



**MARKET CONDUCT EXAMINATION REPORT**

**of**

**STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY**

**BLOOMINGTON, ILLINOIS**

**As of April 15, 2022**

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February 5, 2024

The Honorable Troy Downing  
Montana State Auditor  
Commissioner of Securities and Insurance  
840 Helena Ave.  
Helena, MT 59601

Dear Commissioner Downing:

Pursuant to your authority delegated under the provisions of Mont. Code Ann. §§ 33-1-401, *et seq.* and in accordance with your instructions, a targeted market conduct examination of the business practices relating to the Company's handling of third-party automobile claims has been conducted on:

State Farm Mutual Automobile Insurance Company  
3 State Farm Plaza  
Bloomington, IL 61791

The Company is an Illinois domiciled property and casualty insurer, hereinafter referred to as "State Farm" or the "Company". The examination covered the period from November 1, 2018, through April 15, 2022. The report of examination is herewith respectfully submitted.

## **I. Introduction**

The Targeted Market Conduct Examination (the Examination) of State Farm Mutual Automobile Insurance Company, was conducted by the independent firm Examination Resources, LLC, for the Montana State Auditor, Commissioner of Securities and Insurance (CSI) beginning April 25, 2022. The Examination was performed off site. Examiners were provided selected claim files in PDF format for review.

Market Conduct Examination Reports (hereinafter referred to as “the Report” or “Examination Report”) note only those items to which the CSI, after review, takes exception. Violations contained in the Report may result in the imposition of penalties.

In certain areas of review listed in this Report, the Examiners may refer to “error ratio.” This error ratio is calculated by dividing the number of claims with violations by the total number of claims in the reviewed sample. For example, if 100 claims are reviewed and it is determined that there are violations on 10 claims, the error ratio would be 10%.

## **II. Scope of Examination**

The examination was conducted pursuant to Montana Code Annotated §§ 33-1-401, *et. seq.*, and covered the period of November 1, 2018 through April 15, 2022. The purpose of the examination was to review the Company’s handling of third-party automobile claims to determine compliance with Montana statutes, regulations, regulatory guidance, common law, and conformity with the standards and procedures of the current National Association of Insurance Commissioners (NAIC) *Market Regulation Handbook*.

### III. Company Operations

State Farm Mutual Automobile Insurance Company was founded in June 1922 as a mutual automobile insurance company. State Farm is the largest property and casualty insurance provider in Montana, and the largest automobile insurance provider in the United States. State Farm Mutual Automobile Insurance Company is the parent company of several wholly owned State Farm subsidiaries, including but not limited to, State Farm Fire and Casualty Company and State Farm General Insurance Company. State Farm was admitted to conduct business in Montana on 10/1/1931. The reported earned premium in MT for the years 2018 through 2022 is provided in the table below.

Year	Reported Earned Premium
2018	\$171,175,641
2019	\$169,002,718
2020	\$172,557,790
2021	\$180,638,496
2022	\$202,724,759

The Company's Officers and Directors as of December 31, 2018 are listed below.

2018 Officers:	Title
Michael Leon Tipsord	Chairman of the Board, President and CEO
Jon Charles Farney	Senior Vice President, Treasurer and CFO
Lynne Madden Yowell	VP - Corporate Governance, Secretary and Counsel
Fawad Khalil Ahmad	Senior Vice President
Randall Houston Harbert	EVP, Chief Agency, Sales and Marketing Officer
Christy Ann Moberly	Senior Vice President - Agency and Marketing
Julia Marie Muscott	Operations Vice President - Underwriting
Ashley Anne Pettit	Senior Vice President
Mark Edward Schwamberger	Vice President and Controller
Catherine Adams Wallace	Senior Vice President and Chief Risk Officer
Duane Christopher Farrington	Executive VP - Technology, Digital and Innovation

<b>2018 Officers:</b>	<b>Title</b>
Stephen McManus	Senior Vice President and General Counsel
Joseph Riley Monk Jr.	Senior Vice President - Financial Services
Kurt Thomas Oleson	Vice President and Chief Compliance Officer
Mary Angela Schmidt	Executive VP and Chief Administrative Officer
Paul Joseph Smith	Executive Vice President - Property and Casualty
Robert Hun Sang Yi	Senior Vice President

Changes noted in Officers from 2018 to 2019 are noted as follows:

- Duane Christopher Farrington, Executive VP - Technology, Digital and Innovation was no longer named as an Officer in 2019. No replacement with same title was noted.
- The Title of Chief Digital Officer was added to the Title of Officer Fawad Khalil Ahmad, in addition to the Title of Senior Vice President
- Christopher Alexander Schell was appointed, as an Officer to fill the newly created title of Senior Vice President - Property and Casualty.
- Kristen Cook Turner replaced former Officer, Christy Ann Moberly as the Senior Vice President - Agency and Marketing.

There were no changes in Officers from 2019 through 2020.

Robert Hun Sang Yi was no longer serving as Senior Vice President as of 12/31/2021. Wesley John Herbert was appointed as an Officer, serving as Senior Vice President in 2021.

The number of Officers increased from 17 in 2021 to 19 in 2022. Officers as of December 31, 2022 are listed below. Newly appointed Officers are indicated with an asterisk (\*).

<b>2022 Officers:</b>	<b>Title</b>
Michael Leon Tipsord	Chairman of the Board, President and CEO
Jon Charles Farney	Senior Vice President, Treasurer and CFO
Lynne Madden Yowell	VP - Corporate Governance, Secretary and Counsel
Fawad Khalil Ahmad	Senior Vice President and Chief Digital Officer
Randall Houston Harbert	EVP, Chief Agency, Sales and Marketing Officer

<b>2022 Officers:</b>	<b>Title</b>
Julia Marie Muscott	Operations Vice President - Underwriting
Ashley Anne Pettit	Senior Vice President and CIO
Mark Edward Schwamberger	Vice President and Controller
Catherine Adams Wallace	Senior Vice President and Chief Risk Officer
Stephen McManus	Senior Vice President and General Counsel
Joseph Riley Monk Jr.	Senior Vice President - Financial Services
Kurt Thomas Oleson	Vice President and Chief Compliance Officer
Mary Angela Schmidt	Executive VP and Chief Administrative Officer
Paul Joseph Smith	Executive Vice President - Property and Casualty
Christopher Alexander Schell	Senior Vice President - Property and Casualty
Kristen Ann Cook	Senior Vice President - Agency and Marketing
Wensley John Herbert	Senior Vice President
Deon Sheri Johnson*	Senior Vice President
Michele Celeste Russo*	Senior Vice President

#### **IV. Examination Background and Claim Sample Selection**

CSI summarized the examination background to the Examiners as follows: Prior to referring this matter to the Examiners, CSI received numerous complaints from consumers about the Company applying comparative negligence against them in situations where consumers believed they were not at fault. CSI initially requested the Company provide a list of all Montana claims between November 1, 2018, and November 1, 2020, in which the Company applied comparative negligence to a third-party claimant.

In response, the Company identified 573 claims, from which CSI randomly selected 65 files for review. Of these 65 claims, CSI identified 20 claims in which it believed the Company did not conduct a reasonable investigation before applying comparative negligence to the third-party claimant or did not provide a reasonable explanation of the basis of the decision in relation to the facts or applicable law after applying comparative

negligence and reducing payment accordingly. During that review period, CSI also received an additional 32 complaints from Montana residents, of which 10 additional claims were found to lack a reasonable investigation and/or reasonable explanation as described above.

Following discussions with CSI, the Company conducted an internal review of third-party auto claims with an assessment of contributory negligence at the end of 2021 and beginning of 2022. The Company reviewed 841 claims and made additional payments to claimants in 49 claims, all of which were raised to CSI as consumer complaints before payment was made.

In the course of CSI and the Company's attempts to reach an agreement on how to resolve the complaints described above, CSI ordered an examination of the Company's handling of third-party claims involving comparative negligence.

#### *Claim Sampling*

The Examiners randomly selected 200 claim numbers from a population of 841 claim numbers<sup>1</sup>, as provided by the Company to the CSI, as a population of third-party private passenger automobile claims, the majority of which the Company claimed had been previously reviewed for compliance with Montana statutes, regulations, regulatory guidance, and common law.

The Company assigns a single claim number to all claims arising from a single accident. Each claim number may have multiple related claims, because of claims presented by multiple claimants, and/or property damage claims of multiple claimants, and/or bodily

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<sup>1</sup> 72 claim numbers were removed from this sample because the Company had previously reviewed them at CSI's request.



injury claims of multiple claimants. Because of this, examiners reviewed 247 claims, resulting from the 200 sampled claim numbers. The 247 reviewed claims consisted of 192 property damage claims and 55 bodily injury claims. In all, the Examiners identified 395 errors across 195 of the 247 claims reviewed. Examiners also obtained and reviewed the Company's Policies and Procedures related to the handling of third-party automobile claims.

## **V. Listing of Claims Findings**

A Detailed explanation of the claims findings are below. Other unacceptable or non-complying practices may not have been discovered during the course of the examination. Failure to identify specific Company practices does not constitute acceptance of such practices.

***Finding #1*** – The Company did not pay or offer to pay Loss of Use payments in accordance with the Commissioner's Advisory Memorandum dated July 5, 2022 (which superseded the previous Advisory Memorandum to the same effect dated March 16, 2009). The Examiners found 96 violations within the 153 sampled claims where Loss of Use was an element of the third-party claimant's loss, for an error percentage of 62.8%. The Company agreed with the Examiners' findings in 89 of the 96 identified claims and stated that it would conduct a retrospective review of all relevant Montana claims during the examination period, make payments, and provide the data to the Examiners.

***Finding #2*** – The Company did not attempt in good faith to effectuate fair and equitable settlements of claims in which liability has become reasonably clear, in violation of M.C.A. § 33-18-201(6).

The Examiners initially identified 43 claims where the third-party claimant did not have collision coverage. Of these claims, the Examiners identified 23 claims in which third-party claimants did not assert bodily injury. The Company did not promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement, in violation of M.C.A. § 33-18-201(14) and the advisory memorandum “Asserting Comparative Negligence Without Adequate Factual Investigation,” dated December 13, 2019, in 20 of these 23 claims<sup>2</sup>.

In 19 of the 43 claims where the third-party claimant did not have collision coverage, the third-party claimants asserted some form of bodily injury. In every claim with a bodily injury, property damage was paid without application of comparative negligence, with the exception of one (1) claim, wherein the injured claimant(s) had no financial interest in the damaged, uninsured claimant vehicle. In every claim that was limited to property damage, the company applied a “range” of potential comparative negligence figures. It appears that the involvement of the Company’s “Office:INJ” (which got involved when bodily injury was part of the claim) was the predictive factor for whether property damage would be paid in full.

***Finding #3*** – The Company refused to pay claims without conducting a reasonable investigation based upon all available information, in violation of M.C.A. § 33-18-201(4) and the Commissioner’s advisory memorandum “Asserting Comparative Negligence Without Adequate Factual Investigation,” dated December 13, 2019. Of the 198 claims examined, examiners identified errors in 91 claims, for a 46% error rate. The Company did not promptly provide a reasonable explanation of the basis in the insurance policy in

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<sup>2</sup> There were 166 violations of M.C.A. § 33-18-201(14), across Findings #2, #3, #4 and #5; resulting in 95 non-duplicated errors of the 395 total errors.

relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement, in violation of M.C.A. § 33-18-201(14) and advisory memorandum “Asserting Comparative Negligence Without Adequate Factual Investigation,” dated December 13, 2019, in 69 of these 91 claims<sup>3</sup>.

The Examiners found that the Company failed to conduct a reasonable investigation of the facts and circumstances of the incident before applying comparative negligence to the third-party claimant. In many instances, additional information was needed to complete a reasonable investigation, including in order of frequency police reports, recorded statements by the party(ies), and photographs of the vehicles and/or scene of the crash.

***Finding #4*** – The Company made comparative negligence determinations against claimants which it was unable to support through the investigation conducted, the factual findings, and how those facts applied to the incident at issue. This led to the Company’s failure to attempt in good faith to effectuate prompt, fair, and equitable settlement of claims in violation of M.C.A. § 33-18-201(6) and the Commissioner’s advisory memorandum “Asserting Comparative Negligence Without Adequate Factual Investigation,” dated December 13, 2019. Of the 198 claims with loss investigations, the Examiners identified errors in 80 claims, for a 40.4% error rate. The Company did not promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement, in violation of M.C.A. § 33-18-201(14) and the advisory memorandum “Asserting Comparative Negligence Without Adequate Factual Investigation,” dated December 13, 2019, in 71 of these 80 claims<sup>4</sup>.

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<sup>3</sup> See Note 2.

<sup>4</sup> See Note 2.

The Examiners found that the Company applied comparative negligence to third-party claimants without proof that the liability analysis had been completed and conveyed to the claimant. The Company made statements that third-party claimants “failed to yield right of way,” “failed to take evasive action,” or “failed to maintain a proper lookout” without an explanation of the finding and how the claimant’s comparative negligence contributed to the incident. Of the 63 claims that went before a neutral arbitrator, 35 of the arbitrated claims (55.5%) resulted in the removal or reduction of the Company’s comparative negligence finding. Often, this finding also coincided with finding #3, where the information the Company did not gather and add to the claim file rendered the existing documentation inadequate to support the Company’s liability determination.

***Finding #5*** – The Company applied comparative negligence to third-party claimants in bodily injury settlement evaluations for general damages, when the associated property damage claim was paid without reduction for comparative negligence. This resulted in a failure to attempt in good faith to effectuate prompt, fair, and equitable settlement of claims when liability has become reasonably clear, in violation of M.C.A. § 33-18-201(6). Of the 55 bodily injury claims examined, the Examiners identified errors in 6 claims, for a 10.9% error rate. The Company did not promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement, in violation of M.C.A. § 33-18-201(14) and the advisory memorandum “Asserting Comparative Negligence Without Adequate Factual Investigation,” dated December 13, 2019, in these 6 claims<sup>5</sup>.

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<sup>5</sup> See Note 2.

The Examiners found that the Company applied comparative negligence inconsistently across third-party claims for the same incident. Specifically, examiners found the Company applied comparative negligence to bodily injury claims while paying in full for property damage claims from the same incident. The operative facts were the same, and yet the comparative negligence determination was made in 10.9% of the sampled claims.

**Finding #6** – The Company failed to pay claims in accordance with the Montana Supreme Court decision in *Ridley v. Guaranty National Insurance Company*, 286 Mont. 325, 951 P.2d 987 (1997), in violation of M.C.A. § 33-18-201(6) and (13). Of the 55 claims, the Examiners identified errors in 7 claims, for a 12.7% error rate. *Ridley* requires that an insurer pay medical expenses for a third-party claimant in advance where liability is reasonably clear. The Examiners found that liability was reasonably clear in 7 claims where the Company failed to make advance medical payments. The Company agreed with this determination in 2 claims, and agreed in part in one additional claim.

## VI. Recommendations

**Finding #1** – The Company should perform an internal review of all third party automobile claims, including those claims where both parties were insured by the Company, with loss dates beginning November 1, 2018 through the date of this report and pay loss of use in accordance with Montana law highlighted within the Commissioner’s Advisory Memorandum dated July 5, 2022, and the previous Advisory Memorandum to the same effect dated March 16, 2009. The results of this internal review should be provided to the CSI for review.

**Finding #2** – The Company should perform internal review of all third party automobile claims, including those claims where both parties were insured by the Company, with loss dates beginning November 1, 2018 through the date of this report and pay claimants for

all elements of their loss previously withheld as a result of the application of comparative negligence when there is no documented factual evidence of comparative negligence in the claim file. The results of this internal review should be provided to the CSI. The Company should also review and update, if necessary, claim handling policies and procedures to ensure future assessment of comparative negligence to a third party is only done when supported by documented factual evidence and provide the policies and procedures to the CSI for review, along with a certification that training on such policies and procedures were provided to all employees who review or supervise claims handling and adjudication in Montana.

***Finding #3*** – The Company should conduct a reasonable investigation of the facts and circumstances of the incident in accordance with § 33-18-201(4), M.C.A. The Company should also review and update, if necessary, claim handling policies and procedures, and manage the products of vendors to ensure a reasonable investigation is completed, including but not limited to law enforcement reports and claimant/witness statements, obtained in a timely manner, documented or recorded, and preserved in a manner that is clear and comprehensible and can be produced when necessary to support the investigation. The policies and procedures should be provided to the CSI for review along with a certification that training on such policies and procedures were provided to all employees who review or supervise claims handling and adjudication in Montana.

***Finding #4*** – The Company should cease using statements when applying comparative negligence to third-party claimants such as “failure to yield right of way”, “failure to take evasive action”, or “failure to maintain a proper lookout” without an explanation of the finding and how the claimant’s comparative negligence contributed to the incident. The Company should make liability determinations that are supported by factual evidence documented in the claim file, convey the liability determinations to claimants in a manner

that addresses the specific duty(s) allegedly breached by the parties, explain the documented factual evidence, and cite the prevailing Montana Law considered to support the alleged breach(es). The claim file should adequately document this correspondence with the parties. The policies and procedures designed to achieve compliance should be provided to the CSI for review along with a certification that training on such policies and procedures were provided to all employees who review or supervise claims handling and adjudication in Montana.

***Finding #5*** – The Company should cease applying comparative negligence to third-party claimants in bodily injury settlement evaluations for general damages, when the associated property damage claim was paid without a reduction for comparative negligence without additional information warranting such a change. The policies and procedures designed to achieve compliance should be provided to the CSI for review along with a certification that training on such policies and procedures were provided to all employees who review or supervise claims handling and adjudication in Montana.

***Finding #6*** – The Company should develop additional claim procedures to ensure compliance with the Montana Supreme Court decision in *Ridley v. Guaranty National Insurance Company*, 286 Mont. 325, 951 P.2d 987 (1997). The updated procedures designed to ensure compliance should be provided to the CSI for review.

## Acknowledgement

Respectfully submitted,



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Kimberlee Hewitt, CIE, AMCM  
Examination Resources, LLC  
Examiner in Charge



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David Dachs, CIE, CPCU, AMCM, CWCP, PIR  
Insurance Services Bureau Chief  
Office of the Montana State Auditor  
Commissioner of Securities and Insurance  
Insurance Services Bureau Chief



**Examiner's Affidavit**


EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN THE EXAMINATION

State of Montana                    )  
  :SS  
County of Lewis and Clark    )

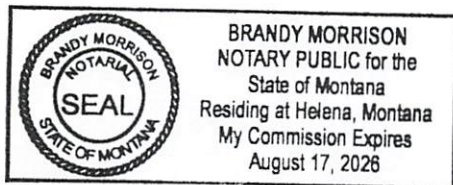
I, Kimberlee Hewitt, being duly sworn, states as follows:



1. I have the authority to represent Montana in the examination of State Farm Mutual Automobile Insurance Company.
2. I have reviewed the examination work papers and examination report, and the examination of State Farm Mutual Automobile Insurance Company was performed in a manner consistent with the standards and procedures required by Montana.

The affiant further sayeth naught.

  
\_\_\_\_\_  
Kimberlee Hewitt, CIE, AMCM

Subscribed and sworn before me by Kimberlee Hewitt, on this 5th day of February 2024.



  
\_\_\_\_\_  
Notary Public  
  
\_\_\_\_\_  
Printed Name

Commission Number \_\_\_\_\_  
Commission Expires August 17, 2026