



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

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

December 23, 2010

Mr. Jeffrey J. Brown
Treasurer
Ally Financial, Inc.
16th Floor
440 South Church Street
Charlotte, North Carolina 28202

Dear Mr. Brown:

This is in response to the request by Ally Financial, Inc. (“Ally Financial”), Detroit, Michigan, on behalf of Ally Bank, Midvale, Utah, requesting relief from conditions requiring Ally Bank to treat General Motors Corporation (“GM”) as an affiliate for purposes of sections 23A and 23B of the Federal Reserve Act.¹ These conditions were imposed by the Board when it approved the application by GMAC LLC (“GMAC”) to become a bank holding company on the conversion of GMAC Bank from an industrial loan company to a state-chartered bank.²

Sections 23A and 23B establish certain quantitative limits and other prudential requirements for loans, asset purchases, and certain other transactions between a member bank and its affiliates. Under section 23A, a company is an affiliate of the bank if it is under common control with the bank.³ In general, a company has control over another company if the company directly or indirectly, or acting through one or more other persons, owns, controls, or has the power to vote 25 percent of a class of voting securities. Section 23A also authorizes the Board to determine that any company is an affiliate of a bank if it determines that the bank may be affected by the relationship to the detriment of a member bank.⁴

In 2008, GM owned a controlling interest in GMAC, which owned the former GMAC Bank. In December 2008, GMAC was approved by the Board to become a bank holding company. Because GM engaged in activities that were impermissible for a bank holding company, it was required to reduce its ownership of GMAC. GM reduced its

¹ 12 U.S.C. § 371c and c-1.

² GMAC LLC, 95 Federal Reserve Bulletin B29 (2009) (“Order”). GMAC Bank was renamed Ally Bank, and GMAC was renamed Ally Financial.

³ 12 U.S.C. § 371c(b)(1).

⁴ 12 U.S.C. § 371c(b)(1)(E).

ownership interest to 9.9 percent of GMAC's shares and was required to transfer the remainder of its shares to a trust ("GM Trust"). The trustee of GM Trust had full and sole authority to vote the GMAC shares held by the trust and was required to be a person acceptable to the Board and the Department of the Treasury ("Treasury"), to be independent of GM, and to dispose of the interest in GMAC within three years of the formation of the trust under the trust's terms.⁵

At the time of the Order, GM and GMAC were considered affiliates for purposes of sections 23A and 23B because GM, directly and indirectly, owned more than 25 percent of the shares of GMAC. In its Order, the Board stated that "[u]ntil the trustee fully divests the shares, the limitations of sections 23A and 23B of the Federal Reserve Act will apply to GM and GMAC Bank as if they were affiliates."⁶ The Board also granted the bank certain exemptions from the restrictions of section 23A in order that it could continue to provide floorplan financing to GM dealers and financing to consumers to purchase GM automobiles,⁷ subject to a number of conditions.

In May 2009, the Board granted another limited section 23A exemption⁸ in connection with the injection of capital into GM and GMAC by the U.S. government. In approving the May 2009 request, the Board reaffirmed that "[u]ntil GM completes its divestiture of GMAC, GM and Ally Bank are affiliates for purposes of section 23A."

Ally Bank is requesting that, in light of a restructuring of the ownership interests of GMAC, (1) GM no longer be deemed an affiliate of Ally Bank and (2) Ally Bank be relieved of the conditions imposed because of its affiliate status with GM. Currently, GM owns 6.7 percent and GM Trust owns 9.9 percent of the voting shares of Ally Financial. Third parties, including Treasury, own the remaining Ally Financial shares. After the proposed restructuring and conversion of the preferred shares, GM's ownership in Ally Financial would be reduced to 4.0 percent, and GM Trust's ownership of Ally Financial would be reduced to 5.9 percent. Accordingly, GM's direct and beneficial ownership in Ally Financial would be 9.9 percent, which is below the 25 percent threshold set forth in section 23A and the overall threshold referenced in the Board's Order.

As noted above, the Board stated in the section 23A exemption that GM would remain an affiliate of Ally Bank until GM completed its divestiture of the former GMAC, now Ally Financial, and the Board's Order required GM Trust to divest all its shares to terminate the affiliate relationship. When the ownership issues surrounding Ally Financial and GM were originally considered by the Board, it was assumed that GM Trust would divest all its shares of Ally Financial first because GM Trust was required by

⁵ Id. at B31.

⁶ Id. The Board did not similarly require GM to divest its 9.9 percent interest as a condition.

⁷ See Board letter to Richard K. Kim, Esq., dated December 24, 2008.

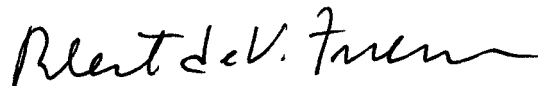
⁸ See Board letter to Richard K. Kim, Esq., dated May 21, 2009.

the terms of the trust documents to divest all its shares within three years. With that divestiture, and given the limitation on GM acquiring additional shares of Ally Financial, GM would control less than the amount of shares needed to be considered an affiliate for purposes of section 23A. Under the current proposal GM and GM Trust would both continue to own shares after the conversion of the preferred shares currently held by Treasury. However, GM and GM Trust would together own less than 10 percent of Ally Financial's shares, and GM individually would own less than 5 percent of the shares.

Based on all the facts of record, including those discussed above, the Director of the Division of Banking Supervision and Regulation, acting pursuant to authority delegated by the Board under section 265.7(a)(2) of the Board's Rules Regarding Delegation of Authority (12 CFR 265.7(a)(2)), and after consulting with the General Counsel, has approved your request for modification of the condition in the Board's Order regarding the affiliation of GM and Ally Financial to provide that GM and Ally Bank would not be affiliates for purposes of sections 23A and 23B upon execution of the proposed transaction as long as GM and GM Trust own in the aggregate less than 10 percent of the voting shares of Ally Financial. This relief is granted on condition that Ally Bank enter into a strategic plan acceptable to the Federal Deposit Insurance Corporation ("FDIC"). The FDIC has indicated that it has no objection to this modification.

This action is based on the representations and commitments set forth in your correspondence and in conversations with Board staff. Any change in the facts presented could result in a different conclusion and should be reported to Board staff immediately. These commitments are deemed to be conditions imposed in writing by the Board in connection with granting this request and, as such, may be enforced in proceedings under applicable law. This determination should not be construed as granting relief from any other conditions or commitments to which GM, Ally Financial, or Ally Bank may be subject.

Very truly yours,



Robert deV. Frierson
Deputy Secretary of the Board

cc: James Nelson
Federal Reserve Bank of Chicago

Mark Flanigan
Chris Spoth
Federal Deposit Insurance Corporation

Richard K. Kim, Esq.
Wachtell, Lipton, Rosen & Katz