

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:

Case No. INS-23-0078

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

FINAL ORDER TO CEASE AND
DESIST, FINAL ORDER ASSESSING
CIVIL PENALTIES, AND CONSENT
TO ENTRY OF ORDER

Respondent.

1 The Division of Financial Regulation (the “Division”), acting on behalf of the Director of
2 the Department of Consumer and Business Services for the State of Oregon (the “Director”),
3 conducted an investigation of State Farm Mutual Automobile Insurance Company
4 (“Respondent”). The Division determined that Respondent violated provisions of Oregon
5 Revised Statutes (“ORS”) chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744,
6 746, 748 and 750 (the “Insurance Code”) and the Oregon Administrative Rules (“OAR”)
7 promulgated under those laws.

8 Respondent submits to the Director’s jurisdiction and agrees to waive its rights to notice
9 and an administrative hearing under ORS 183.415 and further wishes to resolve this matter by
10 consenting to entry of this Consent Order.

11 Now, therefore, as evidenced by the authorized signature(s) subscribed herein, the
12 Director issues the following Findings of Fact, Conclusions of Law, and Final Orders.

FINDINGS OF FACT

14 The Director FINDS that:

15 1. Respondent first received its certificate of authority as a foreign property and casualty
16 insurer in Oregon on April 1, 1930. Respondent’s National Association of Insurance
17 Commissioners Company Code (“NAIC CoCode”) is 25178. Respondent is domiciled in Illinois.

1 2. Respondent writes policies of insurance, including automobile insurance. As part of its
2 underwriting and rating process, Respondent creates a credit-based insurance score using some
3 information contained in the consumer credit report of potential customers. Respondent may use
4 the results of that credit-based insurance score as one of many factors it relies upon to set the
5 premium rates for new customers.

6 3. On or about July 7, 2023, Respondent self-reported to the Division that, due to a system
7 error, it had not sent the notification required by ORS 746.650(5) and OAR 836-080-0438 to
8 customers purchasing new automobile insurance policies between December 5, 2017, and
9 February 23, 2023 (the “Impacted Consumers”). Specifically, Respondent did not notify the
10 Impacted Consumers at the inception of their coverage they may have received a lower rate if their
11 credit history or the credit factors used in their credit-based insurance score were more favorable
12 and that they had the right to request a rerate of the policy no more than once annually (the “New
13 Business Adverse Action Notice”). Respondent notified the Division that the issue was corrected
14 for new business customers beginning on February 23, 2023.

15 4. Respondent provided additional information regarding the error and proposed a
16 remediation plan as requested by the Division. Respondent represented that 241,525 Impacted
17 Consumers did not receive the New Business Adverse Action Notice.

18 5. Respondent agreed to send a notification to Impacted Consumers who remain
19 customers of State Farm, approximately 134,690 consumers. On January 2, 2024, Respondent
20 began sending the existing Impacted Consumers the New Business Adverse Action Notice. This
21 notification will be sent to existing Impacted Consumer through a mailing that is separate and apart
22 from any other mailing or communication from Respondent. It will also include a statement that
23 Oregon law requires Respondent to provide a notification to customers at the inception of the

1 policy, but that the notification was not sent at that time due to a system error. Respondent will
2 complete sending the notifications no later than June 30, 2024. A copy of the notification that
3 Respondent will send to the Impacted Consumers is attached hereto as Exhibit A.

4 **CONCLUSIONS OF LAW**

5 The Director CONCLUDES that:

6 6. Under ORS 746.600(1)(a)(E)(iii), an “adverse underwriting decision” means, in the
7 case of insurance other than life or health insurance coverage, an increase in any charge imposed
8 by the insurer for any personal insurance in connection with the underwriting of insurance.

9 7. Under ORS 746.650(5), when an adverse underwriting decision is based in whole or in
10 part on credit history or insurance score, the insurer or insurance producer responsible for the
11 decision must provide the consumer proposed for coverage with the specific reason or reasons for
12 the adverse underwriting decision in writing.

13 8. Under OAR 836-080-0438(1), for the purpose of the notice required by ORS
14 746.650(5), an adverse underwriting decision occurs when an insurer accepting an application for
15 insurance would have given the consumer a lower rate if the consumer's credit history or the credit
16 factors in the consumer's insurance score were more favorable.

17 9. Under OAR 836-080-0438(2), an insurer shall include in a notice of adverse
18 underwriting decision required under ORS 746.650(5) an explanation of the consumer's right to
19 request, no more than once annually, that the insurer rerate the consumer, and of potential negative
20 consequences of rerating, if any.

21 10. By failing to provide the Impacted Consumers a New Business Adverse Action Notice
22 containing an explanation of the right to request an annual rerating and the potential consequences
23 of such rerating, Respondent violated ORS 746.650(5) and OAR 836-080-0438 in 241,525

1 instances between December 5, 2017, and February 23, 2023.

2 11. Under ORS 731.252(1), whenever the Director has reason to believe that any person
3 has been engaged or is engaging or is about to engage in any violation of the Insurance Code, the
4 Director may issue an order, directed to such person, to discontinue or desist from such violation
5 or threatened violation.

6 12. Because the Director has reason to believe that Respondent has violated ORS
7 746.650(5) and OAR 836-080-0438, the Director may issue an order directed to Respondent to
8 discontinue or desist from that violation under ORS 731.252(1).

9 13. Under ORS 731.988(1), a person that violates any provision of the Insurance Code shall
10 forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined
11 by the Director that does not exceed \$10,000 for each offense. Each violation is a separate offense.

12 14. Because Respondent violated the Insurance Code, including ORS 746.650(5) and OAR
13 836-080-0438, Respondent is subject to civil penalties under ORS 731.988(1).

14 **ORDERS**

15 The Director ISSUES the following ORDERS:

16 *Order to Cease and Desist*

17 15. Pursuant to ORS 731.252(1), the Director hereby ORDERS Respondent, and all entities
18 owned or controlled by Respondent, its successors and assignees, to cease and desist from violating
19 ORS 746.650(5) and OAR 836-080-0438.

20 *Order Assessing Civil Penalties*

21 16. Pursuant to the authority of ORS 731.988(1), the Director hereby ORDERS the
22 assessment of \$200,000.00 in CIVIL PENALTIES against Respondent.

23 17. The Director agrees to suspend the collection of \$100,000.00 of the foregoing civil
24 penalties, provided:

- 1 A. Respondent pays the remaining \$100,000.00 of the foregoing civil penalties at or
2 prior to the time it submits this signed Consent Order;
- 3 B. Respondent sends the New Business Adverse Action Notice to all existing Impacted
4 Consumers who remain Respondent’s customers¹ in accordance with Exhibit A
5 starting on or before January 2, 2024, and completes such mailing no later than June
6 30, 2024;
- 7 C. Respondent provides a confidential report demonstrating the New Business Adverse
8 Action Notice was sent to the Impacted Customers who remain Respondent’s
9 Customers. The confidential report will be provided to the Division on or before July
10 31, 2024. The Division agrees the report shall be maintained by the Division as
11 confidential pursuant to ORS 731.264 and ORS 731.312(6); and
- 12 D. Respondent complies with ORS 746.650(5) and OAR 836-080-0438 and the terms
13 of this Consent Order.

14 18. The Director will waive the foregoing suspended \$100,000.00 civil penalty at the end
15 of a period of three (3) years from the effective date of this Consent Order provided Respondent
16 complies with the terms of this Consent Order and ORS 746.650(5) and OAR 836-080-0438.

17 19. If Respondent fails to comply with this Consent Order or ORS 746.650(5) or OAR 836-
18 080-0438 within the foregoing period of three (3) years, then the suspended civil penalties shall
19 become immediately due and payable and the Division may take additional action against
20 Respondent for violations of this Consent Order or the Insurance Code.

¹ As of September 12, 2023, the number of current customers who are Impacted Consumers is 134,690. Respondent is only sending the New Business Adverse Action Notice to current customers. It is anticipated that some of these 134,690 customers may no longer have active policies with Respondent by the time Respondent would send them the New Business Adverse Action Notice in accordance with this Consent Order, so the number of customers who receive this new notice may be smaller.

1 **NONDISCHARGEABILITY**

2 20. Respondent agrees the facts and violations set forth in this Consent Order may be taken
3 as true without further proof in any bankruptcy case or subsequent civil litigation the Director may
4 pursue to enforce its rights to any payment or money judgment under the terms of this Consent
5 Order, including but not limited to any nondischargeability complaint in any bankruptcy proceeding
6 and that this Consent Order shall have collateral estoppel effect in any bankruptcy case.

7 **FINAL ORDER**

8 21. This Order is a “Final Order” under ORS 183.310(6)(b). Subject to that provision, entry
9 of this Order in no way limits or prevents further remedies, sanctions, or actions which may be
10 available to the Director under Oregon law to enforce this Order, for violations of this Order, for
11 conduct or actions of Respondent that are not covered by this Order, or against any party not
12 covered by this Order.

13 IT IS SO ORDERED.

Dated this 20th day of February, 2024.

ANDREW R. STOLFI, Director
Department of Consumer and Business Services

/s/ Dorothy Bean
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

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1 **CONSENT TO ENTRY OF ORDER**

2 I, Erin Rahn Morris , state that I hold the title Vice President, Operations I am
3 an authorized representative of Respondent State Farm Mutual Automobile Insurance Company
4 (“State Farm”) with the authority to sign this Consent Order on behalf of State Farm. I have
5 read the foregoing Order and I fully understand the contents hereof. I have been advised of the
6 right to a hearing and of the right to be represented by counsel in this matter, and I have been
7 represented by counsel. State Farm voluntarily consents to the entry of this Order without any
8 force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to
9 administrative or judicial review of this order. State Farm understands that this is a “Final
10 Order” under ORS 183.310(6)(b). State Farm understands that the Director reserves the right to
11 take further action to enforce this Order or to take appropriate action upon discovery that State
12 Farm has committed other violations of the Insurance Code. State Farm will fully comply with
13 the terms and conditions stated herein.

14 State Farm understands that this Order is a public document.

Name: Erin Rahn Morris
Signature: /s/ Erin Rahn Morris
Title: Vice President, Operations

State of Illinois

County of McLean

Signed or attested before me on this 15th day of February, 2024

by Allison M Fisher .

/s/ Allison M Fisher
Notary Public

My commission expires 12/15/2027

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