



Capital One Financial Corporation
1680 Capital One Drive
McLean, Virginia 22102

December 14, 2018

Via Electronic Delivery

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue N.W.
Washington, DC 20551

Re: Potential Federal Reserve Actions to Support Interbank Settlement of Faster Payments. Docket No. OP-1625

Dear Ms. Misback:

Capital One Financial Corporation (“Capital One”)¹ appreciates the opportunity to provide comments to the Board of Governors of the Federal Reserve System (the “Board”) in response to its request for input (the “Notice”) about potential actions that the Board could take to support effective faster payments in the United States. Capital One is a significant participant in the U.S. payment system and is a major user and proponent of the Federal Reserve’s existing payment systems, including Fedwire and FedACH. We also participated actively in the Faster Payments Task Force, and thus have worked collaboratively with the payment industry and the Board towards the goal of developing a ubiquitous, safe, and efficient nationwide payment system that would provide faster payments on a 24/7 basis.

The Board’s contemplated liquidity management tool to support real-time interbank settlement of faster payments is a welcome step towards this goal because it could provide liquidity to banks participating in real-time payments when traditional Federal Reserve services are unavailable. As explained in this letter, however, the Board’s proposal to implement its own public sector real-time gross settlement service, at a time when promising private sector services are developing, would increase uncertainty about the nature and direction of real-time payments in the United States. Moreover, we believe the Notice does not give sufficient attention to the unique safety and soundness and consumer protection risks accompanying real-time settlement of payments, risks that are particularly important to the historically underserved communities

¹ Capital One Financial Corporation (www.capitalone.com) is a financial holding company whose subsidiaries, which include Capital One, N.A., and Capital One Bank (USA), N.A., had \$247.2 billion in deposits and \$362.9 billion in total assets as of September 30, 2018. Headquartered in McLean, Virginia, Capital One offers a broad spectrum of financial products and services to consumers, small businesses, and commercial clients through a variety of channels. Capital One, N.A. has branches located primarily in New York, New Jersey, Texas, Louisiana, Maryland, Virginia, and the District of Columbia. A Fortune 500 company, Capital One trades on the New York Stock Exchange under the symbol “COF” and is included in the S&P 100 index.

that might benefit most from real-time payments. Therefore, we believe the Board’s proposal, at this time and in its current form, would hinder rather than help the Board’s and Capital One’s shared real-time payments goals by delaying the successful implementation of an effective, nationwide real-time payments solution.

At this time, continued development of a Federal Reserve real-time gross settlement service would slow development and adoption of faster payments in the United States

The Notice acknowledges that there is currently a private sector system for making real-time, 24/7 payments in the United States. This system, the RTP Network, is owned and operated by The Clearing House Payments Company (“TCH”), which also operates well-established and successful wire, ACH, and check image exchange systems.² The RTP Network began operating in 2017 and plans to grow significantly over the next 12 months. TCH has worked closely with the Federal Reserve on the RTP Network since the system was first in the planning stage in 2014, with the shared goal of providing a ubiquitous and safe private sector real-time payments system. The Board also regulates the RTP Network as a bank service corporation. The RTP Network has been built, with Federal Reserve encouragement, in accordance with the 36 “Effectiveness Criteria” criteria set forth by the Faster Payments Task Force³ and the guiding consumer protection principles of the Bureau of Consumer Financial Protection.⁴

The Notice suggests that the Federal Reserve may enter the real-time payments space and thus necessarily compete with the private sector. The Board’s contemplation of its own real-time gross settlement service is counterproductive to a successful, safe, and ubiquitous domestic real-time payments system. We believe the RTP Network has a viable plan to reach full adoption and ubiquity, but the growth and success of the RTP Network or any other developing private sector solution depends on the execution of banks and customers throughout the country. In our view, the Notice will slow participation by some banks interested in real-time payments that would otherwise look to participate in the RTP Network or explore other private sector options, including both existing deferred settlement options like the Zelle Network or those run by nonbank providers, as well as any real-time payments systems that may arise in the future. These institutions might reasonably believe the Federal Reserve will develop a separate system for faster payments, and that the Federal Reserve’s special status and dominant market position may hinder competing private sector systems. Banks may thus decline to join existing or future developing private sector solutions while they wait for the Federal Reserve’s system.

The more banks decline to join the RTP Network or another private sector solution on the belief that the Federal Reserve might offer its own product, the more difficult it will be for the private sector to maximize ubiquity and effectiveness and provide businesses and consumers with an innovative faster payments solution. Thus, the Board, by developing or even by publicly

² Capital One is an owner bank of TCH.

³ Faster Payments Task Force, Faster Payments Effectiveness Criteria (Jan. 26, 2016) at <https://fedpaymentsimprovement.org/wp-content/uploads/fptf-payment-criteria.pdf>.

⁴ Bureau of Consumer Financial Protection, Consumer Protection Principles: CFPB’s Vision of Consumer Protection in the New Faster Payments System (Jul. 9, 2015), at http://files.consumerfinance.gov/f/201507_cfpb_consumer-protection-principles.pdf.

contemplating its own system, could set back the effort to implement faster payments in the United States. The damage would be even greater if the Board commits to build a real-time payments system but does not ultimately deliver an effective one in the near future. There are significant technological and operational challenges to developing such a system. Indeed, TCH has spent many years designing the RTP Network to address these challenges. If the Federal Reserve delays growth of private sector solutions but fails to build its own successful system in the near term, the damage to the U.S. faster payments innovation will be substantial and lasting.

We also believe the Board should carefully address unique safety, policy, and technological challenges of providing an effective real-time payments system. Development of faster-payments systems such as the RTP Network and the Zelle Network has revealed that delivering instant payments comes with distinct fraud, cybersecurity, anti-money laundering, and consumer protection risks because unauthorized or inappropriate payments may be settled immediately before the problematic behavior is identified. Banks, as chartered entities regularly examined for compliance with regulations and safe and sound practices, are best positioned to address these risks. The Notice contemplates that nonbanks might access a Federal Reserve real-time payments system as agents of participating banks, but it does not sufficiently address the risks governing such access. To the extent nonbanks might work through banks to access a real-time payments system, that access must not be a vehicle for participants to circumvent controls and supervisory expectations that would apply to chartered financial institutions. Both the nonbank and the partner bank must be subject to stringent oversight sufficient to ensure that each has the cybersecurity, compliance, consumer protection, and anti-fraud capabilities sufficient to handle the volume and type of transactions introduced by the nonbank agent. This oversight is particularly important for historically underserved communities who could benefit greatly from a real-time payments system yet face greater risk from lax anti-fraud or consumer protection practices. Private sector faster payments solutions such as the RTP Network and the Zelle Network have already recognized and addressed these concerns by establishing strict compliance criteria, including origination controls. We believe a real-time payments system cannot be operated safely unless its participants meet similar robust prudential, security, and consumer protection requirements.

The Federal Reserve should prioritize a liquidity management tool to support real-time payments implementation

Unlike the Board's contemplated real-time gross settlement service, the proposed liquidity management tool complements rather than competes with private sector solutions. Therefore, we support the Board's development of this tool, which would foster the private sector's ability to deliver safe, accessible, and ubiquitous faster payments services in the United States. The Board should prioritize development of the liquidity management tool independent of any efforts to build its own real-time settlement service.

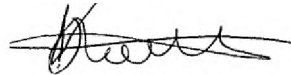
A liquidity management tool should help ensure that banks providing real-time payment services have liquidity to make those payments available in real time. The tool could permit both 24/7 transfers between Federal Reserve Bank accounts and continual access to Federal Reserve Bank accounts established for real-time payments. For example, RTP Network participants rely on a joint account held at a Federal Reserve Bank to settle payments between participants. Absent a liquidity management tool, account services at the Federal Reserve, including the joint account at a Federal Reserve Bank, are not available on weekends or holidays throughout the year. A

liquidity management tool could provide access to that joint account when traditional Federal Reserve Bank account services are not available, and thus ensure that any liquidity needs in the RTP Network joint account—or to Reserve Bank accounts supporting any other private sector real-time payments system—can keep up with the speed of the real-time, 24/7 payments.

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We appreciate the opportunity to highlight the topics raised in this letter, and we would be happy to meet with the Board to discuss these comments further.

Sincerely



Kleber R. Santos
President, Retail & Direct Banking