



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

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

February 14, 2012

Mark Menting, Esq.  
Sullivan & Cromwell, LLP  
125 Broad Street  
New York, New York 10004

Dear Mr. Menting:

This responds to your request for a determination that ING Groep N.V. ("ING"), Amsterdam, The Netherlands, would not be deemed to control Capital One Financial Corporation ("Capital One"), McLean, Virginia, for purposes of the Bank Holding Company Act of 1956, as amended ("BHC Act"), as a result of the sale of ING Bank, fsb ("FSB"), Wilmington, Delaware, to Capital One.

In addition, you have requested the following actions: (1) approval of ING's consummation of the sale of FSB; (2) approval of the deregistration of ING and three subsidiary holding companies as savings and loan holding companies ("SLHCs"), effective on the sale of FSB; and (3) no objection to amendments to and prepayments of certain subordinated debt notes of ING DIRECT Bancorp ("ING Direct"), Wilmington.

### Transaction Summary

Pursuant to a purchase and sale agreement, ING and certain of its subsidiaries have agreed to sell all the voting shares of FSB to Capital One in exchange for \$6.2 billion in cash and up to 9.9 percent of the voting common shares of Capital One. In connection with the closing of this sale, ING and Capital One would enter into a shareholders' agreement that provides ING with the right to appoint one representative to the board of directors of Capital One.<sup>1</sup> The right to appoint a director would terminate within one year of the closing date of the sale of

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<sup>1</sup> The size of Capital One's board of directors would increase from nine to ten directors to accommodate the ING representative. ING has no right to nominate a director to the board of any subsidiary of Capital One.

FSB, at which time ING's director representative would be required to resign.<sup>2</sup> The shareholders' agreement also subjects ING to customary standstill,<sup>3</sup> lock-up,<sup>4</sup> and transfer restrictions<sup>5</sup> and provides ING customary registration rights.<sup>6</sup>

ING and Capital One have also entered into a noncompete agreement in connection with the sale of FSB. Under this agreement, Capital One may not own, manage, or operate any business engaged in accepting retail deposits over the Internet outside the United States and United Kingdom for a period of five years after the closing of the sale. ING in turn has agreed not to own, manage, or operate any business engaged in retail deposit-taking, online securities brokerage, or mortgage or consumer lending in the United States for a period of five years after the sale's closing.

In addition, ING and Capital One have agreed to transitional arrangements regarding key ING trademarks and domain names that would permit FSB to

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<sup>2</sup> The right to appoint a director also would terminate if ING sells more than 33 percent of the shares of Capital One that it receives from the sale of FSB.

<sup>3</sup> The standstill restriction provides that as long as ING's beneficial ownership of Capital One's common stock is 5 percent or more, ING may not acquire or seek to acquire any additional equity security, participate in a group with respect to any securities of Capital One, or be involved in any transaction whereby part or all of Capital One's assets would be recapitalized or restructured or that would result in a change in control.

<sup>4</sup> The lock-up restriction provides that ING may not transfer or announce an intention to transfer any shares of Capital One within 90 days of the closing of the sale of FSB and within 180 days after Capital One undertakes to raise capital in connection with its purchase of FSB.

<sup>5</sup> The transfer restriction provides that ING may not transfer shares of Capital One to any person or group if that person or group would acquire 2 percent or more of the outstanding shares of Capital One's common stock in a private sale or 4 percent or more of the outstanding shares in an underwritten offering. In addition, ING may not transfer shares on any given day in an amount greater than 20 percent of the average daily trading volume of common stock for the preceding 20-day trading period, unless pursuant to an underwritten offering.

<sup>6</sup> The registration rights require Capital One to file a shelf registration statement and, at the demand of ING, register shares that ING would like to sell under the registration statement.

continue to use certain ING trademarks, including the names “ING,” “ING Lion,” and the ING Lion logo, for a period of one year after the closing, with the possibility of a four-month extension.<sup>7</sup> ING also has granted Capital One a perpetual, royalty-free license for certain proprietary software and patent applications that FSB uses in its online retail banking business.

Other transitional services arrangements between ING and its affiliates on the one hand and Capital One and FSB on the other hand, which ING represents will be necessary after the closing, include the provision of accounting, tax, financial reporting, and related services by FSB to ING Direct. FSB will provide these transitional services to ING Direct for no more than [REDACTED] after the closing.<sup>8</sup> In addition, Capital One has granted ING limited access to its payroll processes for a period of [REDACTED] to allow for resolution of outstanding equity options and incentive awards for FSB employees.

ING has also identified certain existing business relationships with Capital One and its affiliates that predate the proposed sale of FSB. ING and its affiliates own approximately [REDACTED] in bonds issued by a Capital One subsidiary and approximately [REDACTED] in residential mortgage-backed securities (“RMBS”) issued by an affiliate of Capital One.<sup>9</sup> ING has committed to the Board not to engage in any new business relationships, expand the scope of these existing business relationships, or renew any investments that mature.

ING has stated that it does not propose to control or exercise a controlling influence over Capital One and that its investment would be passive. Accordingly,

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<sup>7</sup> In addition, FSB would be permitted to use the ING “orange ball” trademark for brokerage products and services for a period of one year after the closing.

<sup>8</sup> ING represents that these services are necessary because the personnel currently performing them are employees of FSB and would become employees of Capital One on consummation of the sale of FSB.

<sup>9</sup> The bonds and RMBS represent less than [REDACTED] percent of ING’s total consolidated assets, less than [REDACTED] percent of senior and subordinated notes issued by Capital One, and less than [REDACTED] percent of securitized debt obligations issued by Capital One and its affiliates. The RMBS include approximately [REDACTED] in securities owned by ING and approximately [REDACTED] in securities owned by FSB. The RMBS owned by FSB would be sold to an affiliate of ING on consummation of the proposal and would remain subject to a guarantee by the Dutch government.

ING has provided commitments in connection with its request that are similar to those on which the Board previously has relied to ensure that an investor is not able to exercise a controlling influence over a bank or bank holding company.<sup>10</sup>

### Discussion and Analysis

*Noncontrol Determination.* For purposes of the BHC Act, a company has control over another company if the first company (i) directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company; (ii) controls in any manner the election of a majority of the directors of the other company; or (iii) directly or indirectly exercises a controlling influence over the management or policies of the other company.<sup>11</sup> The Board's Regulation Y also sets forth a set of rebuttable presumptions of control.<sup>12</sup>

Because FSB is a savings association, control of FSB is also governed by the Home Owners' Loan Act ("HOLA") and the Board's Regulation LL. The definition of "control" for purposes of HOLA and Regulation LL is identical to the definition in the BHC Act and Regulation Y, with one addition. Under HOLA and Regulation LL, a company would also be deemed to control a savings association if the company has contributed more than 25 percent of the capital of the savings association.<sup>13</sup>

The proposal would not trigger the statutory definitions of control based on share ownership or capital contribution. ING would not own, control, or hold with power to vote 25 percent or more of any class of voting securities of Capital One and would not contribute more than 25 percent of the capital of Capital One. ING would own a maximum of 9.9 percent of the voting shares and of the total equity of Capital One as a result of the sale of FSB. In addition, the shareholders' agreement prohibits ING or its affiliates from acquiring additional Capital One equity securities as long as ING owns more than 5 percent of the voting shares of

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<sup>10</sup> The commitments are set out in the appendix.

<sup>11</sup> 12 U.S.C. § 1841(a)(2); 12 CFR 225.2(e).

<sup>12</sup> See 12 CFR 225.31(d).

<sup>13</sup> 12 U.S.C. §1467a(a)(2). See 12 CFR 238.21(d); 76 Federal Register 56508, 56509-10 (September 13, 2011).

Capital One. ING also would not control the election of a majority of the directors of Capital One or trigger any of the rebuttable presumptions of control in Regulations Y or LL with respect to Capital One as a result of the proposed transactions.

ING's proposal also is consistent with Board policies and precedent restricting an investor's ability to exercise a controlling influence over the management or policies of Capital One or FSB. In addition to its equity interest, ING would have one representative on the ten-member board of directors of Capital One. Pursuant to the shareholders' agreement, ING's director would be required to resign from the Capital One board within one year of closing the sale of FSB. The Board's September 2008 policy statement regarding equity investments in banks, bank holding companies, and nonbanking firms ("Policy Statement")<sup>14</sup> noted that a minority investor generally should be able to have a single representative on the board of directors of a banking organization without acquiring a controlling influence over that organization's management or policies. The Policy Statement also noted that boards of directors of banking organizations typically have nine or ten members.

The Board has long believed that material business transactions or relationships with a banking organization provide a conduit for an investor to exercise a controlling influence over the banking organization. Accordingly, the Board has generally limited business relationships when an investor seeks to have a noncontrolling investment. The Policy Statement notes, however, that business relationships that are quantitatively limited and qualitatively nonmaterial would be permissible, particularly in situations where an investor's percentage of voting securities in the banking organization was less than 10 percent. The Policy Statement further notes that the Board will continue to review business relationships on a case-by-case basis within the context of the other elements of the investment's structure and that in such a review, the Board will pay particular attention to the size of the proposed business relationships and to whether the proposed business relationships would be on market terms, non-exclusive, and terminable without penalty by the banking organization.

ING and Capital One have entered into a variety of transitional business arrangements with respect to ING's intellectual property. ING and Capital One

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<sup>14</sup> See <http://www.federalreserve.gov/newsevents/press/bcreg/20080922c.htm>.

have also entered into arrangements for certain transitional administrative services and have certain business relationships that predate the proposed acquisition of FSB. The transitional business arrangements with respect to ING's intellectual property enable Capital One to ensure the continuity of FSB's business operations during the transition period. The parties have agreed that neither Capital One nor ING may alter the use of ING's trademarks in a way that provides one institution with a controlling influence over the other institution. In addition, these arrangements are limited in time to an initial twelve-month period, with a maximum time period of sixteen months if the parties agree to an extension. At the expiration of this time period, Capital One must operate FSB without using ING's domain names and key trademarks, including any derivation of "ING," "ING Lion," or the ING Lion logo.

The agreements between ING and Capital One for certain transitional administrative services would permit ING and its affiliates to unwind certain relationships with FSB and its employees. These services include accounting and financial reporting services provided by FSB and access to certain Capital One payroll processes provided by Capital One. ING represents that providing these types of services is typical for situations with transitioning employees and incentive plans. ING also represents that FSB will charge [REDACTED] for the services.<sup>15</sup>

ING's current business relationships with Capital One, which include the ownership of bonds and RMBS sold by Capital One affiliates, were entered into before the proposed sale of FSB to Capital One. ING represents that these relationships are on an arm's-length basis and on market terms. As noted above, the bonds and securities owned by ING represent substantially less than [REDACTED] percent of ING's total consolidated assets, less than [REDACTED] percent of senior and subordinated notes issued by Capital One, and less than [REDACTED] percent of securitized debt obligations issued by Capital One and its affiliates.

As previously noted, Capital One also has agreed to a five-year, noncompete provision with respect to Internet banking outside the United States and United Kingdom. The Policy Statement noted the Board's long-standing position that

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<sup>15</sup> ING represents that as part of the transitional services arrangements, FSB also will acquire a perpetual license to use certain risk-modeling software not otherwise included in the companies' intellectual property agreements.

covenants substantially limiting the discretion of a banking organization's management over major policies and decisions suggest the exercise of a controlling influence. Further, the Board has indicated concern over noncompete agreements that appear overly broad in geographic scope or that interfere with the public interest.<sup>16</sup>

Although the noncompete agreement would limit the discretion of Capital One's management in a major policy area after closing, in most cases a noncompete agreement is a customary pre-condition to the acquisition of only some assets of an ongoing business. In this case, the noncompete provisions are appropriately limited to the businesses that are the subject of the proposed acquisition and would not require Capital One or ING to cease operating or divest any business line. In addition, Capital One has represented that it does not plan to develop an Internet banking business outside the United States and United Kingdom during the next five years.

The shareholders' agreement also provides restrictions on ING's shareholder rights, including standstill, lock-up, and transfer restrictions. These restrictions apply to ING and do not restrict Capital One itself or any other investor in Capital One. In this light, the restrictions do not provide ING any control over Capital One's management or policies or over the equity of other Capital One investors.

Taken individually and as a whole, the proposed and pre-existing business relationships between ING and Capital One are of the type and scope previously permitted in situations where no controlling influence was found.<sup>17</sup> In addition, ING has committed to the Board that it will limit its business relationships with Capital One to those discussed above for as long as ING retains its ownership interest in Capital One.

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<sup>16</sup> See Manufacturers Hanover Corporation, 59 Federal Reserve Bulletin 532 (1973).

<sup>17</sup> See, e.g., letter to James C. LaVelle from Michael Bradfield, General Counsel, dated November 22, 1983 (permitting the use of corporate name and trademarks); letter to H. Rodgin Cohen from Michael Bradfield, General Counsel, dated July 10, 1985 (permitting acquirer to provide certain transitional services); letter to Andy S. Baer from Scott G. Alvarez, General Counsel, December 15, 2009 (limiting business relationships to 2.5 percent of gross revenue).

For these reasons, and based on all the facts of record in this case, the Board has determined that at this time, ING does not exercise a controlling influence over the management or policies of Capital One for purposes of the BHC Act or of FSB for purposes of HOLA.

*Sale of FSB, Release from Registration, and Amendment to and Prepayment of Subordinated Notes.* In connection with its supervision of ING, the Office of Thrift Supervision (“OTS”) entered into foreign holding company agreements with ING that require OTS approval before ING may sell, hypothecate, pledge, or otherwise dispose of the shares of FSB. The Board is the successor to the OTS under these agreements as a result of the transfer of supervisory responsibilities to the Board.<sup>18</sup> Further, HOLA permits the Board to release a company from registration as an SLHC if the Board determines that the company no longer has control of a savings association.

As a result of ING’s sale of FSB, ING has represented that it and three subsidiary holding companies – ING Direct; ING Bank N.V., Amsterdam; and ING Direct, N.V., Amsterdam (collectively, “ING subsidiary holding companies”) – would no longer have a direct interest in FSB. For the reasons discussed above, ING’s equity investment in and other relationships with Capital One also would not result in ING or the ING subsidiary holding companies being able to indirectly control FSB under HOLA or Regulation LL after the sale of FSB to Capital One. Accordingly, the Board has concluded that it is appropriate to permit ING to sell FSB and that after notice to the Federal Reserve of the sale’s consummation, to release ING and the ING subsidiary holding companies from registration as SLHCs.<sup>19</sup>

Certain of ING Direct’s subordinated debt notes require ING Direct to provide notice to and consult with the OTS before the notes can be amended or

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<sup>18</sup> Section 312 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 transferred responsibility for the supervision and regulation of SLHCs from the OTS to the Board, effective July 21, 2011.

<sup>19</sup>



prepaid.<sup>20</sup> The Board, as the successor to the OTS for the purpose of those agreements, does not object to ING Direct's plan to amend and then prepay the subordinated debt notes that now require ING Direct to provide prior notice to and consult with the Board.

In reaching these determinations, the Board relied on all the facts of record, including all the representations and commitments made by or on behalf of ING and Capital One, whether noted above or otherwise contained in your correspondence with the Board. These opinions are specifically conditioned on compliance with all the commitments and conditions discussed in this letter. Any change in the terms or circumstances of these transactions could result in different conclusions and should be reported immediately to Board staff. You should also advise Board staff immediately of any changes in the facts noted above.

To address the possibility of a controlling influence developing in the future, the Board retains the authority to review the investment and relationships regularly to determine whether, under all the facts and circumstances, ING is acting in a manner that suggests it has a controlling influence over Capital One for purposes of the BHC Act or HOLA. If you have any questions about this matter, please

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<sup>20</sup> ING Direct has approximately [REDACTED] in outstanding subordinated debt [REDACTED] under several subordinated promissory notes. Each of the promissory notes provides that a prepayment may only occur after prior notice to and consultation with the OTS and that a material term of the notes may not be amended without giving at least 20 days' notice to the OTS. ING Direct has represented that in connection with the sale of FSB, it intends to prepay in full the subordinated debt notes and effect any amendments necessary to those notes to permit such immediate payment. [REDACTED]

contact Sebastian Astrada, Senior Attorney (202-452-3594), or Alison M. Thro, Assistant General Counsel (202-452-3236), of the Board's Legal Division.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert deV. Frierson". The signature is fluid and cursive, with the first name "Robert" being the most prominent.

Robert deV. Frierson  
Deputy Secretary of the Board

Appendix

cc: Adam M. Drimer, Assistant Vice President  
Federal Reserve Bank of Richmond

APPENDIX:  
ING COMMITMENTS

ING Groep N.V., Amsterdam, The Netherlands, and its subsidiaries and affiliates (collectively, "ING"), will not, without the prior approval of the Board or its staff, directly or indirectly:

1. Exercise or attempt to exercise a controlling influence over the management or policies of Capital One Financial Corporation ("Capital One"), McLean, Virginia, or any of its subsidiaries;
2. Have or seek to have more than one representative of ING serve on the board of directors of Capital One or any of its subsidiaries;
3. Permit any representative of ING who serves on the board of directors of Capital One or any of its subsidiaries to serve:
  - i. as the chairman of the board of directors of Capital One or any of its subsidiaries;
  - ii. as the chairman of any committee of the board of directors of Capital One or any of its subsidiaries;
  - iii. as a member of any committee of the board of directors of Capital One or any of its subsidiaries if the ING representative occupies more than 25 percent of the seats on the committee;
  - iv. as a member of any committee that has the authority or practical ability unilaterally to make (or block the making of) policy or other decisions that bind the board or management of Capital One or any of its subsidiaries;
4. Have or seek to have any employee or representative of ING serve as an officer, agent, or employee of Capital One or any of its subsidiaries;
5. Take any action that would cause Capital One or any of its subsidiaries to become a subsidiary of ING;
6. Own, control, or hold with power to vote securities that (when aggregated with securities that the officers and directors of the ING own, control, or hold with power to vote) represent 25 percent or more of any class of voting securities of Capital One or any of its subsidiaries;
7. Own or control equity interests that would result in the combined voting and nonvoting equity interests of ING and its officers and directors to equal or exceed 25 percent of the total equity capital of Capital One or any of its

subsidiaries, except that, if ING and its officers and directors own, hold, or have the power to vote less than 15 percent of the outstanding shares of any classes of voting securities of Capital One, ING and its officers and directors may own or control equity interests greater than 25 percent, but in no case more than 33.3 percent, of the total equity capital of Capital One or any of its subsidiaries;

8. Propose a director or slate of directors in opposition to a nominee or slate of nominees proposed by the management or board of directors of Capital One or any of its subsidiaries;
9. Enter into any agreement with Capital One or any of its subsidiaries that substantially limits the discretion of Capital One's management over major policies and decisions, including, but not limited to, policies or decisions about employing and compensating executive officers; engaging in new business lines; raising additional debt or equity capital; merging or consolidating with another firm; or acquiring, selling, leasing, transferring, or disposing of material assets, subsidiaries, or other entities;
10. Solicit or participate in soliciting proxies with respect to any matter presented to the shareholders of Capital One or any of its subsidiaries;
11. Dispose or threaten to dispose (explicitly or implicitly) of equity interests of Capital One or any of its subsidiaries in any manner as a condition or inducement of specific action or non-action by Capital One or any of its subsidiaries; or
12. Enter into any other banking or nonbanking transactions with Capital One or any of its subsidiaries, except that:
  - i. ING may establish and maintain deposit accounts with Capital One or any of its subsidiaries, provided that the aggregate balance of all such deposit accounts does not exceed \$500,000 and that the accounts are maintained on substantially the same terms as those prevailing for comparable accounts of persons unaffiliated with Capital One;
  - ii. ING may satisfy the contractual relationships itemized in Part A of the Addendum; and
  - iii. ING may hold until maturity the current portfolio of bonds and mortgage-backed securities issued by Capital One affiliates itemized in Part B of the Addendum.

In addition, ING and each of its subsidiaries and affiliates commits to the following:

13. ING and each of its subsidiaries and affiliates agree to provide all information, without regard to whether such information is located within or without the United States, requested in connection with any investigation, action, or proceeding by the Board relating to:
- i. enforcement or possible enforcement of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq. (“BHC Act”), or the Change in Bank Control Act of 1978, as amended, 12 U.S.C. § 1817(j) (“CIBC Act”); and
  - ii. the ownership or control by ING of equity interests in Capital One.
14. ING and each of its subsidiaries and affiliates consent and submit to the personal jurisdiction of any federal court of competent jurisdiction and of the Board for purposes of any investigation or possible investigation, action, subpoena, examination, or proceeding relating to the administration or enforcement of these commitments, the BHC Act, or the CIBC Act. For purposes of this commitment, ING shall at all times maintain in the United States a designated agent, acceptable to the Board, to accept service on its behalf, including service of any process, notice, order, or subpoena. ING and each of its subsidiaries and affiliates designate ING Financial Holdings Corporation, located at 1325 Avenue of the Americas, New York, New York 10019, Attn: General Counsel, as agent to accept such service, and will not change this designation without notice to and consent of the Board.

The terms used in these commitments have the same meanings as set forth in the BHC Act and the Board’s Regulation Y. For purposes of these commitments, “Investor” includes any subsidiary or affiliate of the Investor.

Nothing in these commitments releases ING from compliance with the CIBC Act and any regulations thereunder for any subsequent acquisition or increase in the percentage ownership of any class of voting shares of Capital One.

ING understands that these commitments constitute conditions imposed in writing in connection with the Board’s findings and decision related to ING’s acquisition of up to 9.9 percent of voting shares of Capital One and, as such, may be enforced in proceedings under applicable law.

ADDENDUM  
To ING Commitments

PART A

1. Purchase and Sale Agreement, dated as of June 16, 2011, by and among ING Groep N.V. (“Groep”), ING Bank N.V., ING Direct, N.V. (“Direct N.V.”), ING Direct Bancorp (“Bancorp”) and Capital One Financial Corporation (“Capital One”), as amended (the “Purchase Agreement”). Certain sections of the Purchase Agreement may contemplate transactions following the closing of the sale of ING Bank, fsb, including, but not limited to:
  - a. Section 6.08(e) (Transitional License) under which the Sellers (as defined in the Purchase Agreement) grant to ING Bank, fsb and its subsidiaries a limited license to use trademarks with the word “ING” for a period not to exceed 12-16 months;
  - b. Section 6.08(f) (Perpetual License) under which Capital One grants a perpetual license to the Sellers and their affiliates to certain intellectual property to the extent such intellectual property was used by the Sellers or any of their affiliates;
  - c. Section 6.15(a) (Tax Indemnification) under which the Sellers and Capital One agree to indemnify one another for certain tax matters;
  - d. Section 6.15(d) (Post-Closing Obligations of Purchaser) under which Capital One shall cause ING Bank, fsb and its subsidiaries to make or join Bancorp in making certain tax elections; and
  - e. Section 9.02 (Indemnification), under which the Sellers and Capital One agree to indemnify one another for losses related to breaches of representations or warranties and covenants.
2. Shareholders’ Agreement, by and between Capital One Financial Corporation and ING Groep N.V.
3. Intellectual Property Agreement, by and among ING Bank, fsb (the “Bank”), WS Realty LLC, ING Direct Community Development LLC, ING Groep N.V., ING Direct Bancorp, ING Direct, N.V. and Capital One Financial Corporation. Certain sections of the Intellectual Property Agreement may contemplate transactions following the closing of the sale of ING Bank, fsb, including, but not limited to:
  - a. Section 1.2 (Cooperation) which obligates Bancorp to reasonably cooperate as necessary to effectuate certain assignments;

b.



c. Section 2.1 (Assignment of Intellectual Property to Groep and Non-US HoldCo) under which the Direct Sale Companies (as defined in the Purchase Agreement) assign to Groep and Direct N.V., as applicable, all of their respective rights in certain trademarks, domain names, patents, copyrights, and software applicable to the retained businesses of Groep, including domain names and trademarks, including the “ING” name and ING Lion logo;

d. Section 2.2 (Cooperation) under which each of the Direct Sale Companies and their subsidiaries agree, at Groep’s expense, to reasonably cooperate and execute such documents and perform such acts as may be necessary to memorialize the assignment of intellectual property;

e. Section 3.1 (Patent License) under which Direct N.V. grants to Capital One and its affiliates a non-exclusive, perpetual, irrevocable, royalty-free license to use the patents assigned by the Bank to Direct N.V. solely for the internal use of Capital One and its affiliates in connection with bank products in the field of online retail banking and brokerage business,   
 and

f. Section 3.2 (Software License) under which Direct N.V. grants to Capital One and its affiliates a non-exclusive, perpetual, irrevocable, royalty-free license to use the software assigned by the Bank to Direct N.V. solely for the internal use of Capital One and its affiliates in connection with bank products in the field of online retail banking and brokerage business,   
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4. Co-Existence Agreement, by and among ING Groep N.V., ING Direct Bancorp, ING Bank, fsb and Capital One Financial Corporation.

5. Amended and Restated Administrative Services Agreement, dated as of August 1, 2005, and as further amended, between ING Bank, fsb and ING Direct Bancorp under which the Bank will continue to provide accounting and financial reporting services to Bancorp.
6. Side Letter, between ING Groep N.V. and Capital One Financial Corporation under which Groep will use Capital One's payroll processes for the exercise of outstanding options under certain Groep incentive plans and the payment of the remaining portion of its deal incentive awards.

PART B

1. Groep and its affiliates may hold in their inventory up to [REDACTED] in plain vanilla bonds issued by [REDACTED] [REDACTED] which is an affiliate of Capital One.
2. Groep and its affiliates may hold in their inventory up to [REDACTED] in residential mortgage-backed securities issued by [REDACTED]  
[REDACTED]  
[REDACTED] which are affiliates of Capital One.