



Financial Frauds and Consumer Protection Report

March 15, 2019
Linda Lacewell
Acting Superintendent
New York State Department of Financial Services

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INTRODUCTION

This report, required under Section 409(b) of the Financial Services Law, summarizes the activities of the Financial Frauds & Consumer Protection Division (“FFCPD”) of the Department of Financial Services (“DFS”) during 2018 in combating fraud committed against entities regulated under the Banking and Insurance laws, as well as fraud against consumers; the Department’s handling of consumer complaints; and the supervision of producers licensed pursuant to the Insurance Law. It also summarizes the Department’s examination activities in the areas of consumer compliance, fair lending, and the Community Reinvestment Act; and DFS’s work to assist Holocaust victims and their heirs. Finally, it reviews the Department’s criminal banking and insurance investigations and work.

FFCPD Organization and Oversight

The FFCPD encompasses the units described below:

- **Civil Investigations Unit:** Investigates civil financial fraud and violations of consumer and fair lending laws, the Financial Services Law, the Banking Law, and the Insurance Law;
- **Student Protection Unit:** Protects students from fraud and misrepresentation regarding financial products and services; monitors student-related financial practices in New York; educates student consumers and their families about available financial products and services; and informally mediates complaints by student borrowers and their families against student loan servicers, debt relief companies and debt collectors;
- **Licensing and Producer Investigations Unit:** Oversees insurance producer licensing and continuing education, investigates irregularities on licensee applications, and investigates complaints against producers;
- **Disciplinary Unit:** Addresses unlicensed activity and violations of the Insurance Law by entering into stipulations of settlement with insurance producers for fines and corrective action, and obtaining license suspensions or surrenders of producer licenses with the full force and effect of revocations; assists with investigations and examinations; and conducts disciplinary hearings against licensees to seek revocation of their licenses;
- **Consumer Examinations Unit:** Conducts fair lending, consumer compliance, and Community Reinvestment Act examinations, is responsible for the Banking Development District Program; and the registration and supervision of consumer credit reporting agencies;
- **Holocaust Claims Processing Office:** Advocates on behalf of Holocaust victims and their heirs, seeking the just and orderly return of assets to their rightful owners;
- **Consumer Assistance Unit:** Investigates and informally mediates complaints against regulated entities and individuals except those relating to producers and mortgages, as well as complaints concerning other financial products and services; and manages the deployment and staffing of the DFS Mobile Command Center; and
- **Criminal Investigation Unit:** Handles criminal banking investigations and insurance fraud.

Section 404 of the Financial Services Law provides that the Superintendent is authorized to investigate activities that may constitute violations subject to Section 408 of the Financial Services Law, or violations of the Insurance Law or Banking Law. In addition, where the Superintendent has a reasonable suspicion that a person or entity has engaged or is engaging in fraud or misconduct under the Banking Law, the Insurance Law, the Financial Services Law, or other laws that give the Superintendent investigatory or enforcement powers, then the Superintendent is empowered to investigate or assist another entity with the power to do so.

CIVIL INVESTIGATIONS AND ENFORCEMENT ACTIVITIES

The Civil Investigations Unit investigates civil financial fraud and violations of consumer and fair lending laws, the Financial Services Law, the Banking Law, and the Insurance Law. Discussed below are some of the Unit's investigations, activities, and initiatives in 2018.

Federal Efforts to Roll Back Financial Services Reforms

In 2018, DFS continued its role as a leader in financial services regulation by promoting robust financial services in New York while guarding against financial crises and protecting consumers and markets from fraud. As the federal government moved to reverse regulatory reforms stemming from the financial crisis of 2008, DFS offered insight into the actions taking place in Washington through comment letters submitted in response to the Consumer Financial Protection Bureau's (CFPB) Requests for Information. DFS's comments—on the CFPB's civil investigative demand processes, enforcement processes, supervision program, and public consumer complaint database—highlighted the importance of vigorous enforcement of federal consumer financial laws, consistent with the CFPB's Congressional mandate. DFS, in its comments, stressed the importance of the CFPB's continued supervisory, enforcement, and consumer-facing work at the federal level, while noting that New York is fully willing to fill in voids to ensure protection for consumers and markets when the federal government has rolled back necessary protections.

Deferred-to-Immediate Annuity Investigation

DFS continued to take action to protect consumers from harmful annuity replacement practices in 2018, following the Department's 2017 industry-wide review of annuity replacement practices in New York. Annuities are contracts between life insurance companies and individuals designed to provide guaranteed income payments for an individual's entire lifetime or a specified period. Immediate annuities provide periodic income payments that begin within 13 months after the annuity is issued, while deferred annuities allow consumers to earn interest on their premium before receiving payments at a future date. DFS discovered that consumers were encouraged to replace their existing deferred annuities without consideration of lost benefits and without being shown a comparison between the income benefit available under the consumer's existing annuity and the amount available under the proposed annuity, in violation of New York Insurance regulations.

In December 2018, DFS entered into a Consent Order with National Integrity Life Insurance Company, under which the company agreed to pay a \$240,000 civil monetary penalty and make restitution to individual consumers affected by its former annuity replacement practices. DFS's investigation found that, between 2011 and 2016, National Integrity did not obtain information to determine the suitability of replacing deferred with immediate annuities, including information about the amount of guaranteed income that would be available if a contract holder's existing deferred annuity was annuitized. The company also failed to disclose adequate information to enable contract holders to compare the payout amounts available under the existing deferred annuity and the proposed immediate annuity, and make an informed decision as to whether to replace the deferred annuity. As a result, National Integrity issued immediate annuities without complete annuitization information for the replaced deferred annuity contract. Enforcement efforts against the other companies is ongoing.

Bail Initiative

In May 2018, Governor Andrew Cuomo announced a series of listening sessions to inform the public on the state's actions to protect consumers, crack down on unscrupulous activity in the bail bond industry, and raise the standards of integrity in the bail business. DFS, along with the Department of State, held public listening sessions in New York City, Buffalo, and Syracuse to gather input from communities, advocates, and industry about how to combat abuses in the industry. DFS also commenced an investigation of the industry, requesting information and documents from all licensed bail agents in New York. In 2017, DFS had sought similar information from all licensed surety companies that write bail business in New York.

In August 2018, DFS issued proposed new bail regulations. The investigation and listening sessions revealed an industry full of harmful practices and abuses of vulnerable New Yorkers, frequently those from marginalized groups. The proposed regulation outlaws those practices to the extent of the state's current statutory authority and, among other changes, provides information and education for consumers through a new bail bond "bill of rights" to help New Yorkers better understand the bail bond process and their rights under that system. DFS met with and received comments on the proposed regulation from the bail bond industry, advocates, and other government agencies, and continues to review and revise the proposed regulation.

These actions follow the Civil Investigations Unit's 2016 investigation of complaints that alleged that certain bail agents were retaining premiums when the criminal defendants had not been released from custody. In some instances, the practice was occurring even when the bail surety companies with which the agents were associated had standardized bail bond agreements that included express provisions stating that premiums are not earned until a defendant is released from custody. During its investigation, DFS submitted an *amicus curiae* brief in a case in which the United States Court of Appeals for the Second Circuit had certified a question of New York law to the New York Court of Appeals in a case that presented the same issue as that raised in some complaints. On June 27, 2017, the New York Court of Appeals issued its unanimous opinion in the case, *Gevorkyan v. Judelson*, 29 N.Y.3d 452 (2017), confirming the Department's position that neither a bail surety company—the insurer—nor its bail agent earns a premium for

a bail bond if a court refuses to accept the bond following a bail source or bail sufficiency hearing. The Court held, as DFS argued in its amicus brief, that an insurer is entitled to the premium only upon “giving bail bond” under Insurance Law § 6804(a), and the bail bond has not been given if the court does not accept the bond after a bail source hearing. The Court noted that its determination is further supported by the Insurance Law principle that premium follows risk; in the Court’s view, the insurer does not incur risk if the criminal defendant is not released from custody. Following issuance of the decision, the Department issued a circular letter to all insurers authorized to write surety in New York and all licensed bail agents explaining the *Gevorkyan* decision and stating that the premium or compensation on a bail bond for any defendant not released from custody must be returned to the persons who provided it.

Online Lending Report

In August 2018, DFS issued a report on online lending in New York State, the result of a bill signed by Governor Andrew Cuomo on June 1, 2017, that required the report to include, among other things, an analysis of online lenders operating in New York; the risks and benefits of the products offered by the online lenders; the primary differences with products offered by traditional lending institutions; and complaints and investigations relating to online lenders. The report analyzed the responses of marketplace lenders to a DFS survey, as well as comments received by other stakeholders. In addition, DFS discussed its oversight of state-chartered depository and non-depository institutions and its strong enforcement of consumer protections laws. The report also covered the numerous actions that DFS had taken to enforce New York’s usury laws, including against payday lenders and their affiliates. The report also put the current discussion of consumer lending in the context of the financial crisis involving mortgage lending just 10 years ago.

DFS made the following recommendations in the report: the equal application of New York’s strong consumer protection laws and regulations to all consumer and small business lending activities; that all lending in New York should operate under the same set of usury laws and be subject to consistent enforcement of those rules to achieve a level playing field for all market participants; and that direct supervision and oversight is necessary to ensure that New York’s consumers and small business owners receive the same protections regardless of the channel of delivery and that all lenders operate their businesses and conduct their activities in a safe and sound manner.

Indirect Auto Lending Guidance

DFS issued guidance in August 2018 to remind supervised institutions and sales finance companies that engage in indirect automobile lending that they must comply with New York State’s Fair Lending Law, Executive Law §296-a, despite federal supervisory lapses and rollbacks in enforcement. Section 296-a prohibits discrimination in, among other things, the granting, withholding, extending, or renewing, or in the fixing of the rates, terms, or conditions of any form of credit on the basis of race, creed, color, national origin, sexual orientation, gender

identity or expression¹, military status, age, sex, marital status, disability, familial status. In the guidance, DFS reminded supervised institutions of actions they should take to develop a fair lending compliance program for indirect automobile lending and of their liability for any discrimination resulting from markup and compensation policies with third parties, such as car dealers.

Conduent Education Services, LLC

DFS engaged in settlement negotiations with Conduent Education Services, LLC, f/k/a Xerox Education Services, LLC, f/k/a and d/b/a ACS Education Services, Inc. (“Conduent”) throughout 2018, following a 2015 investigation to determine whether the company had complied with applicable laws while servicing federally guaranteed and private student loans. DFS’s investigation uncovered that although Conduent had represented to borrowers that it would help them find a repayment plan that fit their needs, it did not. Instead, the company steered many borrowers into forbearance under which no payments are made for a certain period of time and the unpaid payments are usually added to the total due at the end of the forbearance period, when the borrowers could have benefited from a reduced payment plan under an income-driven repayment plan. The DFS investigation also found that Conduent misinformed borrowers about their eligibility for public service loan forgiveness when, in fact, borrowers simply needed to consolidate the federal loans being serviced by Conduent into the Direct Loan program to take advantage of public service loan forgiveness. DFS further found that Conduent failed to timely or accurately process applications for income-driven payment plans; allocated borrowers’ payments in a way that maximized late fees; billed certain borrowers incorrect amounts and misrepresented the outstanding balances of borrowers’ loans; reported incomplete and erroneous information to credit reporting agencies; failed to properly recalculate monthly payments for servicemembers when adjusting their interest rates under the Servicemember Civil Relief Act; and failed to notify borrowers of their eligibility for a co-signer release.

DFS finalized a settlement in January 2019 in which Conduent agreed to pay \$1 million in penalties to the State and \$8 million in restitution to New York consumers. Conduent, which has wound down its student loan servicing business, also agreed not to service student loans (except for Perkins Loans) for five years.

Initiative to Prevent Elder Financial Exploitation

DFS continued its efforts to combat elder financial exploitation in 2018 and conducted two trainings on the subject. In April, DFS held a training session together with the Office of Children and Family Services (“OCFS”), local Adult Protective Services (“APS”), local District Attorneys, and nonprofits. The training was for New York-chartered banks and credit unions

¹ Discrimination on the basis of gender identity or expression was added to Section 296-a in January 2019.

with locations in Queens and was attended by professionals from 16 institutions. In December, DFS staff traveled to the OCFS headquarters outside Albany to co-host a webinar about OCFS and DFS's role in addressing elder financial exploitation, including how DFS staff has been trained to identify such exploitation and to facilitate referrals to APS where appropriate. The webinar was for APS staff and their supervisors, and over 100 APS staff members participated from around the state.

STUDENT PROTECTION UNIT

Governor Cuomo established the Student Protection Unit ("SPU") as part of his 2014–15 Executive Budget to serve as a consumer watchdog for New York's students. SPU is dedicated to investigating potential consumer protection violations and distributing clear information that students and their families can use to help them make informed, long-term financial choices.

In 2018, SPU conducted 57 workshops at schools, libraries, community centers, and other locations across the state. The workshops provided vital information about the best way to finance an education and available loan repayment options. Together with other DFS units, SPU also attended the New York State Fair in August and answered questions and distributed brochures to help New York consumers better understand student loans.

SPU maintains and regularly updates a comprehensive "[Student Lending Resource Center](#)" on the Department's webpage. The Student Lending Resource Center includes tips for prospective college students, their families, and graduates already in repayment to help them navigate decisions relating to financing college education.

SPU reviews and successfully resolves complaints regarding student financial products and services, including student loans, student banking products, student debt relief services, and student health insurance. SPU accepts complaints through DFS's [online complaint portal](#) and by mail.

In addition, SPU collaborated with the Civil Investigations Unit on the investigation and settlement with Conduent Education Services.

LICENSING AND PRODUCER INVESTIGATIONS

Licensing Unit

The Licensing Unit oversees the licensing and activities of licensed individuals and entities that conduct insurance business in New York State. The goals of the Unit are to protect the public and ensure that licensees act in accordance with applicable insurance laws and regulations.

There are currently more than 340,000 insurance producer licensees in New York, including agents, brokers, adjusters, excess line brokers, life settlement brokers, independent and public adjusters, reinsurance intermediaries, bail agents, title agents, and life settlement brokers. The Unit, in collaboration with the Producer Investigations and Disciplinary Units, reviews licensing

applications, monitors the insurance marketplace to determine if unlawful or unlicensed activity is occurring and, if necessary, and takes steps to ensure that individuals or entities either achieve compliance or cease activities.

The Licensing Unit reviews applications, issues licenses, and processes renewal and relicensing applications for insurance companies, as well as licensed producers. In 2018, the Unit issued 196,944 licenses and collected more than \$23.7 million in fees. In addition, the Unit monitors, approves, audits, and supervises the administration of the pre-Licensing Education Program courses and the Continuing Education program. The Licensing Unit is the agent for service of process for licensed and unauthorized companies; in 2018, it accepted service of process for 16,425 actions against insurance companies.

Producer Investigations

The Producer Investigations Unit investigates license applicants and Section 1033 waiver applicants for approval for licenses and/or waivers. The Unit also investigates licensed producers who have criminal convictions, or have or have had administrative or civil actions against them. The Unit also investigates complaints filed against producers. Its examiners obtain evidence for administrative proceedings against producers for license suspensions or revocations, fines, and other administrative remedies.

In 2018, the Producer Investigations Unit received 4,453 new licensing cases and 676 complaints. It closed 5,368 licensing cases and 802 complaints.

DISCIPLINARY UNIT

When a violation of the Insurance Law is established, the Department's Disciplinary Unit seeks to address the violation by denying a pending application, imposing a monetary penalty along with corrective action, or imposing an administrative sanction resulting in license revocation or suspension.

In 2018, the Department entered into 123 stipulations imposing penalties on insurance producers. In addition, 6 licenses were revoked after administrative hearings, 21 licenses were surrendered with the full force and effect of revocation, and 10 waivers were approved pursuant to 18 U.S.C. § 1033.

Stipulations in 2018

| Type of Action | Total Requested | Total Completed | Fine Amount |
|----------------|-----------------|-----------------|-------------|
| Producers | 113 | 123 | \$836,450 |

Hearings in 2018

| | Requested | Held | Pending |
|--------------------|-----------|------|---------|
| Producer/Applicant | 8 | 6 | 2 |

CONSUMER EXAMINATIONS UNIT

Background

The mission of the Consumer Examinations Unit (“CEU”) is to maintain and enhance consumer confidence in New York’s financial services industry and protect customers. CEU does this by ensuring that regulated institutions abide by the State’s consumer protection, fair lending, and Community Reinvestment Act (“CRA”) laws and regulations, as well as by increasing consumer access to traditional banking and lending services in under-served communities by administering the Banking Development District program (“BDD”) and evaluating regulated institutions’ branching, investment, and merger applications for their performance records and community development objectives. Whenever possible, CEU coordinates its examination and enforcement activities with those of federal counterparts.

Operations and Activities

Consumer Compliance Examinations

CEU’s consumer compliance examinations promote consumer confidence in DFS-regulated depository institutions by monitoring institutions’ compliance with consumer protection statutes and regulations through biennial on-site compliance examinations.

In 2018, CEU conducted 26 consumer compliance exams. The examinations revealed that most institutions have adequate compliance processes. However, several institutions were subject to regulatory and other risk resulting from their failure to develop and/or properly implement training, policies, and procedures covering relevant New York State laws, regulations, and supervisory procedures. CEU examiners also uncovered objectionable practices committed by a number of institutions, including: improper fees charged in connection with loan servicing and origination; improper fees charged on deposit accounts, including fees on dormant savings accounts higher than those charged on active savings accounts, higher returned deposit item or insufficient fund fees than the legal maximum; improperly disclosed or calculated withdrawal and closure penalties; inconsistent disclosures made to consumers relating to loan pricing; lack of required disclosures (or disclosures made in improper form) including those mandated by the Truth in Lending Act, the Truth in Savings Act, those relating to the basic banking account or approved alternative account required by New York law, and those relating to safe deposit boxes; and improper retention of lender credits purchased by borrowers. CEU works with the institutions to improve their compliance practices.

In 2018, CEU’s compliance examinations resulted in depository institutions refunding to 2,405 New York consumers a total of \$46,772 in improper and/or illegal fees and interest, and penalties to the State totaling \$10,000.

Fair Lending Examinations

DFS seeks to ensure that New York borrowers are treated fairly and equitably in all aspects of the credit application, underwriting, and servicing processes. CEU's fair lending examination activities include on-site examinations, targeted examinations, and in-depth investigations; processing and analyzing pertinent data from regulated entities; and guiding institutions on the content and implementation of their written fair lending plans. The subject areas of these examinations extend to predatory lending, subprime loans, and mortgage fraud investigations.

In 2018, CEU conducted 25 fair lending exams. CEU examiners discovered various improper practices, including: unlawful imposition of age limits in underwriting programs; inadequate fair lending training given to key lending personnel and failure to ensure training adequacy through testing; inadequate safeguards against fair lending violations committed by third parties involved in the lending process; and excessive discretion to individual lending personnel in approving/denying applicants and in pricing loans. Combining the expertise of its fair lending data analysts and examiners, CEU identified and investigated the reasons for statistical disparities among borrowers of protected and non-protected classes. As a result, CEU has sought restitution for consumers and required improvements in fair lending risk monitoring and prevention. CEU also reviewed and recommended improvements to numerous institutions' written fair lending plans.

Registration of Consumer Credit Reporting Agencies

In 2018, the Superintendent promulgated Part 201 of Title 23 of the Official Compilation of Codes, Rules, and Regulations of the State of New York, which required the registration of consumer credit reporting agencies ("CCRAs") with the Department, and imposed certain reporting and examination requirements and forbade certain practices of CCRAs. On behalf of DFS, CEU identified and contacted CCRAs and processed registrations. CEU thus far has registered 15 CCRAs, including Equifax Information Services, LLC, Experian Information Solutions, Inc., and TransUnion, LLC, and is reviewing other potential registrants.

Community Reinvestment Act Examinations

DFS uses CRA examinations to ensure that regulated institutions are providing loans, investments, and services to support the economic stability, growth, and revitalization of the communities they serve, particularly for low- and moderate-income ("LMI") individuals and small businesses and in LMI neighborhoods. DFS also uses the examinations to ensure that borrowers and businesses at all income levels have access to appropriate financial resources at a reasonable cost, consistent with safe and sound banking practices.

In 2018, the Consumer Examination Unit conducted 30 CRA exams. Through analysis of loan data, CEU assesses how well banks serve the credit needs of their communities. CEU conducts intensive on-site examinations to support banks' efforts to comply with New York State's CRA regulations and issues examination ratings and reports that must be shared with the public.

Community Development Unit

The Community Development Unit (“CDU”) facilitates the development and preservation of banking services in under-served and LMI neighborhoods. CDU researches and analyzes community demographic information to ascertain the financial needs of consumers. CDU also reviews the impact on communities of applications to merge, convert charters, make community development equity investments, and open, close, or relocate branches. CDU also administers the Banking Development District (“BDD”) program, which includes reviewing the requests of participating banks for the renewal of BDD deposits and making recommendations to the Office of the State Comptroller regarding those renewals. In addition, CDU fosters working relationships with community groups, financial institutions, municipal governments, and other regulatory and supervisory agencies to ensure that residents, businesses, and communities throughout New York State have access to the banking information, products, and services they need. CDU ensures DFS’s compliance with requirements for participation in the New York State Geographic Information Systems Clearinghouse, and provides internal support to DFS divisions and operating units seeking assistance with mapping projects.

Banking Development District Applications

The Banking Development District Program is a DFS priority, as it assists low- to moderate income communities in obtaining better access to affordable financial services, and helps small businesses to develop and grow as part of New York’s communities.

CDU approved the designation of three new BDDs in 2018: Community District 6, Bronx County; Town and Village of Green Island, Albany County; and Village of Union Springs, Town of Springport, Cayuga County. CDU is continuing to process two inquiries that were commenced in 2017. In 2018, CDU received new inquiries relating to six communities seeking to establish a BDD. As of December 31, 2018, the BDD designation process has commenced for one of those six.

CDU reviewed 15 BDD Request for Renewal of Deposit Applications and issued recommendations for the renewal of deposits resulting from the reviews. The reviews resulted in 15 recommendations for renewal with no reservations. CDU also reviewed five BDD Progress Reports for which it issued responses noting satisfactory progress.

Review of Applications for Community Impact

In 2018, CDU processed 55 branch applications comprised of the following: 17 closings; 10 electronic facility (ATM branch) openings; 25 full branch openings; and 3 relocations. In addition, CDU processed 12 specialized applications, including 4 basic banking account alternatives, 2 changes of control, 2 conversions, 2 mergers, 1 acquisition, and 1 reorganization of business structure. Finally, CDU reviewed 23 community development equity investment

notifications (including 11 requests for prior approval of investments and 12 self-certification notifications), of which all were either acknowledged or approved.

Community Outreach and Special Projects

CEU management participated in the Federal Deposit Insurance Corporation's ("FDIC") Youth Employment Roundtable, which seeks to identify opportunities for young people in underserved communities to obtain exposure to and experience in the financial services industry and personal financial management. CEU management also presented informational sessions at compliance conferences of the Independent Bankers Association of New York State.

CDU continued to coordinate with New York City's Department of Housing Preservation and Development and the University Neighborhood Housing Program to further DFS's mission to protect tenants of multifamily properties in physical or financial distress through CRA examinations.

CDU actively participated in the CRA Interagency Group, composed of community affairs officials from the FDIC, the Federal Reserve Bank, and the Office of the Comptroller of the Currency. CDU participated in one community listening session and one Bankers' Roundtable.

Summary of Consumer Examination Unit Activity

CEU conducted 26 consumer compliance exams, 25 fair lending exams, and 30 CRA exams. CEU processed 90 applications from banks (55 branch applications for closings, openings, and relocations; 12 applications for complex transactions; and 23 applications for public welfare investments) and 20 requests for the renewal of BDD branch deposits in 2018.

| Type of Work | 2018 | Scheduled in 2019 |
|-------------------------------|------|-------------------|
| Consumer Compliance | 26 | 32 |
| Fair Lending (FL) | 25 | 37 |
| FL Depositories | 25 | 31 |
| FL Non-depositories | 0 | 6 |
| CRA | 30 | 25 |
| CDU – applications | 90 | N/A |
| CDU – BDD request for renewal | 15 | 16 |
| CDU – BDD progress reports | 5 | 4 |

HOLOCAUST CLAIMS PROCESSING OFFICE

The Holocaust Claims Processing Office (“HCPO”) helps Holocaust victims and their heirs recover assets deposited in banks, unpaid proceeds of insurance policies issued by European insurers, and artworks that were lost, looted, or sold under duress. The HCPO accepts claims for Holocaust-era looted assets from anywhere in the world and charges no fees for its services.

From its inception through December 31, 2018, the HCPO has received claims from 5,909 individuals from 46 states, the District of Columbia, and 40 countries.

To date, the HCPO has secured \$178,247,630 in offers² for bank, insurance, and other losses. The office facilitated restitution settlements involving 152 cultural objects. In 2018, HCPO claimants received \$1,317,668 in offers and the office coordinated settlements for 12 works of art.

As required by Section 37-a of the Banking Law, HCPO submitted its [2018 Annual Report](#) to the Governor and Legislature on January 15, 2019. The report is available on the Department’s website.

CONSUMER ASSISTANCE UNIT

Operations and Activities

The Consumer Assistance Unit (“CAU”) handles complaints against insurance companies and banks, as well as other financial institutions and providers of financial products and services such as debt collection, prepaid debit cards, student loans, and debt settlement, among others. CAU disseminates consumer alerts and information, responds to consumer inquiries, and informally mediates and resolves disputes that consumers may be unable to resolve on their own. In addition, the unit manages the deployment and staffing of DFS’s Mobile Command Center (“MCC”), an important tool used to inform, engage, and support communities throughout New York State, particularly in the event of emergencies such as the 2018 flooding in the Finger Lakes Region. CAU also acts as an industry watchdog, promoting accountability within industry by working closely with companies and financial institutions to investigate and help correct patterns of consumer abuse and fraud.

CAU employs a multifaceted approach to assisting consumers:

² Processes offer victims or heirs monetary compensation calculated on the value of the lost assets, however, the total amount of funds available to a claims agency may be limited and may not allow for full payment of loss. Thus, the actual payment may be substantially less than the value of the lost asset. The full value noted in a decision is important as it recognizes the actual loss and guides in determining the amount of payment when full payment is not possible. Therefore, the HCPO reports the full value. Sometimes victims do not consider the offer adequate and do not agree to settle. In other cases, the percentage of the full value that is offered is the amount paid.

- **Complaint Mediation:** CAU provides a hands-on approach to consumer issues through informal mediation and negotiation where appropriate. When possible, CAU attempts to resolve issues that extend beyond strict violations of law to the satisfaction of all parties. With the addition of Consumer Representatives to our staff, CAU is able to mediate complaints in greater numbers, more efficiently, and thus provide an enhanced consumer experience.
- **Consolidation of Complaint System:** Using its enhanced complaint system, CAU staff can quickly track various types of financial complaints and identify trends. Once a trend or issue is identified, it is elevated to determine if a more complex review of the issue is needed, with the ultimate goal of benefiting multiple consumers.
- **Complaint Triage:** Improved processes for triaging complaints and reevaluating staff assignments have enabled CAU to route complaints more quickly and use resources and staff more efficiently.
- **Consolidated Call Center (CCC):** Based on the Governor's initiative to promote efficiencies, DFS integrated its call center function with that of the Department of Tax and Finance. DFS staff works with the CCC to provide updates and new information to assist callers. The call center operates from 8:30 a.m. to 4:30 p.m., Monday through Friday, with extended coverage during disasters.

Complaints and Inquiries

Insurance Complaints

CAU received 30,807 insurance complaints in 2018. The Unit processed 35,966 insurance complaints and handled 1,296 insurance inquiries. The processed complaints had the following dispositions: 8,875 were upheld or transferred for prompt pay review; 4,260 were not upheld but were adjusted; 10,034 were not upheld; and 12,797 were referrals, duplicates, withdrawn, or suspended.

For approximately 28% of the closed files, CAU was successful in obtaining monetary value for the consumer in the form of increased claim payment, reinstatement of lapsed coverage, payment for denied medical claims, or coverage for a previously denied disaster-related claim.

A more detailed breakdown is as follows:

| Type of Coverage | Number of Complaints | Recovery |
|---------------------|----------------------|---------------------|
| Property & Casualty | 1,081 | \$6,428,008 |
| Service Contracts | 9 | 5,059 |
| No-Fault | 250 | 576,891 |
| Health | 598 | 4,856,586 |
| Auto | 435 | 1,996,682 |
| Life | 4 | 302,243 |
| Prompt Pay | 7,838 | 36,510,549 |
| Total | 10,215 | \$50,676,018 |

Banking Complaints, Referrals, and Inquiries (Non-Mortgage)

In 2018, the CAU processed 2,688 non-mortgage-related complaints, referrals, and inquiries, representing a 1.3% decrease from 2017. A breakdown is set out below:

| | December 31, 2018 | December 31, 2017 | Percent Change |
|-------------------------------|-------------------|-------------------|----------------|
| Complaints and Referrals | 2,659 | 2,689 | -1.1% |
| Written Inquiries | 29 | 33 | -12.1% |
| Total/Aggregate Volume | 2,688 | 2,722 | -1.3% |

External Appeals

Under Article 49 of the Insurance Law, consumers have the right to request a review of certain coverage denials; this is known as an external appeal. The reviews are conducted by medical professionals who are independent of the healthcare plan issuing the denial. An external appeal may be requested for the following denials: (1) the health plan deems the healthcare services to be experimental or investigational; (2) the health plan determines the service is not medically necessary to treat the patient's condition; (3) the treatment is for a rare disease; (4) the request is for participation in a clinical trial; (5) specific situations where a patient requests out-of-network services; (6) the patient is requesting a formulary exception; or (7) the patient is requesting an override of the health plan's step therapy requirements.

CAU screens the external appeal applications for completeness and eligibility. Eligible applications are randomly assigned to one of three external appeal agents screened for conflicts of interest. Once assigned, DFS monitors the process to ensure that the external appeal agent renders a timely decision and provides proper notice of the decision.

The table below summarizes appeals received and appeals closed for 2018 and the preceding five years:

| Summary of External Appeal Applications Received by Year | | | | | | |
|---|----------|--------|------------|--------------------|---------------|-----------|
| Year | Received | Closed | Ineligible | Voluntary Reversal | Denial Upheld | Overtured |
| 2013 | 7,868 | 7,725 | 2,734 | 483 | 2,987 | 1,521 |
| 2014 | 8,520 | 8,296 | 2,502 | 622 | 3,357 | 1,815 |
| 2015 | 9,771 | 9,867 | 2,499 | 721 | 4,121 | 2,526 |
| 2016 | 8,602 | 8,620 | 2,255 | 607 | 3,349 | 2,409 |
| 2017 | 7,909 | 7,879 | 2,311 | 511 | 3,208 | 1,849 |
| 2018 | 8,442 | 8,096 | 2,356 | 363 | 3,415 | 1,962 |
| Voluntary Reversals —plan overturned its denial before the appeal was submitted to a reviewer Ineligible —the appeal was not eligible for an external review Overtured —includes decisions that overturned the denial in whole and in part | | | | | | |

The table below lists the number of external appeal determinations categorized by type of appeal:

| External Appeal Determinations by Type of Appeal in 2018 | | | | |
|--|--------------|----------------------|-------------------|----------------------|
| Type of Denial | Total | Overtured | Overtured in Part | Upheld |
| Medical Necessity | 5,036 | 1,669 | 144 | 3,223 |
| Experimental/Investigational | 213 | 101 | 1 | 111 |
| Clinical Trial | 1 | 1 | 0 | 0 |
| Out-of-Network Service | 1 | 1 | 0 | 0 |
| Out-of-network Referral | 46 | 13 | 0 | 33 |
| Rare Disease | 4 | 2 | 0 | 2 |
| Step Therapy | 13 | 4 | 0 | 9 |
| Formulary Exception | 62 | 26 | 0 | 36 |
| Total | 5,376 | 1,817 (33.8%) | 145 (2.7%) | 3,414 (63.5%) |

As part of DFS oversight of the External Appeal program, CAU reviews all external appeal decisions received to ensure that the appropriate number of clinical peer reviewers was used, the clinical peer reviewer was board-eligible or board-certified in the appropriate specialty, and that

the review was conducted in accordance with the standards set forth in Article 49 of the Insurance Law. When appropriate, DFS contacts the external appeal agent to obtain a response to questions and concerns raised by the consumer or provider regarding a decision.

| 2018 External Appeals Rejected as Ineligible | |
|--|--------------|
| Reason | Quantity |
| Applicant Withdrew Appeal | 101 |
| Contractual Issue | 173 |
| Coverage Terminated | 8 |
| Covered benefit issue | 65 |
| CPT Code | 9 |
| Duplicate Application | 136 |
| Failure to respond | 1,021 |
| Federal Employees Health benefit program | 16 |
| Hospital Failed to Notify Plan of Admission | 1 |
| Medicaid Fair Hearing | 18 |
| Medicare | 80 |
| No internal appeal | 197 |
| Non-Par Provider | 1 |
| Out-of-Network | 7 |
| Out-of-state contract | 59 |
| Overtaken on Internal Appeal | 24 |
| Provider ineligible to Appeal | 26 |
| Reimbursement issue | 60 |
| Self-insured coverage | 252 |
| Untimely | 102 |
| Total | 2,356 |

Out-of-Network Law

Article 6 of the Financial Services Law protects consumers from “surprise bills” (as defined by the law) when ancillary services are performed by a non-participating (out-of-network) provider during a scheduled procedure at a participating hospital or ambulatory surgical center in the consumer’s health insurance company’s network, or when a participating doctor refers an insured patient to a nonparticipating provider. The law also protects insured patients from bills for out-of-network emergency services if patients have coverage through a health insurance company subject to New York State law by limiting the patients’ liability to his or her in-network co-payment, coinsurance, or deductible.

Independent Dispute Resolution Pursuant to the Out-of-Network Law

Under Article 6 of the Financial Services Law, a provider or health insurance company may dispute certain payments, charges for emergency services, or surprise bills through a process called Independent Dispute Resolution (“IDR”). An Independent Dispute Resolution Entity (“IDRE”) reviewer with experience in healthcare billing, reimbursement, and usual and customary charges will review the dispute in consultation with a licensed doctor in active practice in the same or similar specialty as the doctor providing the service that is the subject of the dispute. Insured and uninsured patients and patients with self-insured coverage may submit a dispute.

The tables below summarize IDR applications filed in 2018:

| Summary of Independent Dispute Resolutions Received in 2018 | | | |
|---|------------|-------------------------------------|------------|
| Emergency Services | | Surprise Bills | |
| Total Received | 849 | Total Received | 722 |
| Not eligible | 162 | Not eligible | 137 |
| Still in process | 139 | Still in process | 143 |
| Decision rendered: | | Decision rendered: | |
| Health plan payment more reasonable | 143 | Health plan payment more reasonable | 32 |
| Provider charges more reasonable | 176 | Provider charges more reasonable | 179 |
| Split decision | 165 | Split decision | 179 |
| Settlement reached | 64 | Settlement reached | 52 |
| <p>Not eligible—the dispute was not eligible for a review.</p> <p>Split decision—health plan payment more reasonable for one more codes and the provider’s charge more reasonable for the remaining codes.</p> <p>Settlement reached—the health plan and provider agreed to settle the dispute prior to a full review.</p> | | | |

IDRs rejected as not eligible:

| Independent Dispute Resolutions Rejected as Ineligible in 2018 | | | |
|--|------------|--|------------|
| Emergency Services | | Surprise Bills | |
| AOB not submitted to the health plan | 0 | AOB not submitted to the health plan | 41 |
| Application not received by IDRE | 5 | Application not received by IDRE | 10 |
| Application withdrawn | 33 | Application withdrawn | 25 |
| Claim paid, Balance patient responsibility | 3 | Claim paid, Balance patient responsibility | 0 |
| Duplicate submission | 1 | Duplicate submission | 0 |
| Essential Plan | 1 | Essential Plan | 1 |
| Exempt Emergency Room codes | 1 | Exempt Emergency Room codes | 0 |
| Federal Employee coverage | 5 | Federal Employee coverage | 1 |
| Medicaid ER Service | 4 | Medicaid ER Service | 0 |
| Medicare | 2 | Medicare | 2 |
| No response to eligibility inquiry | 0 | No response to eligibility inquiry | 0 |
| Not a surprise bill | 0 | Not a surprise bill | 16 |
| Not emergency services | 14 | Not emergency services | 0 |
| Not OON claim | 3 | Not OON claim | 0 |
| Out of State coverage | 14 | Out of State coverage | 6 |
| Out of State Facility | 2 | Out of State Facility | 3 |
| Self-funded coverage | 33 | Self-funded coverage | 11 |
| Services not rendered by a physician | 1 | Services not rendered by a physician | 0 |
| Services rendered by a par-provider | 1 | Services rendered by a par-provider | 1 |
| Settlement reached before IDR filed | 17 | Settlement reached before IDR filed | 14 |
| Wrong insurer | 22 | Wrong insurer | 3 |
| Wrong DOS | 0 | Wrong DOS | 3 |
| Total | 162 | Total | 137 |

Outreach and Response Efforts in 2018

CAU staffers participated in the New York State Fair and more than 50 outreach events in 2018 to disseminate information to the public on topics including elder abuse, student loans, identity theft, and health issues. In addition, utilizing DFS's Mobile Command Center, CAU assisted homeowners and small business owners affected by the 2018 Finger Lakes flooding.

CRIMINAL INVESTIGATIONS AND ENFORCEMENT ACTIVITIES

DFS's two criminal units, the Criminal Investigations Bureau on the banking side of DFS and the Insurance Frauds Bureau on the insurance side, support the Department's efforts to protect the integrity of New York's financial system by detecting and deterring illegal activities conducted at or through New York State's financial institutions. Through independent investigations, and in partnership with other law enforcement agencies, the units conduct criminal investigations related to our industries, particularly in the investigation of crimes involving violations of the Insurance and Banking Laws, Penal Law, Bank Secrecy Act, Patriot Act and state and federal money laundering statutes. In the furtherance of criminal investigations, they also issue administrative subpoenas and respond to grand jury subpoenas and other requests for assistance from law enforcement and prosecutorial agencies, including providing industry expertise of investigators and examiners.

Criminal Investigations Bureau

Background

The Criminal Investigations Bureau ("CIB") investigates potential violations of the New York Banking Law and certain enumerated crimes of the New York Penal Code, violations of anti-money laundering laws, and crimes related to residential mortgage fraud, and takes appropriate action after such investigation. CIB works cooperatively with law enforcement and regulatory agencies at the federal, state, county, and local levels, focusing its investigations in the following areas:

Major Financial Institutions

CIB investigates allegations of fraud, theft, and embezzlement at the state-chartered banks and credit unions it supervises, and partners with federal and state prosecutors to assist in the prosecution of insiders who steal from the institutions they are entrusted to run.

Money Services Businesses

CIB works with federal, state, county, and local regulatory and law enforcement agencies to ensure compliance by money services businesses, including licensed check cashers and money transmitters, with federal and state statutes and related regulations designed to detect and eliminate the illegal transmission of money within New York State to prevent money laundering and terrorist financing.

Mortgage Fraud Investigations

CIB investigates mortgage fraud cases throughout New York State to assist local, state, and federal regulatory and law enforcement agencies in the investigation and prosecution of such cases, and to educate law enforcement and the financial sector in identifying, investigating, and prosecuting mortgage fraud.

Mortgage Loan Originator Licensing Support

CIB provides support to the Mortgage Banking Unit's efforts to comply with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"). Under the SAFE Act, states are encouraged to increase uniformity, enhance consumer protection, and reduce mortgage fraud through the establishment of a national mortgage licensing system. One key provision of the SAFE Act is the requirement of a criminal background check of each mortgage loan originator applicant.

During 2018, CIB investigators reviewed 536 criminal history reports related to mortgage loan originator applications filed with DFS.

CIB's Additional Operations and Activities

Due Diligence Support

CIB provides support to various operating units within DFS by vetting license applicants. In that capacity, it conducts due diligence background investigations of companies and control parties seeking money services business and virtual currency licenses from DFS's Banking Division. In 2018, CIB vetted the businesses and control parties underlying 58 DFS applications.

Cyber Event Notifications

As a new initiative in 2018, cyber investigators review all cybersecurity events reported to DFS pursuant to Section 500.17 of the DFS Cybersecurity Regulations. DFS licensees that are covered entities under DFS Cyber Security Regulations Part 500 report cybersecurity events through the DFS secure cyber portal. Information underlying cyber event notifications is gathered by the cyber investigations team and escalated to the appropriate DFS operating divisions to enhance supervision of the cybersecurity programs of DFS licensees. Approximately 1,000 cyber events were reviewed in 2018.

Major Criminal Investigations Bureau Cases in 2018

Lawyer Convicted and Two Ringleaders Plead Guilty in Large-Scale "Short Sale" Mortgage Fraud Scheme

CIB assisted the FBI and the U.S. Attorney's Office for the Southern District of New York in the investigation of an attorney and two owners of a real estate investment company who conspired to deceive New York City homeowners—some of whom were elderly and in poor health—into signing over their homes by promising loan modifications or similar debt-relief assistance. Unbeknownst to the homeowners, the co-conspirators used fraudulent documents to purchase the homes at vastly reduced prices and then re-sold them for enormous profits. In July 2018, the attorney who purported to represent the homeowners in the deceptive real estate closings was convicted by a federal jury of conspiracy to commit wire fraud and bank fraud. Both owners pleaded guilty to conspiracy to commit wire fraud, received prison sentences, and were ordered

to forfeit more than 30 properties and cash from multiple bank accounts. Two lower-level co-conspirators also pleaded guilty and were sentenced in federal court.

President and CEO of New York City Credit Union Pleads Guilty to Embezzlement

CIB worked with the U.S. Attorney's Office for the Southern District of New York and the New York County District Attorney's Office in an investigation of the credit union's president and chief executive officer who, for at least five years, embezzled the non-profit credit union's money. The credit union's earnings are intended to benefit its federal, state and municipal employee members in the form of more favorable rates and fewer and lower fees for products and services. The former president and CEO admitted in federal court that he had submitted sham invoices to receive reimbursement for hundreds of thousands of dollars for dental work never performed; received millions of dollars in cash payments in lieu of a long-term disability insurance policy and millions more for taxes to cover those payments; received reimbursement for repairs to a luxury vehicle the credit union leased to him, for which repair work was already covered by insurance; took cash withdrawals from a credit union business credit card from the credit union's ATMs; and approved substantial educational, housing, and living expenses for family members of his friends hired to be interns by the credit union at his direction.

Guilty Pleas by Two Executives of a Long Island Mortgage Loan Company in \$8.9 Million Scheme to Defraud Banks

CIB assisted the FBI and the U.S. Attorney's Office for the Eastern District of New York with the investigation of executives at a Long Island mortgage lender who were arrested and charged with conspiracy to commit wire and bank fraud in connection with securing more than \$8.9 million of warehouse loans. In pleading guilty in 2018, the former chief operating officer and chief financial officer admitted that they defrauded banks into lending them money by misrepresenting that the money would be used to fund new mortgages or refinance existing ones while they instead used the funds for personal expenses, compensation, and to repay earlier fraudulently-obtained loans. A third executive, the president of the mortgage company, has been arrested and charged for the same conduct.

Guilty Pleas in New York City Deed Theft Scheme

CIB joined the Queens District Attorneys' office in the investigation of a scheme by two individuals to steal deeds for properties in Queens. To carry out the fraud, the individuals illegally transferred title from the true owners' names to their own names or that of a limited liability company they had created, and filed false documents with the City of New York. The investigation extended into Brooklyn, where the same individuals conducted the same pattern of theft and fraud to steal more deeds. The pair pleaded guilty in 2018 in N.Y. Supreme Court in both Brooklyn and Queens.

Owner of New York Check Cashing Companies Indicted

CIB investigated the activities of the owner of Long Island check cashing companies who was charged in the Eastern District of New York in an indictment detailing multiple allegations of intentional failures to prevent money laundering through his businesses.

Guilty Pleas by Director and Employees of Brooklyn Community-Based Hospital for No-Show Jobs

CIB joined the New York State Attorney General's Office in an investigation leading to the arrests and guilty pleas of three individuals who worked for a Brooklyn not-for-profit, community-based hospital that had recently come out of bankruptcy. The Attorney General's office charged that, at various times over a five-year period, the director conspired with two nurses to issue payments for "no-show" jobs at the hospital. All three individuals pleaded guilty and agreed to provide restitution to the hospital.

Insurance Frauds Bureau

Background

The Insurance Frauds Bureau ("the Bureau") has a longstanding commitment to combating insurance fraud. It is responsible for the detection and investigation of insurance and financial fraud and the referral for prosecution of persons or entities that commit those frauds. The Bureau is headquartered in New York City, with offices in Garden City, Albany, Syracuse, Oneonta, Rochester, and Buffalo.

Highlights of 2018

- Investigations resulted in 363 arrests, an increase of 24% over last year, 91 of which were for healthcare fraud.
- The Bureau opened 554 cases for investigation;
- Investigations led to \$1.4 million in court-ordered restitution;
- Prosecutors obtained 189 convictions in cases in which the Bureau was involved;
- Suspected no-fault fraud accounted for 57% of all fraud reports received by the Bureau.

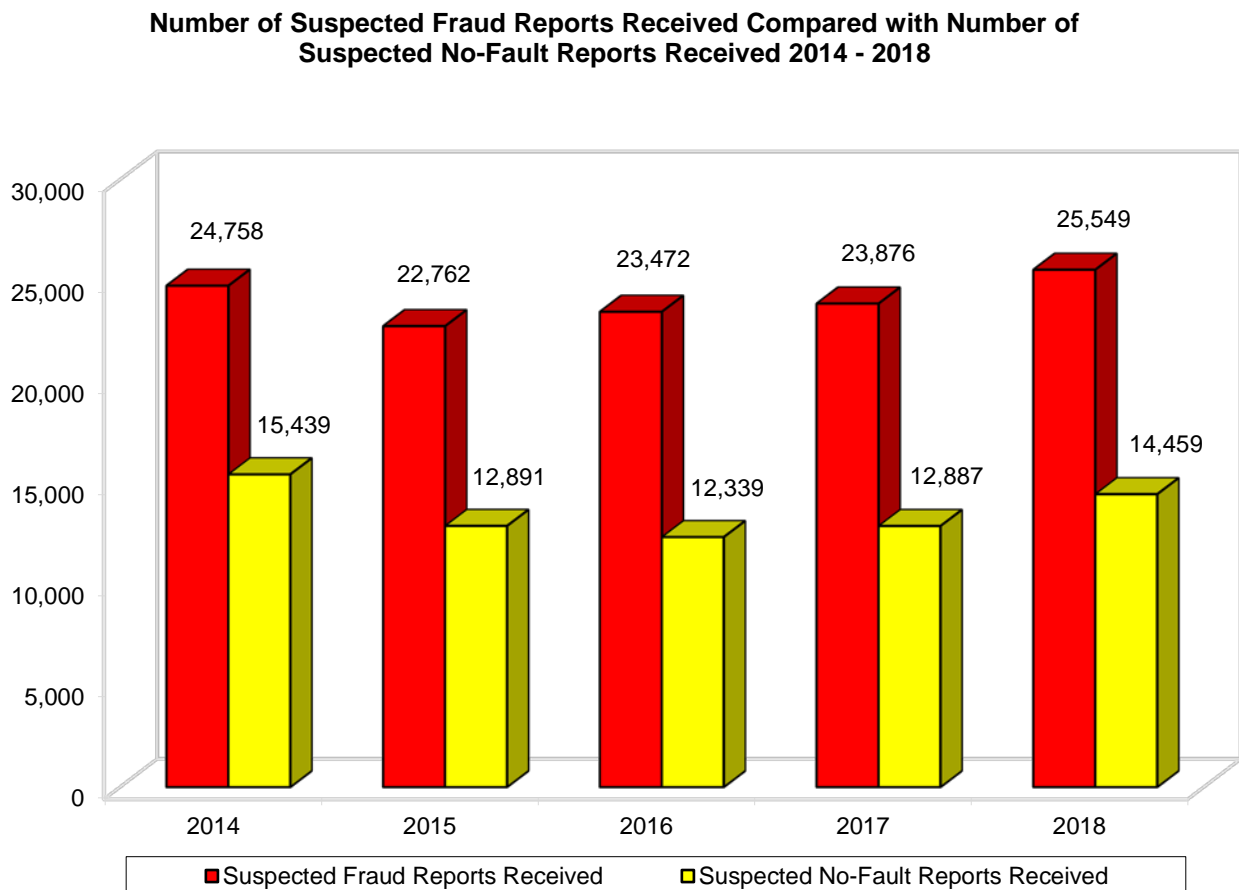
Reports of Suspected Fraud/Investigations

The Bureau received 25,549 reports of suspected fraud in 2018. The majority of those reports were from licensees required to submit reports of suspected fraud to DFS. The remaining reports were from other sources, such as consumers and anonymous tips. The Bureau opened 554 cases for investigation in 2018. Tables showing the number of fraud reports received, investigations opened, and arrests by type of fraud appear in the Appendices.

In 2018 the Bureau referred 56 cases to prosecutorial agencies for prosecution. Prosecutors obtained 189 convictions in cases in which the Bureau participated.

No-Fault Fraud Reports and Investigations

The number of suspected no-fault fraud reports received by the Bureau accounted for 57% of all fraud reports received by the Bureau in 2018.



Combating no-fault fraud is one of DFS's highest priorities. Deceptive healthcare providers and medical mills that bill insurance companies under New York's no-fault system cost New York drivers hundreds of millions of dollars. DFS maintained its aggressive approach to combating this type of fraud throughout the year.

Arrests

Bureau investigations led to 363 arrests for insurance fraud and related crimes in 2018.

Restitution

Criminal investigations conducted by the Bureau resulted in \$1.4 million in court-ordered restitution.

Multi-Agency Investigations

In 2018, the Bureau conducted multi-agency investigations with the following government departments, agencies, and offices:

- New York Police Department's Fraudulent Collision Investigation Squad and Auto Crime Division
- Fire Department of New York's Bureau of Fire Investigations
- Office of the Workers' Compensation Fraud Inspector General
- New York State Office of Fire Prevention and Control
- New York State Insurance Fund
- District Attorney's Offices
- State and local Police and Sheriff's Departments
- U.S. Attorney's Offices
- New York State Comptroller's Office
- New York State Attorney General's Office
- New York State Department of Motor Vehicles
- New York Auto Insurance Plan
- National Insurance Crime Bureau
- U.S. Postal Inspection Service
- U.S. Department of Labor
- Federal Bureau of Investigation
- U.S. Department of Health and Human Services
- Drug Enforcement Administration Tactical Diversion Task Force (Upstate/Downstate)

Task Force and Working Group Participation

The Bureau is an active participant in 10 task forces and working groups designed to foster cooperation among agencies involved in fighting insurance fraud. Participation provides the opportunity for intelligence gathering, joint investigations, information sharing, and effective use

of resources. Among the groups in which Bureau staff participated during the past year are the following:

- Western New York Health Care Fraud Task Force
- Central New York Health Care Fraud Working Group
- Rochester Health Care Fraud Working Group
- FBI New York Health Care Fraud Task Force/Medicare Fraud Strike Force
- New York Anti-Car Theft and Fraud Association
- National Insurance Crime Bureau Working Group
- High Intensity Drug Trafficking Area
- Drug Enforcement Administration Tactical Diversion Task Force (Upstate/Downstate)
- Suffolk County District Attorney's Office Insurance Crime Bureau
- New York Alliance Against Insurance Fraud

Highlights of Task Force Participation

Five doctors, a pharmacist, a nurse practitioner, and two medical assistants were arrested in October 2018, and have been accused of collecting millions of dollars for prescribing thousands of medically unnecessary oxycodone prescriptions. The defendants allegedly wrote the prescriptions for both patients and non-patients, including issuing prescriptions in their own names, family members' names, and the names of strangers in exchange for cash, expensive dinners, gifts and trips. The defendants, who were located in Manhattan, Queens, Staten Island, the Bronx, and Westchester County, face federal charges including conspiracy to distribute controlled substances, conspiracy to commit health care fraud, and conspiracy to commit money laundering.

Consumer Reporting

DFS encourages consumers to report suspected fraud and maintains a toll-free hotline to facilitate reporting. Consumers may call 1-888-FRAUDNY (1-888-372-8369) for information regarding insurance fraud and how to report it. DFS recorded an average of 22 calls per month in 2018. The "Consumers" section of DFS's website includes a link to a fraud report form and instructions on how to report fraud.

Collection of Rate Evasion Data

DFS collected data from insurers that wrote at least 3,000 personal lines automobile insurance policies showing the number of instances in which individuals misrepresented the principal location where they garaged and drove their vehicles to obtain lower premiums in 2018. A

summary of the data appears in the Appendices under the Section titled “2018 Data Call: Vehicle Principal Location Misrepresentations.”

Approval of Fraud Prevention Plans

Section 409 of the New York Insurance Law requires insurers that write at least 3,000 individual accident and health, workers’ compensation, or automobile policies (or group policies that cover at least 3,000 individuals) issued or issued for delivery annually in New York to submit a Fraud Prevention Plan for the detection, investigation, and prevention of insurance fraud. Licensed health maintenance organizations with at least 60,000 enrollees must also submit a Fraud Prevention Plan. Plans must provide for a full-time special investigations unit (“SIU”) and for the following:

- Interface of SIU personnel with law enforcement and prosecutorial agencies;
- Coordination with other units of the insurer for the investigation and initiation of civil actions based on information received by or through the SIU;
- Development of a fraud detection and procedures manual to assist in the detection and elimination of fraudulent activity;
- Staffing levels and other resources devoted to the SIU based on objective criteria;
- In-service training of investigative, claims, and underwriting personnel in identification and evaluation of insurance fraud; and
- Development of a public awareness program focused on the cost and frequency of insurance fraud and the methods by which the public can assist in preventing fraud.

Insurers may submit Fraud Prevention Plans for multiple affiliated insurers. A list of insurer Fraud Prevention Plans approved by DFS that were active as of December 31, 2018 appears in the Appendices.

Investigation of Life Settlement Fraud and Review of Fraud Prevention Plans

The Bureau collaborates with industry and law enforcement in the investigation and prevention of life settlement fraud. A life settlement is the sale of a life insurance policy to a third party, known as the life settlement provider. The owner of a life insurance policy may sell his or her policy for an immediate cash benefit, making the life settlement provider the new owner of the policy, which entails paying future premiums and collecting the death benefit when the insured dies.

The Life Settlement Act of 2009 brought the New York life settlement industry under regulation by DFS. The Act provides a comprehensive regulatory framework and created rules requiring the disclosure of crimes for acts of life settlement fraud and aggravated life settlement fraud.

Life settlement providers must submit Fraud Prevention Plans with their licensing applications. Section 411(e) of the Insurance Law also requires that they submit an annual report by March

15th of each year that describes the provider's experience, performance, and cost effectiveness in implementing its plan. There were 22 licensed life settlement providers in New York as of December 31, 2018 with approved plans on file. A complete list of those life settlement providers appears in the Appendices.

Major Insurance Fraud Cases in 2018

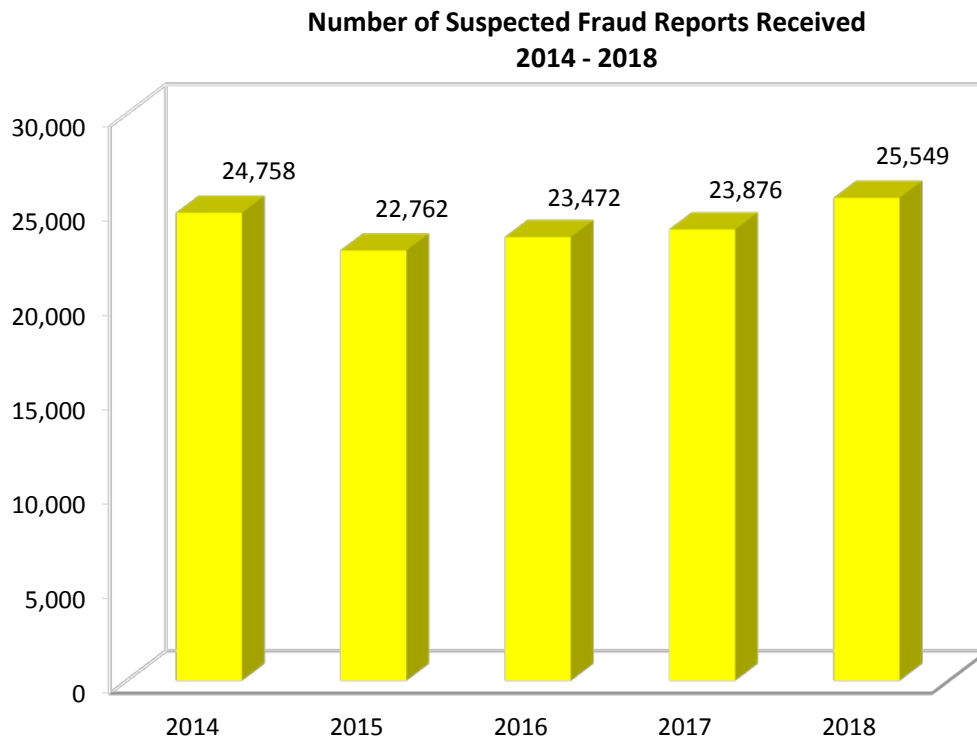
- After a joint investigation by the Bureau, the New York State Police, and the New York State Insurance Fund, a Fulton couple was arrested in March 2018 because a workers' compensation audit of their business showed that the couple had underreported their trucking and towing business income by reporting fewer employees than they actually had. They were charged with insurance fraud, offering a false instrument for filing, and workers' compensation fraud.
- The Bureau, in a joint investigation with the FBI, investigated the owner of a Buffalo marketing company, who solicited subscribers' insurance information to bill insurance carriers for pain compound creams. The owner allegedly conspired with two doctors to write prescriptions for the compound creams that were not medically necessary and billed insurance carriers through a pharmacy located in Michigan. The medications were not tailored to the needs of individual patients but, rather, were tailored to contain ingredients that carried high reimbursement rates from health insurers. The marketer identified patients whose health insurance covered the medications and convinced them to agree to receive the medications. Between January 2014 and December 2016, various healthcare programs lost a total of \$14 million to the alleged fraud. The marketer pleaded guilty to conspiracy to commit health care fraud in December 2018.
- The Bureau worked on a joint investigation with the NYPD Auto Crime Unit and Queens District Attorney's Office that resulted in the August 2018 arrest of three people who have been charged with conspiracy, grand larceny, and other crimes for carrying out a scheme to steal Econoline vans, strip them for parts, and then sell the stolen goods. The trio is accused of stealing vans between July 2017 and February 2018 and staging accidents to collect cash for non-existent injuries.
- In a joint investigation with Town of Newburgh Police and Fire Investigations Unit, U.S. Homeland Security Investigations, and the Orange County District Attorney's Office, the Bureau investigated allegedly false insurance claims submitted in connection with an October 2013 home fire in Newburgh. In April 2018, the home owner was arrested and charged with insurance fraud, attempted grand larceny, and falsifying business records.
- In March 2018, a Brooklyn resident was convicted for participating in a scheme, from May 2006 to June 2014, to fraudulently obtain commercial car insurance policies and New York State vehicle registrations. The defendant and his co-conspirators created fictitious business partnerships and fraudulently obtained commercial automobile insurance for multiple vehicles under the names of the fictitious businesses. The

defendants made false representations in the applications for commercial insurance to obtain lower premiums. The defendant was sentenced to 4 2/3-to-14 years in prison.

APPENDICES—2018 STATISTICS

The Bureau received 25,549 reports of suspected fraud in 2018 compared with 23,876 in 2017.

Number of Suspected Fraud Reports Received



Information Furnished By (IFB) Reports Received by Year

| <u>IFBs Received by Year</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> | <u>2018</u> |
|-------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Boat Theft | 2 | 8 | 0 | 4 | 1 |
| Auto Theft | 693 | 721 | 613 | 559 | 610 |
| Theft From Auto | 18 | 26 | 22 | 28 | 32 |
| Auto Vandalism | 213 | 308 | 372 | 324 | 331 |
| Auto Collision Damage | 1,654 | 1,933 | 2,542 | 2,293 | 2,211 |
| Auto Fraudulent Bills | 219 | 201 | 111 | 114 | 76 |
| Auto Miscellaneous | 1,503 | 1,273 | 1,433 | 1,342 | 1,360 |
| Auto I.D. Cards | 6 | 8 | 4 | 6 | 7 |
| Total - Auto Unit | 4,308 | 4,478 | 5,097 | 4,670 | 4,628 |

| | | | | | |
|-----------------------|-----|-------|-------|-------|-------|
| Workers' Compensation | 998 | 1,230 | 1,650 | 1,147 | 1,044 |
|-----------------------|-----|-------|-------|-------|-------|

| | | | | | |
|--------------------------------------|---------------|---------------|---------------|---------------|---------------|
| Total - Workers' Comp Unit | 998 | 1,230 | 1,650 | 1,147 | 1,044 |
| Disability Insurance | 162 | 205 | 267 | 235 | 163 |
| Health Accident Insurance | 1,234 | 1,356 | 1,535 | 1,500 | 1,562 |
| No-Fault Insurance | 15,439 | 12,891 | 12,339 | 12,887 | 14,459 |
| Total - Medical/No-Fault Unit | 16,835 | 14,452 | 14,141 | 14,622 | 16,184 |

| | | | | | |
|---------------------------|------------|------------|------------|------------|------------|
| Boat Fire | 0 | 1 | 2 | 0 | 1 |
| Auto Fire | 167 | 153 | 113 | 126 | 87 |
| Fire – Residential | 104 | 104 | 106 | 99 | 86 |
| Fire – Commercial | 40 | 23 | 24 | 36 | 14 |
| Total - Arson Unit | 311 | 281 | 245 | 261 | 188 |

| | | | | | |
|-----------------------------|--------------|--------------|--------------|--------------|--------------|
| Burglary - Residential | 174 | 196 | 194 | 179 | 122 |
| Burglary - Commercial | 33 | 32 | 33 | 33 | 19 |
| Homeowners | 769 | 765 | 674 | 580 | 644 |
| Larceny | 77 | 83 | 125 | 214 | 202 |
| Lost Property | 172 | 190 | 478 | 1,027 | 1,351 |
| Robbery | 7 | 20 | 24 | 15 | 16 |
| Bonds | 3 | 1 | 3 | 3 | 5 |
| Life Insurance | 433 | 481 | 400 | 517 | 523 |
| Ocean Marine Insurance | 13 | 15 | 13 | 12 | 13 |
| Reinsurance | 1 | 1 | 0 | 1 | 1 |
| Appraisers/Adjusters | 8 | 17 | 9 | 5 | 8 |
| Agents | 90 | 84 | 83 | 71 | 106 |
| Brokers | 46 | 45 | 53 | 40 | 35 |
| Ins. Company Employees | 4 | 4 | 2 | 5 | 33 |
| Insurance Companies | 33 | 52 | 37 | 81 | 110 |
| Title/Mortgage | 11 | 4 | 8 | 17 | 9 |
| Commercial Damage | 77 | 123 | 110 | 287 | 238 |
| Unclassified | 355 | 208 | 93 | 89 | 70 |
| Total - General Unit | 2,306 | 2,321 | 2,339 | 3,176 | 3,505 |

| | | | | | |
|------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| <u>IFBs Received</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> | <u>2018</u> |
| Auto Unit Totals | 4,308 | 4,478 | 5,097 | 4,670 | 4,628 |
| Workers Comp Unit Totals | 998 | 1,230 | 1,650 | 1,147 | 1,044 |
| Medical/No-Fault Unit Totals | 16,835 | 14,452 | 14,141 | 14,622 | 16,184 |

| | | | | | |
|---------------------|---------------|---------------|---------------|---------------|---------------|
| Arson Unit Totals | 311 | 281 | 245 | 261 | 188 |
| General Unit Totals | 2,306 | 2,321 | 2,339 | 3,176 | 3,505 |
| Grand Total | 24,758 | 22,762 | 23,472 | 23,876 | 25,549 |

| <u>Cases Opened by Year</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> | <u>2018</u> |
|------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Boat Theft | 0 | 0 | 0 | 0 | 0 |
| Auto Theft | 56 | 85 | 22 | 55 | 78 |
| Theft From Auto | 2 | 2 | 0 | 1 | 0 |
| Auto Vandalism | 1 | 2 | 9 | 11 | 7 |
| Auto Collision Damage | 34 | 26 | 24 | 26 | 29 |
| Auto Fraudulent Bills | 4 | 4 | 0 | 1 | 1 |
| Auto Miscellaneous | 27 | 23 | 7 | 11 | 14 |
| Auto I.D. Cards | 0 | 0 | 0 | 2 | 0 |
| Total - Auto Unit | 124 | 142 | 62 | 107 | 129 |

| | | | | | |
|-----------------------------------|-----------|-----------|-----------|------------|------------|
| Workers' Compensation | 88 | 99 | 90 | 136 | 194 |
| Total - Workers' Comp Unit | 88 | 99 | 90 | 136 | 194 |

| | | | | | |
|--------------------------------------|------------|-----------|------------|------------|-----------|
| Disability Insurance | 10 | 9 | 13 | 10 | 0 |
| Health Accident Insurance | 34 | 37 | 43 | 39 | 28 |
| No-Fault Insurance | 65 | 46 | 58 | 67 | 47 |
| Total - Medical/No-Fault Unit | 109 | 92 | 114 | 116 | 75 |

| | | | | | |
|---------------------------|-----------|-----------|-----------|-----------|-----------|
| Boat Fire | 0 | 0 | 0 | 0 | 0 |
| Auto Fire | 11 | 17 | 6 | 14 | 11 |
| Fire – Residential | 6 | 8 | 16 | 10 | 10 |
| Fire – Commercial | 9 | 5 | 5 | 6 | 2 |
| Total - Arson Unit | 26 | 30 | 27 | 30 | 23 |

| | | | | | |
|------------------------|----|----|----|----|----|
| Burglary – Residential | 2 | 9 | 9 | 4 | 9 |
| Burglary – Commercial | 0 | 2 | 0 | 0 | 0 |
| Homeowners | 9 | 15 | 20 | 9 | 9 |
| Larceny | 11 | 20 | 26 | 13 | 28 |
| Lost Property | 1 | 2 | 6 | 3 | 1 |
| Robbery | 1 | 1 | 0 | 0 | 0 |
| Bonds | 0 | 1 | 0 | 0 | 0 |
| Life Insurance | 10 | 17 | 20 | 26 | 18 |

| | | | | | |
|-----------------------------|------------|------------|------------|------------|------------|
| Ocean Marine Insurance | 0 | 0 | 0 | 1 | 1 |
| Reinsurance | 0 | 0 | 0 | 0 | 0 |
| Appraisers/Adjusters | 0 | 1 | 0 | 0 | 1 |
| Agents | 15 | 10 | 6 | 10 | 6 |
| Brokers | 6 | 10 | 13 | 7 | 4 |
| Ins. Company Employees | 1 | 0 | 1 | 1 | 0 |
| Insurance Companies | 6 | 1 | 3 | 0 | 0 |
| Title/Mortgage | 1 | 0 | 0 | 0 | 2 |
| Commercial Damage | 7 | 0 | 4 | 1 | 2 |
| Miscellaneous | 26 | 38 | 48 | 57 | 52 |
| Total - General Unit | 96 | 127 | 156 | 132 | 133 |
| | | | | | |
| Grand Total | 443 | 490 | 449 | 521 | 554 |

| | | | | | |
|------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| <u>Cases Opened by Year</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> | <u>2018</u> |
| Auto Unit Totals | 124 | 142 | 62 | 107 | 129 |
| Workers Comp Unit Totals | 88 | 99 | 90 | 136 | 194 |
| Medical/No-Fault Unit Totals | 109 | 92 | 114 | 116 | 75 |
| Arson Unit Totals | 26 | 30 | 27 | 30 | 23 |
| General Unit Totals | 96 | 127 | 156 | 132 | 133 |
| Total | 443 | 490 | 449 | 521 | 554 |

| | | | |
|-----------------------------|--------------------|---------------------|-----------------------|
| <u>2014</u> | <u>IFBs</u> | <u>Cases</u> | <u>Arrests</u> |
| Auto Unit Total | 4,308 | 124 | 87 |
| Workers' Comp Unit Total | 998 | 88 | 71 |
| Medical/No-Fault Unit Total | 16,835 | 109 | 77 |
| Arson Unit Total | 311 | 26 | 18 |
| General Unit Total | 2,306 | 96 | 50 |
| Grand Total | 24,758 | 443 | 303 |

| | | | |
|-----------------------------|--------------------|---------------------|-----------------------|
| <u>2015</u> | <u>IFBs</u> | <u>Cases</u> | <u>Arrests</u> |
| Auto Unit Total | 4,480 | 142 | 117 |
| Workers' Comp Unit Total | 1,230 | 99 | 38 |
| Medical/No-Fault Unit Total | 14,452 | 92 | 79 |
| Arson Unit Total | 279 | 30 | 32 |

| | | | |
|--------------------|---------------|------------|------------|
| General Unit Total | 2,321 | 127 | 64 |
| Grand Total | 22,762 | 490 | 330 |

| <u>2016</u> | <u>IFBs</u> | <u>Cases</u> | <u>Arrests</u> |
|-----------------------------|--------------------|---------------------|-----------------------|
| Auto Unit Total | 5,097 | 62 | 35 |
| Workers' Comp Unit Total | 1,650 | 90 | 33 |
| Medical/No-Fault Unit Total | 14,141 | 114 | 133 |
| Arson Unit Total | 245 | 27 | 14 |
| General Unit Total | 2,339 | 156 | 80 |
| Grand Total | 23,472 | 449 | 295 |

| <u>2017</u> | <u>IFBs</u> | <u>Cases</u> | <u>Arrests</u> |
|-----------------------------|--------------------|---------------------|-----------------------|
| Auto Unit Total | 4,670 | 107 | 63 |
| Workers' Comp Unit Total | 1,147 | 136 | 38 |
| Medical/No-Fault Unit Total | 14,622 | 116 | 105 |
| Arson Unit Total | 261 | 30 | 9 |
| General Unit Total | 3,176 | 132 | 77 |
| Grand Total | 23,876 | 521 | 292 |

| <u>2018</u> | <u>IFBs</u> | <u>Cases</u> | <u>Arrests</u> |
|-----------------------------|--------------------|---------------------|-----------------------|
| Auto Unit Total | 4,628 | 129 | 107 |
| Workers' Comp Unit Total | 1,044 | 194 | 109 |
| Medical/No-Fault Unit Total | 16,184 | 75 | 91 |
| Arson Unit Total | 188 | 23 | 9 |
| General Unit Total | 3,505 | 133 | 47 |
| Grand Total | 25,549 | 554 | 363 |

2019 DATA CALL: VEHICLE PRINCIPAL LOCATION MISREPRESENTATION

The 2019 Vehicle Principal Location Misrepresentation data call concerned misrepresentations by New York insureds of the principal place where their vehicles were garaged and/or driven during 2018.

Summary of Data Reported

- More than 99% (determined by market share) of the personal lines automobile insurance market responded to the data call.
- The total number of reported New York insureds who misrepresented the principal place where their vehicles were garaged and/or driven in 2018 was 19,773.

- The total amount of reported premium lost in 2018 as a result of New York insureds who misrepresented the principal place where their vehicles were garaged and/or driven was \$37,009,303.
- In 2018, 86% of the reported misrepresentations involved a location within New York State. The remaining 14% involved a location outside of New York State.

Misrepresentations Involving a New York State Location

- Total amount of reported premium lost in 2018 due to misrepresentations that involved a location (county) within New York State was \$34,435,599.
- Top reported New York counties where insureds, who misrepresented the garaging/driving location of their vehicles, actually garaged and/or drove their vehicles in 2018:

| | |
|-------------|--------|
| Kings | 26.41% |
| Queens | 18.92% |
| Bronx | 15.15% |
| Nassau | 7.79% |
| Suffolk | 5.54% |
| Westchester | 3.99% |
| New York | 3.96% |
| Monroe | 2.84% |
| Erie | 1.91% |
| Onondaga | 1.73% |

- Top reported New York counties used by insureds to misrepresent where their vehicles were garaged and/or driven in 2018:

| | |
|-------------|--------|
| Suffolk | 10.64% |
| Westchester | 8.67% |
| Nassau | 6.92% |
| Monroe | 6.77% |
| Albany | 5.72% |
| Queens | 4.32% |
| Erie | 3.96% |
| Orange | 3.92% |
| Broome | 3.68% |
| Onondaga | 3.54% |
| New York | 3.22% |

| | |
|-------------|-------|
| Schenectady | 2.98% |
| Dutchess | 2.97% |
| Oneida | 2.07% |

Misrepresentations that Involved a Location Outside of New York State

- Total amount of reported premium lost in 2018 due to misrepresentations that involved a location outside of New York State was \$2,573,704.
- Top reported New York counties where insureds, who misrepresented the garaging or driving location of their vehicles, actually garaged and/or drove their vehicles in 2018:

| | |
|-------------|--------|
| Suffolk | 13.71% |
| Kings | 13.57% |
| Nassau | 11.06% |
| Queens | 10.53% |
| New York | 8.99% |
| Bronx | 6.37% |
| Westchester | 5.62% |
| Erie | 3.11% |
| Richmond | 2.79% |

- Top reported states used by insureds to misrepresent where vehicles were garaged and/or driven in 2018:

| | |
|----------------|--------|
| Florida | 49.27% |
| Pennsylvania | 9.99% |
| Connecticut | 5.37% |
| South Carolina | 4.33% |
| New Jersey | 4.33% |
| North Carolina | 3.80% |
| Virginia | 2.33% |
| California | 2.18% |
| Arizona | 1.93% |

Approved Fraud Prevention Plans on File as of December 31, 2018

Aetna, Inc.

AIG Companies

Allianz Global Corporate & Specialty

Allstate Insurance Group
Allstate Insurance Group
Allstate Life Insurance Company of New York
Amalgamated Life Insurance Company
American Family Life Assurance of New York
American Modern Insurance Group
American Transit Insurance Company
Ameritas Life Insurance Corp. of New York
AMEX Assurance Company
Amica Mutual Insurance Company
AMTrust Financial Services, Inc.
Anthem, Inc.
Arch Insurance Company
Assurant Group
Atlantic Specialty Insurance Company
AXA US
Bankers Consec Life Insurance Company
CareConnect Insurance Company, Inc.
CDPHP
Central Mutual Insurance Company
Chubb Ltd. Group
CIGNA Health Group
Cincinnati Insurance Company

CMFG Life Insurance Company
CNA Insurance Companies
Commercial Travelers Life Insurance Company
Countryway Insurance Company
Country-Wide Insurance Company
CSAA Fire & Casualty Insurance Company
Dearborn National Life Insurance Company of New York
Delta Dental Insurance Company
Delta Dental of New York, Inc.
Dentcare Delivery Systems, Inc.
Electric Insurance Company
Emblem Health Inc.
Erie Insurance Group
Excellus Health Plan, Inc. and MedAmerica Insurance Company of NY
Farm Family Casualty Insurance Company
Farmers Insurance Group of Companies
First Symetra National Life Insurance Company of New York
GEICO
Genworth Life Insurance Company of New York
Gerber Life
Global Liberty Insurance Company of New York
Guard Insurance Group
Guardian Life Insurance Company of America

Hanover Group

HealthNow New York Inc.

Healthplex Insurance Company

Hereford Insurance Company

HM Life Insurance Company of New York

IDS Property Casualty Insurance Company

Independent Health Association, Inc.

Ironshore Indemnity Inc.

John Hancock New York

Kemper

Kingstone Insurance Company

Lancer Insurance Company

Liberty Mutual Commercial Insurance

Liberty Mutual Personal Insurance

Life Insurance Company of Boston & New York

Lincoln Financial Group

Maidstone Insurance Company

Main Street America Group

MAPFRE Insurance Company of New York

Markel North American Insurance Group

MassMutual Financial Group

Merchants Insurance Group

Mercury Insurance Group

Metropolitan Life Insurance Company
Metropolitan Property and Casualty Insurance Company
Mutual of Omaha Insurance Company
MVP Health Care
National General Insurance
National Liability & Fire Insurance Company
Nationwide Mutual Insurance Company
New York Automobile Insurance Plan
New York Central Mutual Fire Insurance Company
New York Life Insurance Company
Nippon Life Insurance Company of America
Northwestern Mutual Life Insurance Company
Oscar Insurance Corporation
Oxford Health Plans
Philadelphia Indemnity Insurance Company
Preferred Mutual Insurance Company
Principal Life Insurance Company
Progressive
Prudential
QBE Insurance Group, Ltd.
Reliance Standard
Renaissance Life & Health Insurance Company of New York
SBLI USA Life Insurance Company, Inc.

Securian Financial Group

Security Mutual Life Insurance Company of New York

Selective Insurance Group

ShelterPoint Life Insurance Company

Standard Life Insurance Company of New York

Standard Security Life Insurance Company of New York

State Farm Insurance Companies

Sun Life and Health Insurance Company (U.S.)

The Hartford Financial Services Group

The Sentry Insurance Group

The State Insurance Fund

Torchmark Corporation

Transamerica Financial Life Insurance Company

Travelers Companies, Inc.

Tri-State Consumer Insurance Company

Trustmark Mutual Holding Company Group

Uniamerica Insurance Company of New York, Inc.

Union Labor Life Insurance Company

Union Security Life Insurance Company of New York

United Concordia Insurance of New York

United Healthcare Insurance Company of New York

United Healthcare of New York, Inc.

Universal American

Unum Provident Company
USAA Group
Utica National Insurance Group
Voya Financial Inc.
VSP
Zurich in North America

2018 Approved Life Settlement Provider Fraud Prevention Plans on File

Abacus Settlements, LLC
Berkshire Settlements, Inc.
Coventry First LLC
Credit Suisse Life Settlements LLC
EAGil Life Settlement Inc.
FairMarket Life Settlements Corp.
Georgia Settlement Group (Incorporated in its state of domicile as The Settlement Group, Inc.)
GWG Life Settlements, LLC
Habersham Funding, LLC
Imperial Life Settlements, LLC
Institutional Life Settlements, LLC
Life Capital Group, Inc.
Life Equity, LLC
Life Policy Traders, Inc.
LifeTrust, LLC

Lotus Life LLC

Magna Life Settlements, Inc.

Maple Life Financial Inc.

Montage Financial Group, Inc.

Q Capital Strategies, LLC

SLG Life Settlements, LLC

Spiritus Life, Inc.

Wm. Page & Associates, Inc