



Capital One Financial Corporation
1600 Capital One Drive
McLean, Virginia 22102

February 16, 2021

Via Electronic Mail

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

Re: Community Reinvestment Act (Docket No. R-1723; RIN 7100-AF94)

Dear Madam or Sir:

Capital One Financial Corporation¹ (“Capital One”) appreciates this opportunity to provide comments to the Board of Governors of the Federal Reserve System (the “Board”) regarding the Advance Notice of Proposed Rulemaking to modernize the Community Reinvestment Act regulatory and supervisory framework (“ANPR”).² Capital One is proud of its longstanding commitment to the purpose and impact of the Community Reinvestment Act (“CRA”). While the Board is not the primary prudential CRA regulator for Capital One’s national banks, we recognize that interagency rulemaking of CRA regulations has historically led to effective regulatory outcomes. With our current comments we aim to express our support for similar interagency approaches to CRA modernization.

This comment letter builds upon and is aligned with our prior CRA modernization comment letters that we provided to the Office of the Comptroller of the Currency (“OCC”) on November 19, 2018 in response to the OCC’s Advance Notice of Proposed Rulemaking³ and on April 8, 2020 in response to the OCC’s and Federal Deposit Insurance Corporation’s (“FDIC”) Notice of

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 \$305.4 billion in deposits and \$421.6 billion in total assets as of December 31, 2020. 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, Louisiana, Texas, Maryland, Virginia, New Jersey 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.

² 85 Fed. Reg. 66410 (Oct. 19, 2020).

³ 85 Fed. Reg. 1204 (Jan. 9, 2020).

Final Rulemaking.⁴ In addition, Capital One has shared its views with multiple trade associations on the proposals of the ANPR. Therefore, we are generally in support of the ANPR comment letters of the following associations: the American Bankers Association, the Bank Policy Institute, the Consumer Bankers Association, and the National Association of Affordable Housing Lenders. We will continue to remain active participants throughout the CRA modernization process.

Our interest in CRA modernization is driven by a passion that is aligned with the purposes of CRA and our deep expertise in community reinvestment. We are proud to be the national leader in community development lending volume for the fourth consecutive year, reporting nearly \$29 billion in community development loans from 2016 through 2019. In coordination with a network of non-profit partners and local leaders, Capital One is committed to a shared goal of empowering the communities in which we live and work to grow and thrive.

As the world confronted the unexpected hardships of the COVID-19 pandemic, the importance of bank community reinvestment was glaringly apparent. Capital One responded with supportive community actions such as the unrestricting and acceleration of grants to our community organizations, and direct support and adaptive programming to help these organizations stabilize and deliver critical support to individuals, families, and small businesses in need. As the Board considers the best approach to CRA modernization, we encourage the agency to consider the creative responses of financial institutions to the pandemic and seek changes that will allow the continuation and further promotion of flexible responses by the banking industry to both evolving needs and whatever unanticipated challenges we may confront in the future.

There is a resounding need for a refresh of CRA regulations that adapt to banking and community finance of today and tomorrow. A person can now access money from a teller, an ATM, a computer, a phone, and from artificial intelligence. Consequently, the concept of a community can have a variety of iterations in a digital age. Proper modernization can apply the purposes of CRA to today's world of banking in a manner that ensures effective impact. This modern impact should be in the form of measurable local community empowerment and expanded economic opportunities for all markets, both rural and urban.

Capital One is generally in agreement with the Board's stated objectives guiding the contemplated improvements to the CRA regulations. We would like to highlight a few objectives that the Board should particularly prioritize.

⁴ 85 Fed. Reg. 34734 (Jun. 5, 2020).

Tailoring

We greatly appreciate the Board's desire to tailor CRA supervision of financial institutions to reflect differences in bank sizes, business models, local markets, needs and opportunities. The wide diversity of financial institutions in the industry makes a "one size fits all" approach to CRA modernization prohibitive. Impact does not and should not look the same across all communities. Rather, impact should reflect the particular needs and input of community residents as well as the unique skill sets of the banking partner. If all banks are subject to a rigid, standardized measurement for the sake of universal CRA metrics, then community finance becomes homogeneous with a likely slant towards a few concentrated CRA hotspot geographies to the detriment of less populous areas.

As the Board develops a proposed rule that implements the tailoring of the tests and evaluation methods that will apply to differing banks, we encourage the consideration of fairness throughout the process. Institutions regardless of business model or size should have comparable opportunities to receive CRA ratings that reflect similar levels of commitment to performance.

Consistency and Clarity

We agree with the Board's objective to increase the clarity, consistency, and transparency of supervisory expectations and standards. In particular, the Board has made a sound decision in proposing an illustrative CRA-eligible activities list. This list is one of the most appreciated enhancements from the OCC's CRA modernization final rule. It allows all institutions to have awareness of qualification rules, so that upfront and long-term decisions can be made on how community reinvestment resources may be confidently deployed. This in turn creates a more efficient community finance marketplace. The Board should continue to find additional ways to further clarify expectations so that banks know the rules of engagement and community stakeholders know how to appropriately hold the industry accountable.

Minimal Data Burdens

We also agree with the Board that data burdens associated with changes to the CRA supervisory process should be minimized. Banking transformation has been driven by efficiency in reducing the timing and costs of customers having access to funds. Regulatory CRA modernization that seeks to adapt to banking transformation should also reflect those same efficiencies in allowing communities to access funds for reinvestment with as little unnecessary cost and delay as possible.

The Board's use of existing data sources for CRA supervision, such as FDIC Summary of Deposit data, would be consistent with the minimal data burdens objective. The Board should

continue to limit any new data collection and reporting requirements associated with its forthcoming proposed rule.

Proper Validation

We recommend that the Board consider an additional objective that was not expressly stated in the ANPR, but is nonetheless essential to a reliable supervisory framework. The Board should ensure that its approach to CRA modernization is properly validated. As the Board proceeds to rulemaking, it should incorporate a testing methodology into regulatory implementation. Any changes should be vetted through data sampling, and/or a phase-in pilot program. The purpose of such validation should be to ensure that the categories of data being used are correct and the analysis of this data is sound. CRA modernization should reasonably reflect an institution's record of community reinvestment performance, while supporting the statutory purpose of CRA. Validation should provide prior assurance that in practice the new supervisory framework can achieve these aims.

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Finally, we would like to reiterate the importance of the Board driving towards a coordinated, interagency solution to CRA modernization. Communities in need are not concerned with whether a financial institution partner has a federal or state bank charter or membership in the Federal Reserve System. These supervisory designations should not lead to wholly different CRA standards due to misalignments between the Board, the OCC, and the FDIC. We recommend that even prior to the issuance of a proposed rule, the Board should engage in efforts to coordinate with the OCC and FDIC on how to return to an interagency joint rule outcome.

Capital One looks forward to continuing our participation in this monumental effort to continue the fulfillment of the goals and true intent of CRA.

Sincerely,



James V. Matthews
Senior Vice President, CRA Strategy & Program Management
Corporate CRA Officer