  - a) Payment for rental of an automobile or other substitute transportation must be until the damaged vehicle has been repaired or, in the event of a total loss, until the claim has been settled within the context of "Claim Settlement" as defined in **N.J.A.C. 11:2-17.3**.
  - b) When an insurer acknowledges receipt of an automobile property damage liability claim, or sooner if the claimant inquires, the Company must notify claimants whether and to what extent they will be entitled to rental once the insurer's liability becomes reasonably clear.
  - c) All insurers must provide a rental vehicle that is comparable to the type of the damaged vehicle (for example, sedan, minivan, sport

utility vehicle, etc.) at a reasonable price. The vehicle does not have to be of similar status or value as the damaged vehicle.

7. In accordance with **N.J.A.C. 11:2-17.10(a)8**, State Farm must reopen and review the rental for the claim referenced in Section III.C.2.d. The Company should calculate the portion of the rental that was not paid by State Farm from the date of loss until liability became reasonably clear and reimburse the claimant. A copy of the payment should be forwarded to the Commissioner to verify compliance with the recommendation. See general instructions for language to be included in the cover letter to be sent with the payment.
8. State Farm should remind all appropriate personnel that pursuant to **N.J.A.C. 11:3-10.4(c)** insurers must provide first and third party claimants with a written notice of the rights of recourse at the time of settlement on total loss claims and that a copy of this notice must be retained in the claim file.

## APPENDIX A Complaint Errors

### 1. Failure to Maintain Complete Record of All Complaints (10 Complaints in Error)

<b><u>Tracking ID</u></b>	<b><u>DOBI Complaint ID</u></b>	<b><u>Insured/ Claimant</u></b>	<b><u>Policy Number</u></b>	<b><u>Claim Number</u></b>
75363	1031705	Cundiff	Unkn	30-Q075-759
79281	1137092	Cundiff	0244073D0430G	Unkn
79545	1136842	Winkels	Unkn	30-B013-792
87880	None	Lee	459869D1330	Unkn
82159	1139524	Ribagorda	Y541236-B01-30I	Unkn
86736	86736	Bellamy	1068179417	Unkn
99967	99967	Schenck	4.71E-10	Unkn
79231	1136663	Gerola	X10-9286D1930K	Unkn
75767	1033053	Azar	Unkn	Unkn
74532	1031280	Alston	Unkn	Unkn

**APPENDIX B**  
**Private Passenger Automobile and Motorcycle Claim Errors**

**1. Unjustified Settlement Delays and Failure to Issue Delay Notices – 33 Files in Error**

**a. Private Passenger Automobile Claims**

<u>Claim Number</u>	<u>Claim Type</u>	<u>Date Reported to Company</u>	<u>Date of Settlement</u>	<u>Days Beyond 30/45</u>	<u>Total Days to Pay</u>
30-0L93-677*	Collision	11/30/2011	1/12/2012	13	43
30-0D46-735*	Collision	7/6/2011	8/15/2011	10	40
30-0J45-762*	Collision	10/18/2011	11/29/2011	12	42
30-B014-983	Collision	11/29/2010	3/27/2011	88	118
30-B026-501*	Collision	2/8/2011	5/10/2011	61	91
30-B050-161*	Collision	11/2/2011	12/23/2011	21	51
30-065D-782	Collision	12/1/2011	1/23/2012	23	53
30-0D75-275*	Collision	7/15/2011	8/30/2011	16	46
30-011S-552	Collision	4/6/2011	5/25/2011	19	49
30-0H92-131	Collision	10/6/2011	11/28/2011	23	53
30-052J-638	Collision	10/22/2011	11/29/2011	8	38
30-0G34-411	Collision	8/31/2011	10/15/2011	15	45
30-018R-131*	Collision	5/24/2011	11/1/2011	131	161
30-0D30-985*	Collision	6/28/2011	8/22/2011	25	55
30-0G44-442	Collision	9/2/2011	10/7/2011	5	35
30-049V-402	Collision	10/13/2011	11/16/2011	4	34
30-054B-716*	Collision	10/27/2011	12/5/2011	9	39
30-B019-513*	Collision	12/23/2010	2/4/2011	13	43
30-0G10-381	Collision	8/22/2011	10/5/2011	14	44
30-B019-223	Collision	12/21/2010	3/4/2011	43	73
30-0L21-148*	Comprehensive	11/17/2011	12/28/2011	11	41
30-027X-480	Comprehensive	7/16/2011	8/24/2011	9	39
30-0C44-923*	Comprehensive	5/20/2011	7/9/2011	20	50
30-B005-328	Comprehensive	10/1/2010	3/31/2011	151	181
30-0G64-947#	Comprehensive	9/8/2011	10/18/2011	10	40
30-E000-669#	Comprehensive	8/29/2011	10/24/2011	26	56
30-E500-287#	Comprehensive	9/6/2011	10/26/2011	20	50
30-0B95-382	Comprehensive	4/26/2011	6/29/2011	34	64
30-B010-469#	Property Damage	10/31/2010	3/25/2011	100	145
30-0G79-146*	Property Damage	9/12/2011	11/19/2011	23	68
30-0D73-408#@	Property Damage	7/25/2011	10/16/2011	38	83

30-0C45-189#	Property Damage	6/11/2011	8/10/2011	15	60
30-0C66-171#	Property Damage	6/1/2011	7/202011	4	49

\*These claims were processed through the Select Service program with no delay notice.  
 #These claims were not processed through the Select Service program and were cited as delayed settlements with no delay notices.  
 @State Farm denied this claim.

**b. Motorcycle Claims**

<u>Claim Number</u>	<u>Policy Coverage</u>	<u>Date Reported to Company</u>	<u>Date of Settlement</u>	<u>Days Beyond 30</u>	<u>Total Days to Pay</u>
30-0D35-847	Collision	7/1/2011	9/2/2011	33	63
30-B038-165	Collision	5/9/2011	7/13/2011	35	65
30-B045-572	Collision	8/9/2011	9/23/2011	15	45
30-0G08-970	Comprehensive	8/23/2011	10/16/2011	24	54
30-0D22-720	Comprehensive	6/4/2011	8/16/2011	43	73
30-0D20-691	Comprehensive	6/24/2011	9/8/2011	46	76

**2. Unfair Settlement Practices on Third Party Loss of Use Claims**

a. Failure to Inform Claimant of Option to Rent a Comparable Vehicle in Loss of Use Notification Letter – 1 File in Error

Claim Number

30-0B84-101

b. Unfair Termination of Rental Benefits Prior to Final Settlement on Third Party Property Damage Claims – 3 Files in Error

<u>Claim Number</u>	<u>Letter Date</u>	<u>Rental Cutoff</u>	<u>Date of Settlement</u>	<u>Day's Notice from Settlement</u>
30-0D54-365	08/16/11	08/22/11	08/23/11	-1
30-0G79-146*	10/03/11	10/08/11	11/19/11	-42
30-0C66-171*	06/30/11	07/11/11	07/05/11	-4

\*Total Loss

c. Failure to Notify Third Party Claimant of Loss of Use Rights – 2 Files in Error

Claim Number

30-0K00-890

30-0N00-362

d. Unfair Denial of Third Party Rental Expenses (1 File in Error)



Claim Number  
30-B031-110

**3. Failure to Notify the Claimant of Rights if Unable to Sell Salvaged Vehicle - 21 Files in Error (Improper General Business Practice)**

**a. Private Passenger Automobile Claims**

<u>Claim Number</u>	<u>Coverage</u>	<u>Claim Number</u>	<u>Coverage</u>
30-B038-514	Collision	30-0J20-517	Collision
30-049V-402	Collision	30-0B28-271	Collision
30-054B-716	Collision	30-0D90-994	Collision
30-048B-941	Collision	30-E500-287	Comprehensive
30-B037-885	Comprehensive	30-B005-328	Comprehensive
30-0G64-947	Comprehensive	30-0K37-809	Property Damage
30-B031-110	Property Damage	30-B010-469	Property Damage
30-0C66-171	Property Damage	30-0H43-517	Property Damage

**b. Motorcycle Claims**

<u>Claim Number</u>	<u>Coverage</u>	<u>Claim Number</u>	<u>Coverage</u>
30-0P01-399	Collision	30-B043-922	Collision
30-0G08-970	Comprehensive	30-0K83-984	Comprehensive
30-0M83-834	Property Damage		

**4. Failure to Provide Three Days Advance Notice of Storage Charge Termination – 16 Files in Error**

**a. Private Passenger Automobile Claims**

<u>Claim Number</u>	<u>Coverage</u>	<u>Date of Letter</u>	<u>Date of Storage Cutoff</u>
30-0J96-140	Collision	11/9/2011	11/11/2011
30-0L73-955	Collision	12/1/2011	12/3/2011
30-B043-111	Collision	7/11/2011	7/13/2011
30-B033-974	Collision	4/11/2011	4/14/2011
30-049V-402	Collision	10/24/11	10/27/11
30-0J53-452	Comprehensive	10/28/2011	10/31/2011
30-0G62-364	Comprehensive	9/12/11	9/15/11
30-0D30-985*	Property Damage	7/30/11	8/3/11
30-0G44-442	Property Damage	9/20/11	9/23/11
30-054B-716*	Property Damage	11/12/11	11/14/11
30-0D54-365	Property Damage	8/16/11	8/19/11
30-0B34-333	Property Damage	3/29/11	3/31/11
30-048B-941	Property Damage	10/24/11	10/24/11

\*Letter issued on a Saturday

**b. Motorcycle Claims**

<u>Claim Number</u>	<u>Coverage</u>	<u>Date of Letter</u>	<u>Date of Storage Cutoff</u>
30-0D35-847	Collision	8/1/11	7/29/11
30-B045-572#	Collision	9/17/11	9/21/11
30-0G08-970*	Comprehensive	9/2/11	9/6/11

# Letter is dated for Saturday; \* Letter is dated for Friday of Labor Day Weekend

**5. Failure to Properly Report Salvage Disposition to NICB**

a. Failure to Report Sale of Salvage to the National Insurance Crime Bureau - 3 Files in Error

<u>Claim Number</u>	<u>Coverage</u>	<u>Product</u>
30-0G64-947	Comprehensive	Automobile
30-0C66-171	Property Damage	Automobile
30-0L03-835	Property Damage	Automobile

b. Failure to Report Salvage Disposition to National Insurance Crime Bureau within Five Working Days – 7 Files in Error

<u>Claim Number</u>	<u>Coverage</u>	<u>Product</u>
30-0J20-517	Collision	Automobile
30-0H43-517	Property Damage	Automobile
30-0K37-809	Property Damage	Automobile
30-0P01-399	Collision	Motorcycle
30-0K83-292	Collision	Motorcycle
30-0G08-970	Comprehensive	Motorcycle
30-0K83-984	Comprehensive	Motorcycle

c. Failure to Document Timely Report of Salvage Disposition to NICB – 2 Files in Error

<u>Claim Number</u>	<u>Coverage</u>	<u>Product</u>
30-B038-165	Collision	Motorcycle
30-B045-572	Collision	Motorcycle

**6. Failure to Report Theft of Motor Vehicle to the National Insurance Crime Bureau (NICB) within Two Days - 3 Files in Error**

<u>Claim Number</u>	<u>Product</u>
30-0F84-005	Motorcycle
30-0D22-720	Motorcycle
30-0D20-691	Motorcycle

**7. Failure to Provide Notice of Right of Recourse - 1 File in Error**

<u>Claim Number</u>	<u>Product</u>
30-0D35-847	Motorcycle

## V. VERIFICATION PAGE

I, Monica Koch, am the Examiner-in-Charge of the Market Conduct Examination of State Farm Indemnity Company and State Farm Guaranty Insurance Company conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.

The findings, conclusions and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct examination of State Farm Indemnity Company, and State Farm Insurance Company as of July 3, 2012.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

September 5, 2012  
Date

Monica Koch  
Monica Koch  
Examiner-In-Charge  
New Jersey Department  
of Banking and Insurance