



Capital One Financial Corporation  
1680 Capital One Drive  
McLean, VA 20170

July 18, 2008

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors  
Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

**Re: Proposed Regulation Z (Docket No. R-1286)**

Dear Ms. Johnson:

Capital One Financial Corporation (“Capital One”) is pleased to submit comments in response to the Federal Reserve Board’s (“Board”) proposed amendments to Regulation Z.<sup>1</sup> Capital One will submit a separate comment letter in response to the proposed Regulation AA credit card rule.<sup>2</sup>

Capital One Financial Corporation ([www.capitalone.com](http://www.capitalone.com)) is a financial holding company whose subsidiaries collectively had \$92.4 billion in deposits and \$147.2 billion in managed loans outstanding as of June 30, 2008. Headquartered in McLean, VA, Capital One has 740 locations in New York, New Jersey, Connecticut, Texas and Louisiana. It is a diversified financial services company whose principal subsidiaries, Capital One, N.A., Capital One Bank (USA), N. A., and Capital One Auto Finance, Inc., offer a broad spectrum of financial products and services to consumers, small businesses and commercial clients. Among its product lines, Capital One is one of the largest issuers of Visa and MasterCard credit cards in the world. 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.

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<sup>1</sup> 73 Fed. Reg. 28866 (May 19, 2008).

<sup>2</sup> 73 Fed. Reg. 28904 (May 19, 2008).

The Board's proposed Regulation Z open-end rule ("2008 proposal") follows its comprehensive proposed 2007 Regulation Z open-end rule ("2007 proposal").<sup>3</sup> Capital One submitted extensive comments endorsing the 2007 proposal as a major positive advance in open-end credit disclosure.<sup>4</sup> Similarly, Capital One supports the 2008 proposal and offers only a few comments below.

- In the Regulation Z application and solicitation disclosure ("Schumer Box") and in the 2007 proposed Schumer Box and account opening box, the term "grace period" appears in the left column and a description of the period appears in the right column.<sup>5</sup> In the 2008 proposal, the Board proposes replacing the term "grace period" with either the phrase "how to avoid paying interest" when a grace period exists, and the phrase "paying interest" when no grace period exists.<sup>6</sup> The right column would contain a description of the period. By proposing to vary the wording in the left column depending on whether a grace period exists and what type of transaction is being described, the Board makes it more difficult for consumers to use the Schumer Box and account opening box for quick comprehension and comparison shopping. To facilitate side-by-side comparison of various credit card offers and between the Schumer Box and account opening box, we recommend that the terms in the left column, including whatever term replaces "grace period," remain static. The terms in the right column would vary according to the credit product. In our comment letter on the 2007 proposal, we shared the results of our consumer testing and suggested the use of the phrase "interest-free period" in the left column with a varying description in the right column.<sup>7</sup> We suggest that the Board consider options like these as it develops and consumer tests the Schumer Box and account opening box.
- The Board proposes requiring disclosure of any foreign transaction fee in the Schumer Box in addition to the account opening box. We support the proposal, agreeing that such a disclosure will promote uniformity between the Schumer Box and account opening box, and is relevant to any consumer who travels in other countries. The significant amount of press attention this issue has received suggests that the ability to choose a credit card based on the presence of the fee is important.<sup>8</sup>
- Regulation Z, the 2007 proposal, and the 2008 proposal use terms such as promotional rate, introductory rate, discount initial rate, initial discount rate, and

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<sup>3</sup> 73 Fed. Reg. 32948 (June 14, 2007).

<sup>4</sup> Capital One Letter of October 11, 2007.

<sup>5</sup> Regulation Z §226.5a and Appendix G. 2007 Proposed Regulation Z §226.5a, §226.6, and Appendix G.

<sup>6</sup> 2008 Proposed Regulation Z §226.5a, §226.6, and Appendix G.

<sup>7</sup> Capital One Comment Letter of October 11, 2007 at pp. 8-10.

<sup>8</sup> We provided a sample of such press reports in our Capital One Comment Letter of October 11, 2007 at fn. 21.

temporary initial rate.<sup>9</sup> We understand that some of these terms are mandated by the amended Truth in Lending Act. However, where possible, we suggest streamlining the use of the terms and definitions to both ease compliance and improve consumer comprehension.

- Regulation Z requires that a payment must be credited on the date of receipt but permits the creditor to set a reasonable time by which the payment must be received in order to be credited that day.<sup>10</sup> In the 2007 proposal, the Board proposed requiring that any cut-off time earlier than 5pm be disclosed on the front of the periodic statement near the payment due date.<sup>11</sup> In the 2008 proposal, the Board proposes prohibiting the cut-off time for mailed payments from being earlier than 5pm.<sup>12</sup> Capital One supports this 2008 proposed requirement. Since there is a lag time of several days between the consumer sending and the creditor receiving the mailed payment, and since the consumer does not have control over the exact time a mailed payment is received by the creditor, mandating a cut-off time no earlier than 5pm is reasonable. However, such requirement should be limited to mailed payments. A consumer that makes payments online, by telephone, or at a bank branch controls and is aware of the exact time a payment is made. As long as the cut-off time is reasonable as currently required by Regulation Z,<sup>13</sup> imposing an additional requirement of a 5pm cut-off time is unnecessary for these other payment channels. We also agree that if the 5pm cut-off time is mandated for mailed payments, consumers will no longer find useful the disclosure of the cut-off time on the periodic statement. Under the 2007 proposal, the cut-off time for mailed payments would not be disclosed since it now must be no earlier than 5pm. The cut-off times for other payment channels do not need to be disclosed on the periodic statement since they are disclosed through those channels. The 2007 proposed disclosure is no longer necessary given the 2008 proposed requirement.
- When the payment due date falls on a day when mailed payments are not received or accepted, the Board proposes requiring that creditors treat as timely mailed payments received the day after the due date.<sup>14</sup> Capital One does not set due dates on days that mailed payments are not received or accepted. We support the Board moving the industry to the same standard.

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<sup>9</sup> Examples include 2008 Proposed Regulation Z §§226.5a(b)(1)(iv), 226.6(b)(4)(ii)(C), and 226.16(e).

<sup>10</sup> Regulation Z §226.10

<sup>11</sup> 2007 Proposed Regulation Z §226.7.

<sup>12</sup> 2008 Proposed Regulation Z §226.10.

<sup>13</sup> Regulation Z §226.10.

<sup>14</sup> 2008 Proposed Regulation Z §226.10.

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Capital One appreciates the opportunity to comment on the Board's proposed 2008 Regulation Z open-end rule. If you have any questions about this matter or our comments, please call me, Ducie Le, at 703-720-2260.

Sincerely,

A handwritten signature in black ink that reads "Minh-Duc T. Le". The signature is written in a cursive style with a stylized "D" and "L".

Minh-Duc T. Le  
Assistant General Counsel, Policy Analysis