



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

MARK E. VAN DER WEIDE
GENERAL COUNSEL

April 1, 2021

John Bruno
Executive Vice President, General Counsel,
Secretary & Chief Human Resources Officer
The Auto Club Group
1 Auto Club Drive
Dearborn, Michigan 48126

Dear Mr. Bruno:

This is in response to your letter dated February 24, 2020, requesting an opinion regarding the effect under various statutes administered by the Board of an election by a federal savings association (“FSA”) to operate as a covered savings association (“CSA”) under section 5A of the Home Owners’ Loan Act (“HOLA”),¹ as added by section 206 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.² Specifically, you inquired whether the parents of Auto Club Trust, F.S.B. (“Auto Club FSB”)—The Auto Club Trust (“Auto Club”), Auto Club Insurance Association (“ACIA”), and Auto Club Services, Inc. (“ACS”), all of Dearborn, Michigan—could continue to claim an exception from commercial-affiliation restrictions under section 10(c)(9)(C) of HOLA³ if Auto Club FSB were to elect to operate as a CSA.

Section 5A of HOLA (“section 5A”) permits an FSA that meets certain criteria to elect to operate as a CSA by submitting a notice of election to the Office of the

¹ 12 U.S.C. § 1464a.

² Pub. L. No. 115-174, 132 Stat. 1296, 1310–11 (2018).

³ 12 U.S.C. § 1467a(c)(9)(C).

Comptroller of the Currency (“OCC”).⁴ With limited exceptions,⁵ a CSA has the same rights and privileges, and is subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations, as a national bank that has its main office in the same location as the home office of the CSA.⁶ Board staff treat a CSA as a national bank for all purposes under the Board’s jurisdiction, including under the Bank Holding Company Act (“BHC Act”), other than these exceptions.⁷

To respond to your specific question, if Auto Club FSB were to elect to operate as a CSA, Board staff would consider Auto Club FSB to be a national bank for purposes of the BHC Act. Because each of Auto Club, ACIA, and ACS would therefore be treated as a bank holding company,⁸ each would cease to be a savings and loan

⁴ 12 U.S.C. § 1464a(b)(1). An FSA may elect to operate as a CSA if it had total consolidated assets equal to or less than \$20 billion as of December 31, 2017. The OCC has adopted a final rule implementing section 5A, which became effective on July 1, 2019. See 12 CFR part 101. The final rule establishes procedures for an FSA to elect to operate as a CSA, terminate such an election, and divest impermissible assets following an election. 12 CFR §§ 101.3, 101.5, 101.6, 101.7. The final rule also specifies several circumstances in which CSAs must continue to comply with laws applicable to FSAs. See 12 CFR §§ 101.4, 101.5.

⁵ The limited exceptions include governance (including incorporation, bylaws, boards of directors, shareholders, and distribution of dividends), consolidation, merger, dissolution, conversion (including conversion to a stock bank or to another charter), conservatorship, and receivership. 12 U.S.C. § 1464a(d).

⁶ 12 U.S.C. § 1464a(c).

⁷ See Letter from Mark E. Van Der Weide to Trischa L. Kalscheur dated April 1, 2021 (interpreting Section 5A’s application to holding companies of CSAs).

⁸ 12 U.S.C. § 1841(a)(1). With respect to the capital treatment of Auto Club, ACIA, and ACS if Auto Club FSB were to elect to operate as a CSA, the Board has proposed to establish capital requirements for certain insurance companies under its supervision. See, e.g., Regulatory Capital Rules: Risk-Based Capital Requirements for Depository Institution Holding Companies Significantly Engaged in Insurance Activities, 84 Fed. Reg. 57240, 57248 (October 24, 2019) (“[T]he Board presently does not see reason to apply different capital requirements to an insurance depository institution holding company that controls a covered savings association and an insurance depository institution holding company that controls any other IDI. Preliminarily, the Board anticipates harmonizing the regulation of BHCs and SLHCs significantly engaged in insurance activities.”). The Board has not yet adopted a final rule implementing its proposal.

holding company, and each would no longer be able to claim an exemption under section 10(c)(9)(C) of HOLA.⁹

This opinion is based on all the facts of record and the representations made by you to the Board. Any change in the facts presented could result in a different conclusion and should be reported immediately to Board staff.

Sincerely,

A handwritten signature in blue ink that reads "Mark Van Der Wijk". The signature is written in a cursive, flowing style.

cc: Office of the Comptroller of the Currency
Federal Reserve Bank of Chicago

⁹ See 12 U.S.C. § 1467a(t) (providing that section 10 of HOLA “shall not apply” to a bank holding company that is subject to the BHC Act). See also 12 U.S.C. § 1467a(a)(1)(D)(ii)(I) (exempting from the definition of “savings and loan holding company” any “bank holding company that is registered under, and subject to, the [BHC Act], or to any company directly or indirectly controlled by such company”).