



THE FEDERAL RESERVE BANK OF RICHMOND

RICHMOND ■ BALTIMORE ■ CHARLOTTE

Post Office Box 27622 · Richmond, VA 23261

Office 804-697-8000 · www.richmondfed.org

April 1, 2024

Rosemary Spaziani
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019-6150
RSpaziani@wlrk.com

Dear Ms. Spaziani:

The following additional information request relates to (1) the application (“Application”) filed by Capital One Financial Corporation (“Capital One”), the parent of Capital One, National Association (“CONA”), both of McLean, Virginia, to acquire 100 percent of Discover Financial Services (“Discover”), Riverwoods, Illinois, and thereby indirectly acquire Discover Bank, Greenwood, Delaware, pursuant to section 3 of the Bank Holding Company Act of 1956¹ (“BHC Act”), and (2) the notice (“Notice”) filed by Capital One to indirectly acquire DFS Services LLC, Riverwoods, Illinois; Discover Financial Services (Canada), Inc., Vancouver, British Columbia, Canada; PULSE Network LLC, Houston, Texas; Diners Club International Ltd., Riverwoods, Illinois; Diners Club Services Private Ltd.– India (“Diners Club India”), Mumbai, India; and Diners Club Services Taiwan Ltd. (“Diners Club Taiwan”), Taipei, Taiwan (together, “Nonbank Subsidiaries”), pursuant to sections 4(c)(8) and 4(j) of the BHC Act.² Please provide responses to each of the following requests. Supporting documentation should be provided, as appropriate.

To the extent the information requested below is not yet available, provide a date by which the requested information is expected to be made available to the Board of Governors of the Federal Reserve System (“Board”).

- 1) In Public Exhibit No. 5 of the Application and in Public Exhibit No. 1 of the Notice, Capital One provides diagrams showing certain nonbank subsidiaries controlled by Discover through Discover Bank (the “Discover Bank Subsidiaries”). On page 8 of the Introductory Statement of the Application and in the corresponding section in Public Exhibit No. 5 to the Notice, Capital One states that “[o]n consummation of the Proposed Transaction, the subsidiaries of Discover Bank will become subsidiaries of CONA.” However, on Page 2 of the Introductory Statement to the Notice, Capital One excludes the Discover Bank Subsidiaries from its Form FR Y-4 and does not otherwise describe, in the Application or the Notice, the authorities on which Capital One would rely to acquire the Discover Bank Subsidiaries. In particular, Capital One does not describe the authorities it would rely on to retain the Discover Bank Subsidiaries during

¹ 12 U.S.C. § 1842.

² 12 U.S.C. § 1843(c)(8) and (j).

the period beginning with the consummation of the merger of Vega Merger Sub, Inc. (“Merger Sub”) with and into Discover and ending with the consummation of the merger of Discover Bank with and into CONA (the “Intermediate Period”).

- a. Provide a complete list of the nonbank companies in the Discover organization, including subsidiaries of Discover and subsidiaries of Discover through Discover Bank, that Capital One proposes to acquire. Describe in detail the activities of each company and identify with specificity the authorities under section 4 of the BHC Act and the Board’s Regulation Y that Capital One intends to use to hold the voting shares of each company upon consummation of the merger of Discover Bank with and into CONA. Provide citations to relevant authorities.
 - b. For each nonbank company listed in Capital One’s response to question 1 above that is a subsidiary of Discover Bank, identify also with specificity the authorities under section 4 of the BHC Act and the Board’s Regulation Y that Capital One intends to use to hold the voting shares of the company during the Intermediate Period. Provide citations to relevant authorities.
- 2) In your response to question 1 above, specifically address the following discrepancies:
- a. In response to question 16 on Form FR Y-3 and in the corresponding section in Public Exhibit No. 5 to the Notice, Capital One lists Diners Club Taiwan among the companies that “are *not* subject to approval under the Form FR Y-4” (emphasis added) and states that Diners Club Taiwan’s activities are permissible under 12 CFR 225.22(b) (servicing activities). However, on Form FR Y-4, Capital One includes Diners Club Taiwan among the companies that would be acquired pursuant to section 4(c)(8) and 4(j) of the BHC Act. In addition, on page 3 of Public Exhibit No. 2 to the Notice, Capital One states that Diners Club Taiwan is being acquired under section 4(c)(8) of the BHC Act as a permissible activity within 12 CFR 225.28(b)(14) (data processing).
 - b. On page 4 of the Introductory Statement to the Notice, Capital One states that activities “engaged in by the [Nonbank Subsidiaries are] namely” the activities described in 12 CFR 225.28(b)(1) (extending credit and servicing loans), 225.28(b)(2) (activities related to extending credit), and 225.28(b)(14) (data processing). However, on page 2 of Public Exhibit No. 2 of the Notice, Capital One states that it would rely also on 12 CFR 225.28(b)(9) (management consulting) to acquire Diners Club India.

Provide your response via EZ-File #111944 within eight business days. Any information for which confidential treatment is desired should be so labeled and separately bound in accordance with section 261.17 of the Board’s Rules Regarding Availability of Information. The public portion of any response should be so designated. The Board will make this request and the public portion of any response available on the Board’s website, so that it is readily

accessible to the commenters and to other interested parties.³ Please also send a copy of your response to the Office of the Comptroller of the Currency [Senior Licensing Analyst Patricia Roberts at patricia.roberts@occ.treas.gov], the Federal Deposit Insurance Corporation [Senior Case Manager Jeffrey Ralston at jralston@fdic.gov], and the Delaware Office of the State Bank Commissioner [Senior Deputy Commissioner Lisa Collison at lisa.collison@delaware.gov].

If you have any questions, please contact Katherine Eike of this Reserve Bank, via email at kathy.eike@rich.frb.org, or Andrew Hartlage, Amory Goldberg, or Isabel Echarte of the Board's Legal Division, via email at andrew.w.hartlage@frb.gov, amory.r.goldberg@frb.gov, or isabel.m.echarte@frb.gov.

Sincerely,

E-SIGNED by Brent Hassell
on 2024-04-01 15:37:57 GMT

Brent Hassell
Assistant Vice President

cc: Board of Governors

³ See <https://www.federalreserve.gov/foia/capital-one-discover-application-materials.htm>.