



March 24, 2022

Re: Combatting Racial Bias and Discrimination in Insurance Claims Handling and Anti-fraud Efforts

Dear Commissioner:

Last Friday, the *New York Times* reported on a deeply concerning series of allegations about practices at State Farm that disproportionately target Black policyholders and claimants with fraud investigations.<sup>1</sup> We urge you and your Department to review your oversight of claims handling and anti-fraud efforts and focus on ensuring that these aspects of the insurance system are not plagued by either systemic racism or parochial biases within companies. Additionally, we offer to work with you to develop and deploy methods to test for such bias if you are not already doing so.

Among other problems alleged by policyholders, agents, and company employees in last week's news story is the claim that company "investigators were reminded at weekly meetings...to focus on claims from 'inner city' neighborhoods that were at 'high risk for fraud,' making them easier to deny." When confronted with an employee's suggestion that "there might not be fraud in a particular neighborhood," a company manager reportedly replied: "Oh, yes, there is fraud in those areas."

If true – and the Equal Employment Opportunity Commission has found that the whistleblower fired after making the allegations has, in fact, faced discrimination and retaliation – State Farm's claims handling and anti-fraud practices (as well as other biases indicated by the reporting) should be subjected to thorough market conduct and civil rights investigations by State Departments of Insurance and Attorneys General.

But these practices go well beyond any one company. We believe it is critical that you assess whether your Department is sufficiently scrutinizing the impact of systemic bias and racial discrimination on claims handling and anti-fraud practices industrywide. We ask that you respond to the survey questions at the end of this letter, as we will be compiling the data to report on the work being done at Departments to combat bias in claims handling and anti-fraud efforts.

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<sup>1</sup> Flitter, E., "Where State Farm Sees 'a Lot of Fraud,' Black Customers See Discrimination." *New York Times*. March 18, 2022. Available at <https://www.nytimes.com/2022/03/18/business/state-farm-fraud-black-customers.html>.

The questions are also available as an online survey, if that is more convenient for you and your staff.

The Consumer Federation of America (CFA) – an association of over 250 consumer organizations founded in 1968 to advance consumer interests through research, advocacy, and education – has conducted extensive research and issued numerous reports concerning the disproportionately high auto insurance premiums charged to people of color. CFA and the Center for Economic Justice (CEJ) have shown through research, and testified numerous times over the years, that this disparate impact is due in large part to structural racism and systemic biases in our society and history that often turn pricing models, algorithms, and the data that feed them, into proxies for race. *There is no reason to believe that those problems and their legacy do not impact other aspects of the insurance system. Indeed, they almost certainly persist throughout the insurance system, including in the marketing strategies of insurers and, as the New York Times story suggests, the claims and anti-fraud practices of insurers.*

According to the news report, flagging claims for fraud was a systematic “pretext to deny the insurance claims of Black customers.” As noted above, it is alleged that State Farm assumed that claimants living in inner-city communities were more likely to be committing fraud, so those communities should be the focus of the anti-fraud departments known as Special Investigation Units (SIUs). The problem of discriminatory anti-fraud efforts at insurance companies is potentially compounded by the growing reliance on Big Data-driven models and algorithms for identifying fraud. If the source data used to create the models and train the algorithms are biased because of internal company practices (“focusing on inner-city claims”) or external racism (discriminatory policing or inadequate access to financial institutions, for example), then fraud investigations will focus on fraud in those communities and recursively emphasize it.

As a founding member of the Coalition Against Insurance Fraud, CFA understands that exposing and fighting insurance fraud is critical for well-functioning insurance markets and for preventing escalating rates. However, fighting fraud must never be an excuse for unfair denials of claims or discrimination. Consumers deserve to have their claims fairly evaluated and not be judged according to either stereotypes or biased algorithms.

Rooting out racial discrimination in all aspects of the system is essential for ensuring that this critical financial tool works equally for all consumers and claimants, regardless of their race, ethnicity, or socio-economic status. To get a better understanding of the extent to which Departments have focused resources on this problem as well as the assistance that Departments might need, we have compiled a survey that we ask you to fill out. You can either respond to the attached survey questions in writing and return it to [mdelong@consumerfed.org](mailto:mdelong@consumerfed.org), or you can fill out the online survey form here: <https://www.surveymonkey.com/r/2M6QYZ8>.

While the survey will help us report on both the work being done to combat bias and the gaps that need to be filled, we also want to emphasize how important it is that more be done, as the *New York Times* story made clear. We urge you to prioritize efforts that will eradicate systemic bias in the claims handling and anti-fraud systems of companies under your supervision. Finally, we welcome the opportunity to work with you to help reduce the harm of legacy and ongoing racial bias in the insurance market.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Heller', with a long horizontal flourish extending to the right.

Douglas Heller  
Director of Insurance  
Consumer Federation of America

A handwritten signature in black ink, appearing to read 'Birny Birnbaum', written in a cursive style.

Birny Birnbaum  
Director  
Center for Economic Justice

## Investigating Bias in Claims Handling and Anti-fraud Practices Among Insurers – Department Survey

1. In the last three years, how many times has your department reviewed an insurer's anti-fraud and claim settlement algorithms for unfair discrimination, generally, and for racial bias, specifically?

<input type="checkbox"/> 0	<input type="checkbox"/> 1-3	<input type="checkbox"/> 4-9	<input type="checkbox"/> 10+
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If any, how did the Department conduct the review and what methods were used to identify unfair discrimination and racial bias? (Please use additional pages as needed.)

2. In the last three years, has the Department asked or required insurers to test their anti-fraud and claims settlement algorithms and practices for racial bias?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If yes, how many insurers were asked or required, what did the Department ask of these insurers, and what guidance for testing was provided to the insurers? (Please use additional pages as needed.)

3. In the last three years, has the Department required any third-party vendors to submit anti-fraud or claim settlement algorithms to the Department for review?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If yes, which vendors and what models has the Department reviewed and what were the results of the review(s)? (Please use additional pages as needed.)

4. In the last three years, has the Department collected actual anti-fraud and claims outcome data from insurers in sufficient detail to test for unfair discrimination and racial bias?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If yes, what data were requested and what methods were used to test for unfair discrimination and racial bias? What were the results of such data collection and analysis?

(Please use additional pages as needed.)

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5. Has the Department worked with community organizations, consumer groups, agents' organizations, or others to learn about the insurance outcomes experienced by communities of color?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If yes, to whom and how has the Department done such outreach? What insights has the Department learned from this outreach? (Please use additional pages as needed.)

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6. If the answers to one or more of questions 1 through 5 is no, does the Department plan to or want to engage in such testing and analysis?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If yes, what is the time frame for such activity and what resources or technical assistance does the Department need to proceed? (Please use additional pages as needed.)

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