



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

April 13, 2011

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: Regulations B and V Credit Score Disclosure**

**(Regulation B, Docket No. R-1408; RIN No. 7100-AD67)  
(Regulation V, Docket No. R-1407; RIN No. 7100-AD66)**

Dear Ms. Johnson:

Capital One Financial Corporation (Capital One)<sup>1</sup> is pleased to submit comments to the Federal Reserve Board (Board) on its proposed amendments to Regulation B and Regulation V to implement section 1100F of the Dodd-Frank Act.<sup>2</sup> Section 1100F of the Dodd-Frank Act requires creditors to disclose on adverse action notices a credit score used in taking any adverse action and information relating to that score. This section is self-effectuating and effective July 21, 2011. To ease compliance, the Board and the FTC have issued these proposed amendments to Regulation B and Regulation V.

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<sup>1</sup> Capital One Financial Corporation ([www.capitalone.com](http://www.capitalone.com)) is a financial holding company whose subsidiaries, Capital One (Europe) plc., Capital One Bank (Canada Branch), Capital One, N.A., and Capital One Bank (USA), N. A., collectively had \$122.2 billion in deposits and \$197.5 billion in total assets outstanding as of December 31, 2010. Headquartered in McLean, Virginia, Capital One offers a broad spectrum of financial products and services to consumers, small businesses and commercial clients in the U.S., Canada and the UK. Capital One, N.A. has approximately 1,000 branch locations 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.

<sup>2</sup> Proposed Regulation B amendments, 76 Fed. Reg. 13896 (Mar. 15, 2011). Proposed Regulation V amendments issued jointly with the Federal Trade Commission (FTC), 76 Fed. Reg. 13902 (Mar. 15, 2011).

Capital One supports the proposed rulemakings and offers the following comments for your consideration.

*Regulation B*

Capital One suggests a revision to the proposed model adverse action notices. As proposed, the model notices include the following new language: "We also obtained your credit score from this consumer reporting agency and used it in making our decision." The proposed language assumes the notice has already disclosed a single consumer reporting agency on whose report the action was based in whole or in part. In many instances, however, the notice will have identified two or three consumer reporting agencies whose reports contributed to the adverse action. In those instances, the proposed form does not identify the source of the disclosed score. We propose that the form provide creditors the option to omit the phrase "from this consumer reporting agency" so that the form would simply read: "We also obtained your credit score and used it in making our decision." In conjunction with this change, we propose the form include an optional line for the "Source" of the score below the line reserved for "Your credit score" and above the line reserved for the "Date."

Capital One commends the Board for retaining the plain text format of the existing model notices as opposed to adopting the tabular format, implementation of which presents operational challenges for some print vendors. However, the Board recently acknowledged a preference for tabular format in the Risk Based Pricing Rule.<sup>3</sup> Indeed, the model form H-3 that is appended to that rule actually includes each element required by the new Dodd-Frank adverse action amendments.<sup>4</sup> Capital One requests that the Board expressly acknowledge that including the new disclosure requirements in a table format complies with the Dodd-Frank requirements.

Capital One requests that the Board further acknowledge that, where both are called for, a creditor is permitted to merge a Notice to Home Loan Applicant required by FCRA § 609(g) and a Dodd-Frank compliant adverse action notice. When a consumer applies for a consumer loan secured by 1 to 4 units of residential property, the lender is required to provide a Notice to Home Loan Applicant that includes, among other things, the credit score, the range of scores, the key factors, the date and the source.<sup>5</sup> If the creditor declines the application, then it may be required to provide both an adverse action notice and a Notice to Home Loan Applicant. The final rule should acknowledge that a creditor may satisfy both requirements by providing a Dodd-Frank compliant adverse action

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<sup>3</sup> See Fair Credit Reporting Risk Based Pricing Regulations, 75 Fed. Reg. 2724, 2746 (Jan. 15, 2010) (Citing 72 Fed. Reg. 32,948, 32,951 (June 14, 2007) (Truth in Lending); 72 Fed. Reg. 14,940, 14,944 (Mar. 29, 2007) (Privacy)).

<sup>4</sup> 12 C.F.R. 222, Appendix H-3.

<sup>5</sup> FCRA § 609(g).

notice that includes the score and related elements and adding to it only those additional incremental elements required by the Notice to Home Loan Applicant, namely the text set forth in FCRA § 609(g)(1)(D).

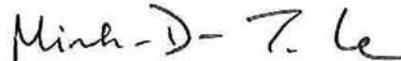
*Regulation V*

Capital One supports the proposed amendments to Regulation and V and welcomes the guidance included in the supplemental information.

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Capital One appreciates the opportunity to comment on the Board's proposed amendments to Regulation B and Regulation V and commends the Board for facilitating our efforts to comply with these new and important consumer protection regulations. If you would like to discuss our comments, please contact me at (703) 720-2260, or Peter Gilbert, Assistant General Counsel at (804) 284-7778.

Sincerely,

A handwritten signature in black ink that reads "Minh-Duc T. Le". The signature is written in a cursive, slightly slanted style.

Minh-Duc T. Le  
Associate General Counsel