

Testimony of Ryan Schneider, President – Card, Capital One Financial Corporation before the United States Senate Permanent Subcommittee on Investigations

December 4, 2007

Chairman Levin, Ranking Member Coleman and Members of the Committee, good morning. My name is Ryan Schneider and I am the President of Capital One Financial Corporation's credit card business. Thank you for this opportunity to address the Subcommittee. Capital One is the 11th largest diversified financial institution in the country and the 5th largest issuer of credit cards.

Today, the credit card is among the most popular forms of payment in America. It is valued by consumers and merchants alike for its convenience, efficiency and security. As the Government Accountability Office noted, however, in their comprehensive report on this topic, the past decade has seen substantial change in the availability and pricing of credit cards. Today, many more Americans have access to credit through credit cards than at any previous time. As the GAO found, interest rates have come down significantly for the majority of consumers and most pay no annual fees. Consumers who choose to pay in full each month, as more than half of all credit card holders do, pay no interest. These benefits, however, have come at a cost – increased complexity. Thus, we support the Federal Reserve's efforts to improve consumer disclosures through their comprehensive revisions to Regulation Z.

Today, the Subcommittee is focused on the issue of repricing. A flexible pricing structure is an essential tool in the safe and sound underwriting of open-ended, unsecured credit products. Unlike mortgage, auto and other closed-end, secured loans, credit cards have balances that can fluctuate significantly on a monthly or even daily basis. Repayment patterns are neither consistent nor predictable. The ability to modify the terms of a credit card agreement to accommodate changes over time to the economy or the creditworthiness of consumers must be preserved as a matter of fiduciary responsibility. The consequences of imposing severe restrictions on the ability to reprice such loans in response to these changes could include significant reductions in the availability of credit to many and higher pricing for all, particularly to those historically underserved customers who pose a higher level of risk.

Although we want to take this opportunity to point out that even the most well intended of policy initiatives can have unintended consequences, Capital One shares many of the concerns expressed by you and other members of this Subcommittee. We applaud your efforts to continue discussion on what we believe to be the most challenging practice in the industry today – aggressive repricing without customer choice.

Capital One testified before Chairman Dodd's Committee and Chairwoman Maloney's Subcommittee earlier this year in support of the Federal Reserve's

proposal to enhance the consumer protections offered by Regulation Z. We believe that requiring card issuers to notify consumers 45 days prior to any repricing is a positive step forward. We also support the Federal Reserve's effort to expand this notice requirement to default or penalty-based repricing.

Capital One recommends, however, that the Federal Reserve go one step further by permitting customers to reject the new interest rate in exchange for stopping the use of their card, and paying off their existing balance at their previous rate. This right to reject the new terms is already available to most customers through change-in-terms or notice based repricing; however, it is not offered to customers who are repriced as a result of a default on their account, or in some cases, default on another account with the same financial institution.

Well in advance of the Federal Reserve's finalization of its proposed revisions to Regulation Z, Capital One has already taken several meaningful steps on its own to address concerns regarding repricing.

First, we've adopted a single, simple default repricing policy for all of our customers that provides them with a warning before we will consider taking any action. Capital One will not consider default repricing any customer unless they pay 3 or more days late twice in a 12 month period. After their first infraction, customers are provided with a prominent statement on their monthly bill alerting them that they may be repriced if they pay late again. Even after the second late

payment, the decision to reprice someone is not automatic. For many customers, Capital One chooses not to do so. If we do reprice someone, we will let them earn back their prior rate by paying us on time for twelve consecutive months. This process is automatic. To be clear, Capital One will not reprice customers if they go over their limit or bounce a check.

Second, Capital One does not practice any form of “universal default.” This has been our long-standing policy. We will not reprice a customer if they pay late on another account with us, any other lender, or because their credit score goes down for any reason.

Third, when economic conditions require us to make changes to the terms of our customer’s accounts, we have already chosen to adopt the Federal Reserve’s proposed 45-day advance notice period. For many years, our practice in this regard has been to offer a minimum of 30 days, twice the 15 days currently required under Regulation Z. Despite the fact that revisions to Regulation Z have not been finalized, we believe that this longer notice period strikes the right balance for us and our customers.

Fourth, we ensure that our customers have meaningful choice and complete transparency regarding any changes to their accounts. To that end, we offer our customers the ability to reject their new terms, cease use of their accounts and pay off their balances at their previous rate over time. We also are very proud of

the industry-leading clarity and prominence of our notice, a sample of which is included with our written testimony.

Fifth and finally, as a matter of long-standing practice, we will not reprice customers via a change in terms for at least three years from the time they open their account or from the time of any prior change in terms repricing.

In conclusion, while we believe that the Federal Reserve's proposal represents a positive step forward for consumers and our industry, we do not view it as a substitute for continuously adapting our practices and policies to keep up with consumer demand, the rigors of competition and the standards of sound banking. Capital One has over 30 million credit card customers, the vast majority of whom have a good experience with our product. When they don't, we regard that as a failure and seek to find out why. In a highly competitive market, we must continuously strive to improve our products and services if we are to attract and retain the best customers.

Thank you and I look forward to answering any questions you may have.



important notification of a change in terms to your account

Capital One® what's in your wallet.™

www.capitalone.com

Your account is changing. This change will start with your April 2007 billing cycle:*

Annual Percentage Rate (APR)

In light of rising interest rates over the past few years and the rate currently applied to your account balance, the APR on your account is about to increase.*

Your new rate for purchase and cash advance balances will be as follows:

- **12.9 % ANNUAL PERCENTAGE RATE** (0.03534% daily periodic rate).

What's Not Changing

Although these terms are changing, your card still features all of your current benefits including \$0 Fraud Liability and online account servicing. And if you are currently enrolled in a rewards program, you will continue to earn rewards on all of your eligible purchases. We truly value your business and look forward to serving you for years to come.

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see reverse for more information, including how
to decline this change to your account. ➤

Capital One

Please retain for your records.

if you decide not to accept these terms

You can choose to decline this change and cancel your account.

To decline these changes, call our automated system at 1-800-214-5032 by midnight EST, March 30, 2007. Please have your account information available.

If you decline, starting March 31, 2007, you will:

- Not be able to use your card
- Have to cancel any scheduled payments you have set up for automatic billing
- Not be able to redeem your rewards, if you are currently enrolled in a rewards program

If you decline, you will be able to pay down your account at your existing terms.

We will close your account after the balance you owe is \$0 and we confirm that no new charges have posted to your account.

Important Information

* Your April 2007 billing cycle is the first billing cycle with a periodic statement closing date on or after April 1, 2007.

• This communication is also a notice of action taken under the Equal Credit Opportunity Act. As such, we are required by law to provide the following statement:

Equal Credit Opportunity Act

The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants:

- on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract);
- because all or part of the applicant's income is derived from any public assistance program; or
- because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

The federal agency that administers compliance with the law concerning Capital One Bank is:

The Federal Reserve Bank of Richmond
701 East Byrd Street
Richmond, Virginia 23219

These changes amend your Customer Agreement. All other account terms and conditions remain the same.

**Capital One Financial
Responses to Questions Posed by the
Senate Permanent Subcommittee on Investigations
in its Letter of November 20, 2007**

Question 1: Practices relating to interest rate increases

Under our penalty repricing policy, customers' accounts may be repriced if payments are three or more days past due, twice in a twelve-month period. Our current penalty rate is Prime+19.9%. Customers are often excluded from penalty repricing for a variety of reasons.

All customers are eligible to earn back their original purchase rate by paying on time for twelve consecutive months. This process is automatic. Customers are informed of this opportunity in a message on the periodic statement at the time penalty repricing is effected.

If a customer pays three or more days late during the term of a promotional or introductory rate, the promotional or introductory rate may be terminated, and the outstanding balance will accrue interest at the account's normal purchase rate. Again, customers are often excluded from penalty termination of a promotional or introductory rate for a variety of reasons.

Beyond the penalty repricing described above, it has not been Capital One's practice to reprice customers as a function of their evolving credit profile, practices that are often referred to in the industry as risk-based repricing or adverse-action repricing.

In keeping with the open-ended nature of credit card loans, Capital One does periodically engage in the repricing of broad segments of accounts as a means of maintaining market and economic competitiveness. This is further described in our response to Question 2.

Question 2: Repricing of accounts other than for failure to comply with the account terms

Change-in-terms repricing refers to the practice of repricing segments of the customer account portfolio in response to economic or market conditions, rather than in response to individual customer behavior.

There is no fixed trigger, schedule or frequency for initiating change-in-terms repricing. The details of a change-in-terms repricing, including affected customer segments and the rates to which the accounts will be repriced, are not pre-defined. These details are determined based on a variety of factors, including prevailing economic conditions and market competition.

Despite a sustained period of rising market interest rates, Capital One has employed change-in-terms repricing very sparingly, with only a small proportion of customer accounts being affected in 2007 and even fewer for many years prior to 2007.

As a matter of practice, we do not effect change-in-terms repricing during the first three years of a customer account relationship.

As a critical component of change-in-terms repricing, we now provide our customers with at least 45 days advance notice of the change along with the opportunity to reject the change. Previously, we provided at least 30 days. Both notice periods are well in excess of the Regulation Z's current 15 day notice requirement. If a customer chooses to reject the change, the customer may keep the existing rate but may no longer use the account for charges or further borrowing.

Our February and July 2007 change-in-terms repricing followed the policies and practices outlined above.

Question 3: Repricing closed accounts

We do not effect change-in-terms repricing on closed accounts.

Question 4: Applying changed interest rates to outstanding balances

Interest rate changes are applied to customers' existing loan balances at the time the new rate is effected. The new rate is applied to loan balances from that point forward.

Question 5: Policies on interest rates

Interest rate changes are determined as a function of market conditions. There is no explicit policy governing the amount of interest rate increases or reductions.

Question 6: Notice before interest rate increases/opt out procedures

We have always provided customers' at least 30 days to reject a change-in-terms repricing. In our July change in terms, we provided 45 days. These notice periods are well in excess of Regulation Z's 15 day requirement.

Our change in terms notice is presented in a clear format with type that is easy to read. The notice provides a prominent disclosure for customers who "decide not to accept these terms." In that disclosure, a toll free number is provided for customers to opt out of the rate increase and pay off their balance at their existing rate.